CODE OF ORDINANCES
TOWN OF
DAYTON, VIRGINIA

Published in 2021 by Order of the Town Council

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PREFACE

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

Source materials used in the preparation of the Code were the 1988 Code, as supplemented through October 23, 2020, and ordinances subsequently adopted by the Town Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1988 Code, as supplemented, and any subsequent ordinance included herein.

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

Chapter and Section Numbering System

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

Page Numbering System

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

CHARTER	CHT:1
CHARTER COMPARATIVE TABLE	CHTCT:1

Indexes

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

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

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

Acknowledgments

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

The publisher is most grateful to Jordan K. Bowman, Town Attorney with the law firm of Litten & Sipe, LLC, Angela A. Lawrence, Town Manager, Christa C. Hall, Town Clerk, and the other members of the town staff for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the Town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Town's affairs.

Copyright

PART I
CHARTER[1]

Chapter 1. Incorporation and Boundaries

Chapter 2. Powers

Chapter 3. Elected Officers

Chapter 4. Appointed Officers

Chapter 5. Financial Provisions

Chapter 6. Miscellaneous

Chapter 1. Incorporation and Boundaries

[1]Editor's note(s)—Printed herein is the Charter of the Town of Dayton, Acts 1988, ch. 136, as adopted by the Virginia General Assembly. Amendments to the Acts 1988, ch. 136 are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the Charter, Acts 1988, c. 136. The Town of Dayton was established by an 1833 Act of the General Assembly. The original Charter was Acts 1833, c. 204 which was repealed and reenacted by Acts 1852, c. 376. Charter, Acts 1852, c. 376, was repealed and reenacted by Acts 1880, c. 302. Charter, Acts 1880, c. 302 was repealed and reenacted by Acts 1892, c. 424.

Charter, Acts 1892, c. 424 was repealed and reenacted by Acts 1912, c. 73, Charter, Acts 1912, c. 73 was repealed and reenacted by Acts 1988, c. 136. Punctuation and obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

State law reference(s)—Municipal charter provisions generally not affected by Code of Virginia, Title 15.2, Code of Virginia, § 15.2-100; local governmental charters generally, Code of Virginia, § 15.2-200 et seq.; local governmental charters to be amended only as provided by designated statute, Code of Virginia, § 15.2-200; uniform powers in charter, Code of Virginia, § 15.2-204; municipal boundaries to be incorporated in charter by reference, Code of Virginia, § 15.2-207; powers granted to municipal corporation, Code of Virginia, § 15.2-1100; relationship between certain statutory powers of cities and towns and charter powers, Code of Virginia, § 15.2-1103.

Sec. 1[.1]. Incorporation.

The inhabitants of the territory comprised within the present limits of the Town of Dayton, as such limits may be altered and established by law, shall constitute and continue to be a body politic and corporate to be known and designated as the Town of Dayton, and as such, shall have perpetual succession, may sue and be sued, plead and be impleaded, contract and be contracted with, and may have a corporate seal which it may alter, renew, or amend at its pleasure by ordinance.

Sec. 1.2. Boundaries.

The boundaries of the town, until altered, shall be as recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 884 at page 264.

State law reference(s)—Boundaries to be included in the Charter by reference, Code of Virginia, § 15.2-207.

Chapter 2. Powers

Sec. 2.1. General grant of powers.

(a) *Powers authorized in the Code of Virginia.* The town shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and the laws of the Commonwealth of Virginia as fully and completely as if such powers were specifically enumerated in this charter. No enumeration of particular powers in this charter shall be held to exclude other, unmentioned powers. The town shall have, exercise, and enjoy all the rights, immunities, powers, and privileges and be subject to all the duties and obligations now appertaining to and incumbent upon the town as a municipal corporation.

(b) *Powers exercised by governing body.* All powers vested in the town by this charter shall be exercised by its governing body unless expressly provided to the contrary. Such powers shall include those not expressly prohibited by the Constitution and general law of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the town's inhabitants and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce, and industry of the town and the town's inhabitants, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power. The exercise of the powers conferred under this section is specifically limited to the area within the corporate limits of the town, unless otherwise conferred in the applicable sections of the Constitution and general laws, as amended, of the Commonwealth.

(c) *Repeal of prior inconsistent acts and charters.* All acts and parts of acts in conflict with this charter are hereby repealed, insofar as they affect the provisions of this charter; however, nothing contained in this act shall be construed to invalidate or to in any manner affect the present existing indebtedness and liabilities of the town, whether evidenced by bonded obligations or otherwise, or to relieve it of any part of its present obligation or liability on account of bond issues, liabilities, or debts of whatsoever nature or kind. On and after July 1, 2020, all references to the town superintendent in the town's resolutions, ordinances, code provisions, contracts, and all other official acts and governing documents then in effect shall be deemed as referring to the town manager.

(Acts 2020, Ch. 146, § 1(§ 2.1); Acts 2020, Ch. 1176, § 1(§ 2.1))

State law reference(s)—Uniform Charter powers, Code of Virginia, § 15.2-204; powers granted in Charter, Code of Virginia, § 15.2-1100 et seq.

Sec. 2.2. Repealed.

Editor's note(s)—Section 2.2 was repealed by Acts 2020, Ch. 146, § 2 and Acts 2020, Ch. 1176, § 2.

Sec. 2.3. Financial powers.

(a) *Generally.* In accordance with the Constitution of Virginia and the United States Constitution, the town may raise through annual taxes and assessments on property, persons, and other subjects of taxation that are not prohibited by law such sums of money as in the judgment of the town are necessary to pay the debts, defray the expenses, accomplish the purposes, and perform the functions of the town, in such manner as the council deems necessary or expedient.

(b) *Assessments for local improvements.* The town may impose special or local assessments for local improvements and enforce payment thereof, subject, however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.

(c) *Water, light, and sewerage rates; rates and charges for public utilities or services, etc., operated, etc., by town.* The town may establish, impose, and enforce water, light, and sewerage rates and rates and charges for public utilities, or other services, products, or conveniences operated, rendered, or furnished by the town and assess, or cause to be assessed, water, light, sewerage, and other public utility rates and charges directly against the owner or owners of the buildings, or against the proper tenant or tenants, and in the event that such rates and charges shall be assessed against a tenant, then the council may, by an ordinance, require of such tenant a deposit of such reasonable amount as may be by such ordinance prescribed before furnishing such services to such tenant.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.3); Acts 2020, Ch. 1176, § 1(§ 2.3))

Sec. 2.4. Contractual powers; gifts; grants.

(a) *Acquisition of property generally; holding, selling, leasing, etc., town property.* The town may acquire, by purchase, gift, devise, condemnation, or otherwise, property, real and personal, or any estate or interest therein, within or without the town or the Commonwealth of Virginia and for any of the purposes of the town.

(b) *Debts and evidence of indebtedness.* The town may contract debts, borrow money, and make and issue evidence of indebtedness.

(c) *Gifts.* The town may accept or refuse gifts, donations, bequests, or grants of any kind from any source, absolutely or in trust, that are related to the town's powers, duties, and functions, or for educational, charitable, or other public purposes, and do all the things and acts necessary to carry out the purposes of such gifts, grants, bequests, and devises, with power to manage, maintain, operate, sell, lease, or otherwise handle or dispose of the same, in accordance with terms and conditions of such gifts, grants, bequests, and devises.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.4); Acts 2020, Ch. 1176, § 1(§ 2.4))

Sec. 2.5. Operational powers.

(a) *Generally.* The town may provide for the organization, conduct, and operation of all departments, offices, boards, commissions, and agencies of the town, subject to such limitations as may be imposed by this charter or otherwise by law, and may establish, consolidate, abolish, or change departments, offices, boards, commissions, and agencies of the municipal corporation and prescribe the powers, duties, and functions

thereof, except where such departments, offices, boards, commissions, and agencies or the powers, duties, and functions thereof are specifically established or prescribed by charter or otherwise by law.

(b) *Records and accounts.* The town shall provide for the control and management of the town's affairs and shall prescribe and require the adoption and keeping of such books, records, accounts, and systems of accounting by the departments, boards, commissions, or other agencies of the local government consistent with generally accepted accounting standards and necessary to give full and true accounts of the affairs, resources, and revenues of the municipal corporation and the handling, use, and disposal thereof.

(c) *Expenditure of money.* The town may expend money of the town for all lawful purposes.

(d) *Construction, maintenance, etc., of improvements, buildings, etc., for use and operation of town departments.* The town may construct, maintain, regulate, and operate public improvements of all kinds, including municipal and other buildings, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the town, and may acquire by condemnation or otherwise all land, riparian, and other rights and easements necessary for such improvements, or any of them.

(e) *Town events.* The town may conduct festivals, music events, running races, athletic competitions, community festivals, and all such other events and may charge fees for the participation therein.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.5); Acts 2020, Ch. 1176, § 1(§ 2.5))

Sec. 2.6. Utilities; public improvements.

(a) *Water works and water supply.* The town may own, operate, and maintain water works and acquire in any lawful manner in any county or city of the Commonwealth of Virginia such water, lands, property rights, and riparian rights as the council may deem necessary for the purpose of providing the town with an adequate water supply, and of piping or conducting the same; lay all necessary mains and service lines, either within or without the corporate limits of the town, and charge and collect water rents therefor; erect and maintain all necessary dams, pumping stations, and other works in connection therewith; make reasonable rules and regulations for promoting the purity of the town water supply and protecting it from pollution and for this purpose exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such water supply wherever such lands may be located in the Commonwealth of Virginia; impose and enforce adequate penalties for the violation of any such rules and regulations and prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and for the purpose of acquiring lands, interest in lands, property rights, and riparian rights or materials for any such use, exercise all powers of eminent domain provided by the laws of the Commonwealth of Virginia. For any of the purposes aforesaid, said town may, if the council shall so determine, acquire by condemnation, purchase, or otherwise any estate or interest in such lands or any of them in fee.

(b) *Streets; parks, playgrounds, etc.; infrastructure; vehicles.* The town may establish, maintain, improve, alter, vacate, regulate, and otherwise manage its streets, alleys, parks, playgrounds, and all of its public infrastructure and public works in such manner as best serves the public interest, safety, and convenience; regulate, limit, restrict, and control the services and routes of and rates charged by vehicles for the carrying of passengers and property in accordance with general law; permit or prohibit poles and wires for electric, telephone, telegraph, television, and other purposes to be erected and gas pipes to be laid in the streets and alleys and prescribe and collect an annual charge for such privileges; and, subject to the provisions of franchise agreements, require the owner or lessees of any such poles or wires now in use or hereafter used to place such wires, cables, and accoutrements in conduits underground in accordance with the town's prescribed requirements.

(c) *Public utilities.* Subject to the provisions of the Constitution of Virginia, this charter, and general law, the town may grant franchises for public utilities, reserving rights of transfer, renewal, extension, and amendment thereof.

(d) *Collection and disposition of sewage, garbage, ashes, refuse, etc.; reduction and disposal plant.* The town may collect and dispose of sewage, ashes, garbage, carcasses of dead animals, and other refuse; make reasonable charges therefor; acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; contract for and regulate the collection and disposal thereof, and require and regulate the collection and disposal thereof.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.6); Acts 2020, Ch. 1176, § 1(§ 2.6))

Sec. 2.7. Nuisances; sanitary conditions, etc.

The town may compel the abatement and removal of all nuisances within the town; require all lands, lots, and other premises within the town to be kept clean; regulate the keeping of animals, poultry, and other fowl therein; regulate the exercise of any dangerous or unwholesome business, trade, or employment therein; regulate the transportation of all articles through the streets of the town; compel the abatement of smoke, dust, and unnecessary noise; compel the removal of grass and weeds from private and public property and snow from sidewalks; require the covering or removal of offensive, unwholesome, unsanitary, or unhealthy substances allowed to accumulate in or on any place or premises; require the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; require the raising or draining of the grounds subject to be covered by stagnant water and the razing or repair of all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures; and remedy, repair, and secure any blighted or derelict building or structure within the town in accordance with applicable law.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.7); Acts 2020, Ch. 1176, § 1(§ 2.7))

Sec. 2.8. Police powers.

(a) The town may exercise full police powers as provided by general law, and establish and maintain a department or division of police.

(b) The town may also do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce, or industries of the town or its inhabitants; prescribe any penalty for the violation of any town ordinance, rule, or regulation or of any provisions of this charter, not exceeding the fine or sentence imposed by the laws of the Commonwealth of Virginia; pass and enforce all bylaws, rules, regulations, and ordinances that it may deem necessary for the good order and government of the town, the management of its property, the conduct of its affairs, and the peace, comfort, convenience, order, morals, health, and protection of its citizens or their property; and do such other things and pass such other laws as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction that is or shall be granted to or vested in said town, or in the council, court, or offices thereof, or which may be necessarily incident to a municipal corporation.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.8); Acts 2020, Ch. 1176, § 1(§ 2.8))

Sec. 2.9. Miscellaneous powers.

(a) *Removal or reconstruction of unsafe buildings, etc.; protection of public gatherings.* The town may regulate the size, height, materials, and construction of buildings, fences, walls, retaining walls, and other structures hereafter erected in such manner as the public safety and conveniences may require; remove or require to

be removed or reconstructed any building, structure, or addition thereto, which by reason of dilapidation, defect of structure, or other causes may have become dangerous to life or property, or which may have been erected contrary to law; and enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments, or amusements.

(b) *Fees for permits, etc.* The town may charge and collect fees for permits to use public facilities and for public services and privileges.

(c) *Cemeteries.* The town may provide in or near the town lands to be used as burial places for the dead; improve and care for the same and the approaches thereto; charge for and regulate the use of ground therein; and provide for the perpetual upkeep and care of any plot or burial lot therein. The town is authorized to take and receive sums of money by gift, bequest, or otherwise to be kept invested, and the income thereof is to be used for the perpetual upkeep and care of the said lot or plat for which the said donation, gift, or bequest shall have been made.

(d) *Injunctive relief.* The town may maintain a suit to restrain by injunction the violation of any ordinance, notwithstanding any punishment that may be provided for the violation of such ordinance.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 2.9); Acts 2020, Ch. 1176, § 1(§ 2.9))

Chapter 3. Elected Officers

Sec. 3.1. Government of town.

The town shall be governed by a town council composed of six members and a mayor, all of whom shall be qualified voters in the town.

(Acts 2011, ch. 439)

Sec. 3.2. Mayor.

The mayor shall be the chief executive of the town. He shall have and exercise all the privileges and authority conferred by general law not inconsistent with this charter. He shall preside over the meetings of the council and shall have the right to speak therein. He shall have a vote as a member of the council, but shall have no veto power. He shall be the head of town government for all ceremonial purposes and shall perform such other duties consistent with his office as may be imposed by the council. He shall see that the duties of the various town officers are faithfully performed and shall authenticate his signature on such documents or instruments as the council, this charter, or the laws of the Commonwealth shall require.

Sec. 3.3. Vice-mayor.

The chairman of the council's finance committee shall serve as vice-mayor, and shall possess the powers and discharge the duties of the mayor during any absence or disability of the mayor.

Sec. 3.4. Council as a continuing body.

The council shall be a continuing body, and no measure pending before it nor any contract or obligation incurred shall abate or be discontinued because of the expiration of the term of office or the removal of any council members.

Sec. 3.5. Election of mayor and members of council.

The mayor and members of council shall be elected by the qualified voters of the town in the manner provided by law from the town at large. The council and mayor in office at the time of the adoption of this charter shall continue in office until the expiration of the terms for which they were elected or until their successors are elected and qualified. The term of office for members of the council shall be four years, and the term of office for the mayor shall be two years, or until their successors are elected and qualified. All elections of the mayor and council members shall take place on the Tuesday after the first Monday in November. Persons elected under this section shall take office on January 1 following their election.

(Acts 1999, ch. 300; Acts 2016, ch. 160)

Sec. 3.6. Vacancies.

Vacancies on the council shall be filled in accordance with general law.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 3.6); Acts 2020, Ch. 1176, § 1(§ 3.6))

Sec. 3.7. Meetings of the council.

(a) *Organizational meeting.* The town council's organizational meeting for the purposes set forth in § 15.2-1416 of the Code of Virginia shall be its first meeting held after January 1 of each year.

(b) *Regular meetings.* The council shall fix the date and time of its regular meetings, which shall be at least once each month.

(c) *Special meetings.* A special meeting of the council shall be held when called by the mayor, or when requested by two or more of the members of council. The call or request shall be made to the clerk and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the clerk of council, after consultation with the mayor, shall immediately notify each member of council and the town attorney in writing delivered in person, or to his place of residence or business or, if so requested by the member of the governing body, by electronic mail or facsimile, to attend such meeting at the time and place stated in the notice. Such notice shall specify the matters to be considered at the meeting. No matter not specified in the notice shall be considered at such meeting.

(d) *Rules of procedure.* From time to time, the council may adopt rules or procedure governing its meetings, such rules not being inconsistent with state law.

(Acts 1999, c. 300; Acts 2020, Ch. 146, § 1(§ 3.7); Acts 2020, Ch. 1176, § 1(§ 3.7))

Sec. 3.8. Committees.

The mayor shall establish committees consisting of members of the council, including a finance committee and such other committees as he shall deem appropriate. Following the qualification of council members and the mayor after the town's biennial elections, and at such other times as he deems appropriate, the mayor shall assign the council members to the various committees and shall name the respective chairmen.

Sec. 3.9. Compensation.

Compensation for the mayor, council members and all appointed officers shall be set by the council subject to any limitations placed thereon by the laws of the Commonwealth of Virginia.

Chapter 4. Appointed Officers

Sec. 4.1. Town manager.

The council may appoint a town manager who shall be the town's chief administrative officer and the administrative head. The town manager shall be responsible to the council for the proper management of the town. In addition to any other duties prescribed by council or required by law, the town manager shall:

[(a)] See that all ordinances, resolutions, directives and orders of council, and all laws of the Commonwealth are faithfully executed;

[(b)] Appoint, supervise and dismiss all officers and employees of the town, including, but not limited to, the police chief and treasurer, if any. The town manager may authorize the head of an office or department to appoint, supervise, and discipline subordinates in such office or department subject to review and approval by the town manager;

[(c)] Report to council from time to time on the affairs of the town;

[(d)] Receive reports from, and give directions to, all heads of offices and departments of the town;

[(e)] Submit to the council a proposed annual budget, in accordance with general law, with recommendations, and execute the budget as finally adopted by council; and

[(f)] Advise the council on the town's financial condition and future financial needs.

Sec. 4.2. Repealed.

Editor's note(s)—Section 4.2 was repealed by Acts 2020, Ch. 146, § 2 and Acts 2020, Ch. 1176, § 2.

Sec. 4.3. Clerk.

The council may appoint a clerk who shall be responsible for maintaining the official legislative record of council meetings and actions, and perform such other duties as may be prescribed by the council or required by law.

Sec. 4.4. Repealed.

Editor's note(s)—Section 4.4 was repealed by Acts 2020, Ch. 146, § 2 and Acts 2020, Ch. 1176, § 2.

Sec. 4.5. Terms of office.

Appointees under this chapter shall serve at the pleasure of the council. The council may fill any vacancy in any appointive office.

(Acts 1999, ch. 300)

Chapter 5. Financial Provisions

Sec. 5.1. Fiscal year.

The fiscal year of the town shall begin on July 1 of each year and end on June 30 of the following year.

(Code 1988, c. 136, § 5.1)

State law reference(s)—Uniform fiscal year, Code of Virginia, § 15.2-2500.

Chapter 6. Miscellaneous

Sec. 6.1. Existing ordinances.

All ordinances now in force in the town, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the council.

Sec. 6.2. Severability of provisions of this charter.

If any clause, sentence, paragraph, or part of this charter shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the charter, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

CHARTER COMPARATIVE TABLE
ACTS

This table shows the location of the sections of the basic Charter and Acts amending this Charter.

Act Year	Chapter Number	Section	Section this Charter
1988	136	—	Char. (note)
1999	300	—	2.3—2.9
		—	3.5—3.7
		—	4.5
2011	439	—	3.1
2016	160	—	3.5
2020	146	1(§ 2.1)	2.1
		1(§ 2.3)	2.3

		1(§ 2.4)	2.4
		1(§ 2.5)	2.5
		1(§ 2.6)	2.6
		1(§ 2.7)	2.7
		1(§ 2.8)	2.8
		1(§ 2.9)	2.9
		1(§ 3.6)	3.6
		1(§ 3.7)	3.7
2020	1176	1(§ 2.1)	2.1
		1(§ 2.3)	2.3
		1(§ 2.4)	2.4
		1(§ 2.5)	2.5
		1(§ 2.6)	2.6
		1(§ 2.7)	2.7
		1(§ 2.8)	2.8
		1(§ 2.9)	2.9
		1(§ 3.6)	3.6
		1(§ 3.7)	3.7

Chapter 1 GENERAL PROVISIONS

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

The ordinances embraced in this and the following chapters and sections shall constitute and be designated as the "Code of Ordinances, Town of Dayton, Virginia," and may be so cited. Such ordinances may also be cited as "Dayton Code."

State law reference(s)—Authority of town to codify and recodify its ordinances, Code of Virginia, § 15.2-1433.

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

In the interpretation and construction of this Code and of all ordinances of the town, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the town council or the context clearly requires otherwise, provided that the rules of construction given in Code of Virginia, § 1-203 et seq. shall govern, so far as applicable, the construction of all other words not defined in this section:

Charter. The term "Charter" means the Charter of the Town of Dayton, Virginia, as amended, printed herein as Part I.

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

Code of Virginia. The term "Code of Virginia" means the Code of Virginia of 1950, as amended. Under the authority of Code of Virginia, § 1-220, all references in this Code of Ordinances to state law shall be deemed to include any future amendments to or recodification of the state law.

State law reference(s)—Authority to include amendments to adopted state law, Code of Virginia, § 1-220.

Computation of time. Whenever a notice is required to be given, or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted. Whenever the last day for performing an act or giving a notice is a Saturday, Sunday, legal holiday, the act may be performed or the notice given on the next day that is not a Saturday, Sunday, or legal holiday.

State law reference(s)—Computation of time, Code of Virginia, § 1-210.

Council, town council. Whenever the term "council" or "town council" is used, it shall be construed to mean the town council of the Town of Dayton, Virginia.

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

Delegation of authority. A provision that authorizes or requires a town officer or town employee to perform an act or make a decision authorizes such officer or employee to act or, if not prohibited, delegate such responsibility to subordinates.

State law reference(s)—Similar provisions, Code of Virginia, § 1-213.

Gender. A term importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations, etc., as well as to males.

State law reference(s)—Similar provisions, Code of Virginia, § 1-216.

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

State law reference(s)—Similar provisions, Code of Virginia, § 1-223.

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

State law reference(s)—Similar provisions, Code of Virginia, § 1-227.

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

Officers, employees, departments, boards, committees, commissions, etc. Whenever the title of an officer, department, board, committee or commission is used in this Code, it shall be construed as if the words "of Dayton, Virginia" followed it.

Official timestandard. Whenever particular hours are specified in this Code relating to the time within which any act shall or shall not be performed by any person, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the town.

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

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

State law reference(s)—Similar provisions, Code of Virginia, §§ 1-230, 2-231.

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

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

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

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

State law reference(s)—Similar provisions, Code of Virginia, § 1-245.

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

State law reference(s)—Similar provisions, Code of Virginia, § 1-250.

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

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

State law reference(s)—Definition of town, Code of Virginia, § 1-254

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

State law reference(s)—Similar provisions, Code of Virginia, § 1-257.

Year. The term "year" shall be construed to mean a calendar year.

State law reference(s)—Similar definitions and rules of construction applicable to state law, Code of Virginia, § 1-200 et seq.

Sec. 1-3. Catchlines of sections.

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

State law reference(s)—Similar provisions for statute section titles, Code of Virginia, § 1-217.

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

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

Sec. 1-5. Provisions considered as continuation of existing ordinances.

The provisions appearing in this and the following chapters and sections, so far as they are the same as those of ordinances or resolutions existing at the time of the adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-6. Repeal not to revive former ordinances.

When an ordinance which has repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

State law reference(s)—Similar provisions, Code of Virginia, § 1-240.

Sec. 1-7. Code not to affect prior offenses or rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Sec. 1-8. History notes.

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

Sec. 1-9. Editor's notes and references.

Editor's notes, Charter references, and state law references that appear in this Code after chapters, articles, divisions or sections or that otherwise appear in footnote form are provided for the convenience of the user of this Code and have no legal effect.

Sec. 1-10. Amendments to Code.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from affected reprinted pages.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "Section ___ of the Code of Ordinances, Town of Dayton, Virginia, is hereby amended to read as follows:…." The new provisions shall then be set out in full as desired.

(c) In the event a new section not heretofore existing in this Code is to be added, the following language shall be used: "Code of Ordinances, Town of Dayton, Virginia, is hereby amended by adding a section, to be numbered ___, which said section reads as follows:…." The new section shall then be out in full as desired.

(d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State law reference(s)—Ordinances that amend or repeal existing ordinances, Code of Virginia, § 15.2-1426.

Sec. 1-11. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into this Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in this Code.

State law reference(s)—Authority to supplement Code, Code of Virginia, § 15.2-1433.

Sec. 1-12. Miscellaneous ordinances not affected by Code.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any ordinance or portion of an ordinance not included in this Code that is listed below. All such ordinances or portions of ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code:

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

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issuance of any bonds of the town or any evidence of the town's indebtedness;

(3) Any ordinance establishing, extending or contracting the corporate limits of the town;

(4) Any ordinance levying taxes not included in this Code or adopting fees, rates or charges;

(5) Any ordinance appropriating funds, levying or imposing taxes or relating to an annual budget;

(6) Any ordinance authorizing or otherwise relating to any contract or agreement;

(7) Any ordinance providing for bonds, salaries or other benefits for town officers or town employees or members of town boards or town commissions;

(8) Any ordinance granting any franchise or right;

(9) Any ordinance authorizing, providing for or otherwise relating to any public improvement and making any special assessment;

(10) Any ordinance opening, dedicating, establishing, locating, relocating, closing, altering, vacating, paving, widening, repairing or naming any street, sidewalk or alley;

(11) Any ordinance pertaining to subdivisions or approving, dedicating, accepting or vacating any subdivision plat;

(12) Any ordinance rezoning specific property;

(13) Any ordinance designating one-way streets, stop intersections or intersections at which traffic control signals are installed, areas or spaces in which the parking of vehicles is prohibited or limited, intersections at which the turning of vehicles is prohibited, restricted or regulated, parking meter zones or loading zones, or any other ordinance regulating traffic on specific streets or portions thereof or in specific areas of the town;

(14) Any personnel ordinance;

(15) Any ordinance the purposes of which have been accomplished;

(16) Any ordinance which is temporary, although general in effect; or

(17) Any ordinance which is special, although permanent in effect.

(b) All such ordinances are recognized as continuing in full force and effect to the same extent as if published at length in this Code. All ordinances are on file in the town clerk's office.

(c) This Code shall not be deemed to repeal any preamble, recital or finding of fact contained in any ordinance included herein, but all such matters shall be deemed incorporated in the sections herein derived from such respective ordinances.

Sec. 1-13. Severability of parts of Code.

If any part, section, subsection, sentence, clause or phrase of this Code is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of remaining portions of this Code.

Sec. 1-14. General penalty; application of mandatory penalties under state law; continuing violations.

(a) Wherever in this Code or in any other ordinance or resolution of the town or rule or regulation promulgated by an officer or agency of the town, under authority vested in him or it, any act is prohibited or is made or declared to be unlawful or any offense or misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code, any ordinance, resolution, rule or regulation, unless otherwise provided, shall be punished by fine not exceeding $2,500.00 or confinement in jail not exceeding 12 months, or by both such fine and imprisonment, provided that such penalty shall not exceed the penalty provided by the Code of Virginia for a like offense.

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

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

(Code 1988, § 1-3; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority of town to impose penalty for violation of ordinances, Code of Virginia, § 15.2-1429; penalties for misdemeanors generally, Code of Virginia, §§ 18.2-11, 18.2-12; jurisdiction of town outside corporate limits, Code of Virginia, § 19.2-250; penalty for misdemeanors generally, Code of Virginia, § 18.2-11; maximum punishment for misdemeanor violation, Code of Virginia, § 18.2-12.

Sec. 1-15. Punishments for classes of misdemeanors.

The authorized punishments for conviction of a violation of any provision of this Code are:

(1) For Class 1 misdemeanors, confinement in jail for not more than 12 months and a fine of not more than $2,500.00, either or both.

(2) For Class 2 misdemeanors, confinement in jail for not more than six months and a fine of not more than $1,000.00, either or both.

(3) For Class 3 misdemeanors, a fine of not more than $500.00.

(4) For Class 4 misdemeanors, a fine of not more than $250.00.

(Code 1988, § 1-4; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-11.

Sec. 1-16. Injunctive relief against continuing violations of ordinances.

The town, in addition to the penalty imposed for the violation of any ordinance, may seek to enjoin the continuing violation thereof by proceedings for an injunction brought in the county circuit court.

(Code 1988, § 1-5; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-1432.

Chapter 2 ADMINISTRATION

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

ARTICLE II. TOWN COUNCIL[2]

Sec. 2-19. Authority.

This Code is enacted pursuant to the authority vested in the town by Code of Virginia, § 15.2-1102 and pursuant to the powers granted to the town under its Charter. Sections of this division may have additional authority as well.

(Code 1988, § 1-1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Secs. 2-20—2-39. Reserved.

ARTICLE III. DEPARTMENTS

DIVISION 1. GENERALLY

Secs. 2-40—2-67. Reserved.

DIVISION 2. POLICE DEPARTMENT[3]

Sec. 2-68. Establishing police lines, perimeters, or barricades.

(a) Whenever fires, accidents, wrecks, explosions, crimes, riots or other emergency situations where life, limb or property may be endangered, may cause persons to collect on the public streets, alleys, highways, parking lots or other public areas, the chief law enforcement officer of the town (or that officer's authorized representative who is responsible for the security of the scene) may establish such areas, zones or perimeters by the placement of police lines or barricades as are reasonably necessary to:

[2]State law reference(s)—General grant of powers to town, Code of Virginia, § 15.2-1102.

[3]Charter reference(s)—Police Powers, § 2.7.

(1) Preserve the integrity of evidence at such scene;

(2) Facilitate the movement of vehicular and pedestrian traffic into, out of, and around the scene;

(3) Permit firefighters, police officers, and emergency service personnel to perform necessary operations unimpeded; and

(4) Protect persons and property.

(b) Any police line or barricade erected for these purposes shall be clearly identified by wording such as "Police Line-Do Not Cross" or other similar wording. If material or equipment is not available for identifying the prohibited area, then a verbal warning by identifiable law enforcement officials positioned to indicate a location of a police line or barricade shall be given to any person or persons attempting to cross police lines or barricades without proper authorization.

(c) Such scene may be secured no longer than is reasonably necessary to effect the purposes of this section. Nothing in this section shall limit or otherwise affect the authority of, or be construed to deny access to such scene by, any person charged by law with the responsibility of rendering assistance at or investigating any such fires, accidents, wrecks, explosions, crimes, or riots.

(d) Personnel from information services such as press, radio, and television, when gathering news, shall be exempt from the provisions of this section except that it shall be unlawful for such personnel to obstruct the police, firefighters, and rescue workers in the performance of their duties at such scene. Such personnel shall proceed at their own risk.

(Code 1988, § 1-37; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-1714.

Secs. 2-69—2-94. Reserved.

ARTICLE IV. AUTHORITIES, BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-95—2-116. Reserved.

DIVISION 2. PLANNING COMMISSION[4]

Sec. 2-117. Authority; establishment; construction of title.

Pursuant to the provisions of Code of Virginia, § 15.2-2210 et seq., the town has established a planning commission. Under the authority of Code of Virginia, § 1-220, all references in this division to state law shall be deemed to include any future amendments to or recodification of state law.

(Code 1988, § 10-1; Ord. of 6-2-1975; Ord. of 7-10-2000)

[4]State law reference(s)—Local planning commission, Code of Virginia, § 15.2-2210 et seq.

Sec. 2-118. Composition; qualifications, appointment, terms, etc., of members; filling of vacancies.

(a) The town planning commission shall consist of five members, to be appointed by the council, all of whom shall be residents of the town, and who shall be qualified by knowledge and experience to make decisions on questions of community growth and development. At least one-half of the members so appointed shall be owners of real property.

(b) One member of the commission shall be a member of the council, and one member may be a member of the administrative branch of the town government, the terms of both of which two members shall be co-extensive with the term of office to which they have been elected or appointed unless the council, at the first regular meeting in any given year, appoints another or others to serve in his or their stead. The remaining three members shall serve staggered terms of four years.

(c) Vacancies shall be filled for unexpired terms by the council. Members may be removed for malfeasance in office.

(d) Except for the planning commission members from the town council and the administrative branch of town government, members shall hold no other town office, provided that one person may sit on the commission and serve on the board of zoning appeals.

(Code 1988, § 10-2; Ord. of 6-2-1975; Ord. of 7-10-2000)

State law reference(s)—Similar provisions, Code of Virginia, §§ 15.2-2212, 15.2-2308.

Sec. 2-119. Election of chair; meetings; rules and regulations.

(a) The planning commission shall elect from its membership a chair and vice-chair, each of whom shall serve terms of one year.

(b) The commission shall hold regular monthly meetings; provided, however, that the chair (or the vice-chair, in the chair's absence) may cancel a regular meeting if he finds that the commission has no substantial business to discuss. Nevertheless, the commission must meet at least as often as required by Code of Virginia, § 15.2-2214.

(c) Special meetings of the commission may be held in accordance with Code of Virginia, § 15.2-2214.

(d) Within the boundaries of state law, the commission may adopt rules of procedure for the transaction of its business.

(Code 1988, § 10-3; Ord. of 6-2-1975; Ord. of 7-10-2000)

State law reference(s)—Planning commission meetings, Code of Virginia, § 15.2-2214; quorum and voting, Code of Virginia, § 15.2-2215; officers, employees, expenditures, rules, records, Code of Virginia, § 15.2-2217.

Sec. 2-120. Finances.

The expenditures of the planning commission, exclusive of gifts to the commission, shall be within the amounts duly appropriated by the town council for that purpose.

(Code 1988, § 10-4; Ord. of 6-2-1975; Ord. of 7-10-2000)

Sec. 2-121. Powers and duties.

The planning commission shall have the powers and duties set forth in Code of Virginia, § 15.2-2221. Additionally, the commission shall perform such other duties as are assigned to it by the law of the commonwealth.

(Code 1988, § 10-8; Ord. of 6-2-1975; Ord. of 7-10-2000)

Secs. 2-122—2-140. Reserved.

DIVISION 3. ECONOMIC DEVELOPMENT AUTHORITY[5]

Sec. 2-141. Created; powers and duties.

There is hereby created a political subdivision of the commonwealth with such public and corporate powers, rights and duties as are set forth in the Industrial Development and Revenue Bond Act (chapter 49, title 15.2 of the Code of Virginia, as amended), including such powers, rights and duties as may hereafter be granted from time to time by the General Assembly of Virginia.

(Code 1988, § 15-1; Ord. of 6-12-2017)

Sec. 2-142. Name.

The name of the political subdivision of the commonwealth created hereby shall be the economic development authority of the town, hereafter referred to as the "authority".

(Code 1988, § 15-2; Ord. of 6-12-2017)

Sec. 2-143. Initial composition, terms of office of directors and meeting.

The initial board of directors of the economic development authority shall be composed of seven directors appointed to terms of office as follows: two directors each for one year, two directors each for two years, two directors each for three years and one director for four years. Thereafter, each term shall be for four years, except appointments to fill vacancies, which shall be for the unexpired term. Each term of a board director shall expire on July 10 of the year of the term's expiration.

(Code 1988, § 15-3; Ord. of 6-12-2017)

Secs. 2-144—2-169. Reserved.

ARTICLE V. FINANCE

[5]State law reference(s)—Industrial development and revenue bond act, Code of Virginia, § 15.2-4900 et seq.

Sec. 2-170. Fee for passing bad check to town.

Any person, firm, or corporation uttering, publishing, or passing any check or draft for payment of taxes or any other sums due to this town, which is subsequently returned for insufficient funds, or because there is no bank account or the account has been closed shall, in addition to any other penalties provided by law, pay a fee to the town of $50.00.

(Code 1988, § 1-39; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to require fee for dishonored checks, Code of Virginia, § 15.2-106.

Sec. 2-171. Penalty and interest for failure to pay accounts when due.

Any person failing to pay an account due the town on its due date (other than taxes which are provided for in Code of Virginia, title 58.1) shall incur a penalty thereon of ten percent or $10.00, whichever is greater, which shall be added to the amount of the account due from such person. No penalty shall be imposed for failure to pay any account if the town treasurer determines that such failure was not in any way the fault of the debtor. Interest at the rate of ten percent annually from the first day following the day such account is due, may be collected upon the principal and penalty of all such accounts.

(Code 1988, § 1-40; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Penalty and interest for failure to pay accounts when due, Code of Virginia, § 15.2-105.

Chapter 4 ANIMALS

ARTICLE I. IN GENERAL

Sec. 4-1. Running at large.

(a) No person shall permit any dog, except dogs used for hunting, to be at large within the corporate limits of the town. For the purposes of this section, an animal may be deemed to be at large whenever it is roaming or running off the property of its owner or custodian, and not under its owner's or custodian's immediate control. The owner or custodian of any dog found running at large in a pack shall be subject to a civil penalty not to exceed $100.00 per dog so found. A dog shall be deemed to be running at large in a pack if it is running at large in the company of one or more other dogs that are also running at large.

(b) Any owner or custodian violating subsection (a) of this section shall be guilty of a Class 3 misdemeanor and punished in accordance with section 1-15.

(Code 1988, § 1-68; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to prohibit animals from running at large, Code of Virginia, § 3.2-6538.

Sec. 4-2. Enforcement by county animal officer.

The animal control officer of the county is authorized to enforce all dog laws applicable within the town.

(Code 1988, § 1-69; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to contract with other localities, Code of Virginia, § 3.2-6555.

Secs. 4-3—4-22. Reserved.

ARTICLE II. FOWLS, CHICKENS, OTHER DOMESTIC BIRDS

Sec. 4-23. Purpose.

It is the purpose of this article to regulate all fowl, chickens and other domestic birds within the corporate limits of the town to prevent the transmission of disease to the poultry industry and others, and to ensure that such uses do not disturb adjoining property owners.

(Code 1988, § 1-70; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 11-11-2013)

Sec. 4-24. Definitions.

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

Fowl means any of various domestic birds by way of example, but not limited to, chickens, roosters, ducks, geese, turkeys, guinea fowl, emus, rheas, ostriches, pigeons and pheasants.

(Code 1988, § 1-71; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 11-11-2013)

Sec. 4-25. Domesticated fowl unlawful except as specifically provided.

It shall be unlawful for any person to keep, permit or allow any domesticated fowl within the corporate limits of the town, or to allow any domesticated fowl to run at large within the corporate limits of the town, except as specifically permitted in section 4-26, and except as permitted by division 8, article V of chapter 30 and as permitted with a special use permit in division 9, article V of chapter 30. This article shall not apply to indoor birds, such as, but not limited to, parrots or parakeets, or to the lawful transportation of fowl through the corporate limits of the town.

(Code 1988, § 1-72; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 11-11-2013)

Sec. 4-26. Chickens allowed with permit only and in compliance with all town conditions.

It shall only be lawful for a person to keep, permit or allow chickens within the corporate limits of the town on residential property only, under the following terms and conditions:

(1) No more than four chicken hens shall be allowed for each single-family dwelling. No chickens shall be allowed on townhouse, duplex, apartment or manufactured housing park properties. Chickens allowed under this section shall only be raised for domestic purposes and no commercial use such as selling eggs or selling chickens for meat shall be allowed. All such chickens shall be purchased from a licensed facility and proof thereof shall be provided to the town upon request.

(2) Each single-family dwelling shall contain, at a minimum, one-quarter acre of land.

(3) No roosters shall be allowed.

(4) There shall be no outside slaughtering of birds.

(5) All chicken hens must be kept at all times in an enclosed, secure, movable or stationary pen that contains, at a minimum, four square feet per bird. Adequate shelter in a covered area shall be required.

(6) All enclosed pens must be situated at least 25 feet from adjoining property lines and at least 200 feet from any poultry processing and/or related facilities and shall not be located in a storm drainage area that would allow fecal matter to enter any town storm drainage system or stream.

(7) All enclosed pens must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors. Once a permit is obtained pursuant to this section, the permittee agrees to semi-annual inspections by the town, its agent, or the state department of agriculture and consumer services veterinarians.

(8) All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.

(9) Chicken litter and waste shall not be deposited in any trash container that is collected by any public or private waste collector and shall be disposed of by composting either on site or at the county landfill in accordance with the applicable permit. Also, any dead bird shall not be deposited in any trash container that is collected by any public or private waste collector but shall be taken to the county landfill.

(10) Persons wishing to keep chicken hens pursuant to this section must file an application with the town, which application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Once the site and enclosures have been inspected and approved by the town zoning administrator, a permit shall be issued by the town zoning administrator, which permit shall be valid for one year. Each existing permit must be renewed annually by filing a renewal application with the town and by having the town zoning administrator make another inspection of the site.

(Code 1988, § 1-73; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 11-11-2013)

Sec. 4-27. Violations.

Any person found guilty of violating this article shall be guilty of a Class 3 misdemeanor and subsequent violations of this article by the same person shall constitute a Class 2 misdemeanor.

(Code 1988, § 1-74; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 11-11-2013)

Secs. 4-28—4-57. Reserved.

ARTICLE III. CRUELTY TO ANIMALS

Sec. 4-58. Unlawful conduct; exceptions.

(a) Any person who:

(1) Overrides, overdrives, overloads, ill-treats or abandons any animal whether belonging to himself or another;

(2) Tortures any animal, willfully inflicts inhumane injury or pain not connected with a bona fide scientific or medical experiment on any animal;

(3) Cruelly or unnecessarily beats, maims, mutilates or kills any animal, whether belonging to himself or another;

(4) Deprives any animal of necessary food, drink, shelter or emergency veterinary treatment;

(5) Sores any equine for any purpose or administers drugs or medications to alter or mask such soring for the purpose of sale, show, or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes;

(6) Ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport, unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care;

(7) Willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal;

(8) Carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or

(9) Causes any of the above things, or being the owner of such animal permits such acts to be done by another;

shall be guilty of a Class 1 misdemeanor.

(b) Any person who shall abandon any dog, cat, or other domesticated animal in any public place or on the property of another shall be guilty of a Class 3 misdemeanor.

(c) Nothing in this section shall be construed to prohibit the dehorning of cattle.

(d) This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under other titles of the Code of Virginia, including Code of Virginia, title 29.1, or to farming activities as provided under this chapter or regulations adopted hereunder.

(e) It is unlawful for any person to kill a domestic dog or cat for the purpose of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a Class 1 misdemeanor. A second or subsequent violation of this subsection is a Class 6 felony.

(f) Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals.

(Code 1988, § 1-66; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 3.2-6570.

Sec. 4-59. Animal fighting.

Any person engaged in the fighting of animals other than dogs, for amusement, sport or gain shall be guilty of a Class 1 misdemeanor. Attendance at the fighting of animals other than dogs shall also constitute a Class 1 misdemeanor.

(Code 1988, § 1-67; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Animal fighting, including dogs, Code of Virginia, § 3.2-6571.

Secs. 4-60—4-76. Reserved.

ARTICLE IV. DISPOSITION OF CERTAIN ANIMALS

DIVISION 1. GENERALLY

Sec. 4-77. Deceased animals; animal parts.

(a) No person shall cause or allow any deceased animals or animal parts to be placed or stored outdoors. No person shall cause or allow any animal blood to be spilled or stored outdoors.

(b) The definitions of section 4-98(b) shall apply to this section as well.

(c) Nothing in this section shall apply to:

(1) Bona fide farms;

(2) Poultry processing plants;

(3) Medical or veterinary professionals;

(4) Commercial meat-cutters or vendors; or

(5) Taxidermists.

(d) Nothing expressed or implied in this section authorizes the disposal of deceased animals, animal parts, or animal blood in any manner contrary to any other ordinance, statute, regulation, or common law principle.

(Code 1988, § 1-48.3; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Secs. 4-78—4-97. Reserved.

DIVISION 2. SLAUGHTERING ANIMALS

Sec. 4-98. Unlawful act; exceptions.

(a) No person shall slaughter animals in a manner which can be seen, heard, or smelled from adjacent properties.

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

Animal means a mammal or fowl.

Person means any natural person, corporation, partnership, firm, or other entity.

Slaughter means to intentionally kill an animal, other than by hunting or euthanasia or in defense of self or others, or to protect property.

(c) Nothing in this section shall apply to:

(1) Bona fide farms;

(2) Educational institutions;

(3) Poultry processing plants; or

(4) Medical or veterinary professionals.

(d) Nothing expressed or implied in this section authorizes the slaughter of animals in any manner contrary to any other ordinance, statute, regulation, or common law principle.

(e) Violation of this section shall constitute a Class 3 misdemeanor.

(Code 1988, § 1-48.2; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Chapter 6 BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

ARTICLE II. BUILDING CODE (RESERVED)

Secs. 6-19—6-39. Reserved.

ARTICLE III. DILAPIDATED, UNSAFE BUILDINGS

Sec. 6-40. Removal, repair, etc., of buildings and other structures.

(a) The owners of property located within this town shall, at such time as the town council may prescribe, remove, repair, or secure any building, wall, or any other structure which might endanger the public health or safety of other residents of the town.

(b) The town council, through its own agents or employees, may remove, repair, or secure any building, wall, tree or any other structure which might endanger the public health or safety of other residents of the town if the owner and lien holder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure the building, wall, or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and published once a week for two successive weeks in a newspaper having general circulation in the town. No action shall be taken by the town to remove, repair or secure any building, wall or other structure for at least 30 days following the latter of the return of the receipt or newspaper publication, except that the town may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice.

(c) In the event the town council, through its own agents or employees, removes, repairs, or secures any building, wall or any other structure after complying with the notice provisions of this section, or as otherwise permitted under the Virginia Uniform Statewide Building Code in the event of an emergency, the costs or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the town as taxes and levies are collected.

(d) Every change authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid, shall constitute a lien against such property, ranking on a parity with liens for

unpaid taxes and enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq. and 58.1-3965 et seq.

(e) The penalty for violation of this section is a civil penalty not to exceed $1,000.00.

(Code 1988, § 1-38; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to require repair, etc., of unsafe, etc., buildings, Code of Virginia, § 15.2-906.

Chapter 8 BUSINESSES AND BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. PUBLIC DANCE HALLS

Sec. 8-19. Permit and operating requirements.

(a) Any person who, without a permit, operates a public dance hall within the town shall be guilty of a Class 3 misdemeanor.

(b) Such permit may be obtained from the town council, or an official designated by it, upon satisfactory evidence that the applicant is a proper person to receive the same. The town council may revoke such permit at any time for good cause. Such permit shall prohibit minors from entering or remaining in such dance halls while dancing is conducted, unless accompanied by a parent or legal guardian, brother or sister of majority age, or upon written permission of such parent or legal guardian.

(c) Dance halls shall close from 12:00 midnight to 6:00 a.m. Monday through Friday and from 12:00 midnight Saturday to 6:00 a.m. Monday. Any person violating the provisions of such permit shall be guilty of a Class 3 misdemeanor and subject to permit revocation by the town council.

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

Dance hall means any place open to the general public where dancing is permitted; however, the term "dance hall" does not apply to dances held for benevolent or charitable purposes or where the same are conducted under the auspices of religious, civil, military or educational organizations. A restaurant located in any city licensed under Code of Virginia, § 4.1-210, to serve food and beverages having a dance floor with an area not exceeding ten percent of the total floor area of the establishment shall not be considered a public dance hall.

(Code 1988, § 1-51; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-912.3.

Chapter 10 ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 10-1—10-18. Reserved.

ARTICLE II. NOISE

Sec. 10-19. Declaration of policy.

At certain levels, noise can be detrimental to the health, welfare, safety, and quality of life of inhabitants of the town, and in the public interest noise should be restricted. It is the policy of the town to reduce and eliminate, where possible, excessive noise and related adverse conditions in the community, and to prohibit unnecessary, excessive, harmful, and annoying noises from all sources subject to its police power.

(Code 1988, § 1-52; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 7-8-2013)

Sec. 10-20. 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:

Daytime hours means 7:00 a.m. through 9:00 p.m. each day of the week.

Excessive noise means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. Specific examples of prohibited excessive noise are set forth in section 10-22.

Motor vehicle means a vehicle defined as a motor vehicle by Code of Virginia, § 46.2-100.

Motorcycle means every motor vehicle designed to travel on not more than three wheels in contact with the ground, other than farm tractors and mopeds.

Nighttime hours means 9:00 p.m. through 7:00 a.m. each day of the week.

Owner means the person owning, controlling, or possessing land, premises, or personality.

Person means any individual, partnership, corporation, association, society, club, group of people acting in concert, or organization. The term "person" shall not include the federal, state, county, town, or local government, or any agency or institution thereof.

Plainly audible means any sound that can be heard clearly by a person using his unaided hearing facilities. When music is involved, the detection of rhythmic bass tones shall be considered plainly audible sound.

Public property means any real property owned or controlled by the town or any other governmental entity or institution.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, or alley.

Residential refers to single-unit, two-unit, and multi-unit dwellings, and residential areas of planned residential zoning district classifications, as set out in the town zoning ordinance, as amended.

Sound means an oscillation in pressure, particle displacement, particle velocity, or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium, and which propagates at a finite speed. The description of a sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound amplifying equipment means any machine or device for the amplification of the human voice, music, or any other sound. The term "sound amplifying equipment" does not include warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

Town manager means the town manager or the police chief, or their respective designees.

(Code 1988, § 1-52.1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Sec. 10-21. Violations.

(a) Any person violating any of the provisions of this article shall be deemed guilty of a Class 4 misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than $250.00 for each offense. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(b) The person operating or controlling a source of excessive noise shall be guilty of any violation of the provisions this article. If the person operating or controlling the source of excessive noise cannot be determined, any owner, tenant, resident or manager physically present on the property where the violation is occurring is rebuttably presumed to be operating or controlling the source of excessive noise.

(Code 1988, § 1-52.2; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Sec. 10-22. Prohibited conduct.

Subject to the exceptions provided in section 10-23, any of the following acts, or the causing or permitting thereof, is declared to be excessive noise, constituting a Class 4 misdemeanor and a public nuisance:

(1) *Animals.* The owning, keeping, or possessing of any animals which frequently or habitually howl, bark, squawk or make such other noise in such a manner as to permit sound to be plainly audible within 50 feet from the animal or through partitions common to two dwelling units within a building. This section shall not apply to any bona fide agricultural activity.

(2) *Commercial vehicle and trash collection vehicle operation.* The operation of a commercial vehicle or trash collection vehicle during nighttime hours in such a manner as to be plainly audible at any residence 100 or more feet away.

(3) *Construction.* The erection, including excavation, demolition, alteration, or repair of any building or improvement during nighttime hours, except in the case of emergency under a permit granted by the town manager. In considering the granting, conditioning, or denial of the permit, the town manager shall be guided by the following standards:

   a. Nature of the emergency;

   b. Proposed extended hours of operation;

   c. Duration of period of requested extended hours;

   d. Character of the area surrounding the construction site; and

   e. The number of residential units which would be impacted by the extended hours of construction.

(4) *Explosives, fireworks and similar devices.* Using or firing any explosives, fireworks or similar devices which create impulsive sound in such a manner as to permit sound to be plainly audible at a distance of 50 feet from the source of the sound or through partitions common to two dwelling units within a building, or on any public right-of-way or public property.

(5) *Horns, whistles, etc.* Sounding or permitting the sounding of any horn, whistle or other auditory sounding device on or in any motor vehicle on any public right-of-way or public property, except as a warning of danger.

(6) *Loading and unloading.* Operating, loading or unloading any vehicle, including, but not limited to, trucks, or the opening and destruction of bales, boxes, crates and containers outdoors within 100 or less feet of an occupied dwelling during nighttime hours.

(7) *Public address systems and sound trucks.* Using or operating, or permitting the use or operation of, any public address system, mobile sound vehicle or similar device amplifying sound for any purpose during nighttime hours in such a manner as to permit sound to be plainly audible at 50 feet from the source of the sound or in a manner that permits sound to be heard through partitions common to two dwelling units within a building.

(8) *Pneumatic hammer, chain saw, etc.* The operation during nighttime hours of any chainsaw, pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance whose use is attended by sounds that are plainly audible within 50 feet of the device or through partitions common to two dwelling units within a building.

(9) *Radios, television sets, computers, musical instruments, loudspeakers and similar devices.* Operating or playing, or permitting the operation or playing of, any radio, television, computer, record, tape or compact disc player, drum, music instrument, loudspeaker, or similar device in such a manner as to permit sound to be plainly audible at 50 feet from the building in which it is located or in a manner that permits sound to be heard through partitions common to two dwelling units within a building.

(10) *Schools, public buildings, places of worship, hospitals, and clinics.* The creation of any noise on the grounds of any school, court, public building, place of worship, hospital, or clinic in a manner that is plainly audible within such school, court, public building, place of worship, hospital, or clinic and interferes with the operation of the institution.

(11) *Vehicles.*

a. Operation of a motor vehicle or motorcycle within the town while not equipped with a muffler that is compliant with Code of Virginia, § 46.2-1047, as amended.

b. Operation of a motor vehicle or motorcycle within the town equipped with an intake or exhaust system that permits the escape of noise in excess of that permitted by the standard factory equipment intake or exhaust system of motor vehicles or motorcycles of standard make.

c. The spinning, squealing of tires or unnecessary revving of the motor of any motor vehicle or motorcycle when starting from a stopped position, when shifting gears, when moving, or when coming to a stop or slowing the speed of the motor vehicle.

d. Operation of sound amplifying equipment in a motor vehicle at a volume sufficient to be plainly audible at a distance of 75 feet or more from the vehicle.

(12) *Yelling, shouting, etc.* Yelling, shouting, whistling, or singing during nighttime hours in such a manner as to permit sound to be plainly audible within 50 feet of the source of the sound or through partitions common to two dwelling units within a building.

(Code 1988, § 1-52.3; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Sec. 10-23. Exceptions.

Sections 10-21 and 10-22 shall have no application to any sound generated by any of the following:

(1) Activities on or in municipal, county, state, United States, or school athletic facilities, or on or in publicly owned property and facilities.

(2) Agricultural activities.

(3) Fire alarms and burglar alarms, including false alarms occurring less than once per owner per 60 days, prior to the giving of notice and a reasonable opportunity for the owner or person in possession of the premises served by any such alarm to turn off the alarm.

(4) Household tools and other lawn care equipment with manufacturer's recommended mufflers installed that are operated during daytime hours.

(5) Lawful discharge of firearms.

(6) Locomotives and other railroad equipment, and aircraft.

(7) Military activities of the state or of the United States of America.

(8) Noises resulting from events sanctioned by the town council taking place during daytime hours.

(9) Parades, fireworks displays, and other such public special events or public activities that are otherwise lawful.

(10) Public speaking and public assembly activities conducted on any public right-of-way or public property in accordance with applicable law.

(11) Radios, sirens, horns, and bells on police, fire, or other emergency response vehicles.

(12) Religious services, religious events, or religious activities or expressions, including, but not limited to, music, singing, bells, chimes, and organs which are a part of such service, event, activity, or expression.

(13) School band performances or practices, athletic contests or practices, and other school-related activities conducted on the grounds of public or private schools.

(14) Sound which is necessary for the protection or preservation of property or the health, safety, life, or limb of any person.

(15) The striking of clocks.

(16) The use of a loudspeaker for making auction sales when used in the vicinity of the property being sold, provided such use is limited strictly to the selling at auction of such property and occurs during daytime hours.

(Code 1988, § 1-52.4; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 7-8-2013)

Secs. 10-24—10-49. Reserved.

ARTICLE III. MISCELLANEOUS NUISANCES[6]

DIVISION 1. GENERALLY

[6]State law reference(s)—Litter and weed control, Code of Virginia, §§ 15.2-901, 15.2-902.

Sec. 10-50. Abatement or removal of nuisances.

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

Nuisance means the doing of any act, omission to perform any duty, or the permitting of any condition or thing to exist that endangers life or health, obstructs or interferes with the reasonable or comfortable use of property, or tends to depreciate the value of the property of others. Whenever the term "nuisance" is used in this article, it shall be deemed to mean a public nuisance.

(b) *Artificial light.* Artificial light which creates an unreasonable burden on adjoining property constitutes a nuisance, as defined in subsection (a) of this section.

(c) *Dangerous grades.* Any portion of a lot adjacent to a street or alley where the difference in the level between the lot and the street or alley constitutes a danger to life or limb, and which is not fenced so as to prevent harm constitutes a nuisance, as defined in subsection (a) of this section.

(d) *Removal by council.* The town council, acting either as a body or through the town manager or other delegated officer, may compel the abatement or removal of all nuisances.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Secs. 10-51—10-73. Reserved.

DIVISION 2. ABATEMENT PROCEDURE

Sec. 10-74. Notification of nuisance, abatement.

(a) Whenever a nuisance is found to exist within the town, the town manager or other delegated officer shall provide written notice to the owner or occupants of the property on which the nuisance exists.

(b) Mailing of the notice to the owner or occupant at the address upon which the nuisance is occurring or the address of the owner according to the real property records of the town shall constitute compliance with the requirements of this section. The written notice shall state:

(1) The location of the nuisance;

(2) A description of what constitutes the nuisance;

(3) A statement of acts necessary to abate or remove the nuisance;

(4) A deadline reasonable under the circumstances by which the nuisance shall be abated or removed; and

(5) A statement that if the nuisance is not abated or removed by the deadline, the town may abate or remove the nuisance, charging the cost thereof to such owner or occupant and collecting such costs in the same manner as the real estate tax.

(c) If a nuisance has not been abated or removed by the deadline as set forth in the written notice, or, if in the opinion of the town manager, or other delegated officer, that the nuisance constitutes an imminent, substantial, or compelling threat to the public health or safety, the town may abate or remove the nuisance without providing written notice. The town may charge the cost of any abatement or removal of a nuisance to the owner, occupant, or both. The costs shall be collected in the same manner as the local real estate tax. Enforcement of this section shall not exclude the town's right to proceed under other civil remedies.

(d) The owner or occupant of the property on which the nuisance exists may request a hearing by submitting a written request to the town manager or other delegated officer at least 48 hours before the deadline for abatement or removal of the nuisance. The town manager or other delegated officer shall promptly hold a hearing and provide notice of such hearing to the owner or occupants of the property on which the nuisance exists. If, after considering the evidence, the town manager or other delegated officer finds by a preponderance of the evidence that the nuisance does not exist, he may dismiss the notice.

(e) The maintenance of nuisances is unlawful. Each business day a nuisance continues after the date set by the town manager for its abatement constitutes a separate offense or violation. In addition to liability for the town's costs of abatement, persons who fail to comply with a notice issued pursuant to this section requiring them to abate a nuisance shall be subject to civil penalties as set out in subsection (f) of this section.

(f) There shall be a fine of $50.00 for the first violation arising from the same set of operative facts; or $200.00 for subsequent violations not arising from the same set of operative facts within 12 months of a first violation. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000.00 in a 12-month period.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Secs. 10-75—10-91. Reserved.

DIVISION 3. DESCRIPTION OF NUISANCES

Sec. 10-92. Unauthorized fill material.

Any person who uses materials such as tree stumps, brush, prunings, lumber, undecomposed organic matter, scrap metal, paper, or any other trash, garbage or undecomposed waste material for fill material in any place other than an officially designated sanitary fill, shall be guilty of a Class 4 misdemeanor, shall be liable for the removal and disposal of the prohibited fill material, and shall be liable for proper refilling or the costs thereof which shall be charged and collected in the same manner as local real estate tax. The intent of this section is to prevent the improper use of such material in fills which may subsequently rot, decay, rust, or otherwise decompose and result in abnormal settling or cave-ins and prevent the timely use of lands thus filled, or result in an eventual hazard to health, life, limb, or property.

(Code 1988, § 1-35; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Code of Virginia, §§ 15.2-927, 15.2-1113, 15.2-1115.

Sec. 10-93. Nuisances—Generally.

The activities or conditions described in this division are hereby declared to be nuisances. Sections 10-94 to 10-103 shall not be construed to be limiting or restrictive, and is in addition to other acts and conditions which are nuisances, including those acts and conditions which are defined as nuisances in other portions of this Code or state law.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-94. Nuisances—Dangerous structures.

All dwellings, accessory structures, or other structures of whatever character which are unsafe, dangerous, unhealthy, or injurious to the public are hereby declared to be nuisances. Examples of dangerous structures include, but are not limited to, structures with exposed or faulty electrical wiring, broken windows, visible rotting or molding wood or other materials, and structures which are likely to collapse or fall over.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-95. Nuisances—Obstructions on streets or sidewalks.

All obstructions on any street or sidewalk, including, but not limited to, snow, plant matter, metal, lumber, timber, refuse, trash, furniture, mattresses, lawn equipment, tools, motor vehicles, or tires are hereby declared to be nuisances.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-96. Nuisances—Conditions which pose a danger to transportation.

Any condition or action which interferes with, obstructs or tends to obstruct, or renders dangerous passage on any public or private street are hereby declared to be nuisances. Such conditions shall include, but are not limited to, obstructions to line of sight and obstruction of roadside signs.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-97. Nuisances—Stagnant water; discharges into public streets.

All ponds or pools of stagnant water, and all foul or dirty water or liquid are hereby declared to be nuisances. The term "stagnant water" means any water that is absent of flow or filtration by natural or mechanical means. Stagnant water discharged into any public place or property is also a nuisance.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-98. Nuisances—Septic tanks, privies, etc.

All septic tanks, privies, cesspools and privy vaults of a type prohibited by state law or by rules and regulations promulgated by authority of state law, or which are maintained in any manner contrary to state law or rules and regulations promulgated by authority of state law or which otherwise constitute a menace to the health of, or are offensive to, persons in the neighborhood thereof are hereby declared to be nuisances.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-99. Nuisances—Rats and other vermin.

Any condition which provides harborage for rats, mice, snakes, and other vermin are hereby declared to be nuisances.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-100. Nuisances—Grass, weeds, and plants.

Grass, weeds, brush, or other plants which have reached a stage of growth so as to provide cover or harborage or potential cover or harborage for rats or vermin, or to cause a blighting problem, or adversely affect the public health and safety are hereby declared to be nuisances. Grass and weeds are further subject to the provisions of section 10-151.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-101. Nuisances—Vacant buildings.

Any vacant or abandoned buildings that are not sealed so as to prevent the entry of persons or rats and other vermin are hereby declared to be nuisances.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-102. Nuisances—Trash, garbage, refuse, and other substances.

Outside storage on any property of junk, trash, rubbish, garbage, refuse, litter, waste materials, tires, motor vehicle parts, wheels, metal scraps, plumbing fixtures, broken appliances or machines, and other objects or substances which might constitute a fire hazard or endanger the public health or safety are hereby declared to be nuisances. Trash or garbage which is placed within a trash can or bin shall not be deemed to be stored outside.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-103. Nuisances—Outside storage of abandoned or unused objects.

(a) Outside storage on a residential property of any offensive, unwholesome, unsanitary, or unhealthy item or substance, including, but not limited to, abandoned, unused, or discarded objects such as household furniture, appliances, equipment, mattresses, tools, lumber, building materials, and other objects that may cause a blighting problem are hereby declared to be nuisances.

(b) For the purpose of this subsection, the term "residential property" means a property zoned R-1, R-2, or R-3, or a property zoned A-1 or A-2 on which the principal use is a residence. Nothing contained herein shall prohibit storage of materials used in conjunction with a construction project for which a building permit has been issued and which, in the opinion of the town manager, is being diligently pursued.

(Code 1988, § 1-48; Ord. of 9-10-1990; Ord. of 8-5-1996; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 10-10-2016)

Sec. 10-104. Wells and pits.

(a) Any person owning or occupying land on which there is a well or pit having a diameter greater than six inches and a depth of more than ten feet that is left uncovered in such a manner as to be dangerous to human beings, animals, or fowl shall be guilty of a Class 3 misdemeanor.

(b) The town declares an uncovered well or pit to be a nuisance, and that notwithstanding any other remedies that the town may have at law, violations may be abated and are punishable as civil penalties under the provisions of this article.

(c) Any such condition existing on abandoned property shall be abated by the town manager or other officer to whom such duty is delegated with all reasonable costs thereof charged and collected against such property in the same manner as local real estate taxes. Every day of continuance of such condition shall constitute a separate offense.

(Code 1988, § 1-23; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Unsafe nuisances, Code of Virginia, § 15.2-1115; covers required on wells, Code of Virginia, § 18.2-317; authority of town to require covering of wells, etc., Code of Virginia, § 18.2-318.

Sec. 10-105. Marshy ground and stagnant water.

Any person owning real estate within the town upon which a drain or running water exists must keep such real estate clean, free, and unobstructed from filth, garbage, vegetation, or other nuisance. Any person owning real estate within the town upon which exists a marshy place or stagnant water must drain or fill the same within 30 days from receipt of written notice from the town council. If it is impractical to drain or fill such marshy place, effective petroleum treatment is required. If, after such reasonable notice, the owner or occupant of any such real estate fails to abate such nuisance, the town may do so and charge and collect the cost thereof in the same manner as local real estate tax.

(Code 1988, § 1-53; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-1115.

Sec. 10-106. Allowing junk and certain other materials to accumulate or remain on property.

(a) It is hereby determined to be a nuisance and deleterious to the public welfare to allow to accumulate or to leave or allow to remain on lots or parcels of land within the town, junk, trash, rubbish, refuse, garbage, waste materials, tires, parts of motor vehicles, construction materials, wheels, metal, plumbing fixtures or debris. Provided, this section shall not apply to uses specifically permitted by zoning or special use permits.

(b) Such nuisances may be abated or removed by the town council, the town manager or any other delegated officer or employee. Written notice of the nuisance with an order for its abatement or removal shall be given to the owner or occupant of the property on which the nuisance exists. If the nuisance has not been abated or removed within 30 days of the notice the town may go upon the property and abate or remove it charging the cost to the owner, occupant, or both. The costs shall be collected in the same manner as the local real estate tax. Mailing of the notice to the owner at the address shown on the town's records and to the occupant at the street address shall constitute compliance with the requirements of this article. Enforcement of this article shall not exclude the town's right to proceed under other civil or criminal remedies.

(Code 1988, § 1-53.1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia § 15.2-1115.

Secs. 10-107—10-125. Reserved.

ARTICLE IV. LITTERING

Sec. 10-126. Littering streets, roads, alleys or other property.

(a) It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal, as defined in Code of Virginia, § 3.2-6500 for the purpose of disposal, or other unsightly matter on public property, including a public highway, right-of-way, or property adjacent to such highway or right-of-way, or on private property without the written consent of the owner or his agent.

(b) When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of Code of Virginia, § 46.2-936 in making an arrest.

(c) When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of the motor vehicle shall be presumed to be the person ejecting or disposing of the matter. However, such presumption shall be rebuttable by competent evidence.

(d) Any person convicted of a violation of this section is guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than $250.00 or more than $2,500.00, either or both. In lieu of the imposition of confinement in jail, the court may order the defendant to perform a mandatory minimum of ten hours of community service in litter abatement activities.

(e) The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

(Code 1988, § 1-25; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 33.2-802.

Secs. 10-127—10-150. Reserved.

ARTICLE V. GRASS, WEEDS AND WILD GROWTH

Sec. 10-151. Cutting of grass and weeds.

(a) The owners of all property shall cut the grass, weeds and/or other foreign growth on the property whenever any significant portion of the grass, weeds and/or other foreign growth on the property exceed eight inches in height from their base to their most extended growth.

(b) Upon the failure of the property owner to cut the grass, weeds, and/or other foreign growth as specified in subsection (a) of this section, the town (through its agents or employees) may cut all of the grass, weeds, and/or other foreign growth on the property at the owner's expense, after written notice as provided in this subsection. The notice shall be mailed to the owner at the address shown in the town's tax records, and it shall state that the town will cut the grass, weeds, and/or foreign growth unless the property owner does so within seven days from the date the notice is mailed. One written notice per growing season to the owner of record of the subject property shall be considered reasonable notice.

(c) If the town, through its agents or employees, cuts the grass, weeds, and/or other foreign growth pursuant to subsection (b) of this section, the costs and expenses in doing so shall be charged to the property owner.

(d) In addition to liability for the town's costs of cutting grass, weeds, and/or other foreign growth pursuant to subsection (c) of this section, any person violating this article shall be subject to a civil penalty of $50.00 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation is $200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000.00 in a 12-month period.

(e) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local real estate taxes and enforceable in the same manner as provided by Code of Virginia, §§ 58.1-3940 et seq. and 58.1-3965 et seq.

(f) If three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period, the fourth violation shall be a Class 3 misdemeanor.

(g) This article does not apply to land zoned for or in active farming operation. The term "active farming operation" means any operation devoted to the bona fide production of crops, or animals, or fowl, including, but not limited to, 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.

(Code 1988, § 1-48.1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-7-2000; Ord. of 9-9-2019)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-901.

Secs. 10-152—10-170. Reserved.

ARTICLE VI. JUNK, WRECKED, ABANDONED VEHICLES

DIVISION 1. GENERALLY

Secs. 10-171—10-193. Reserved.

DIVISION 2. ABANDONED VEHICLES

Sec. 10-194. Removal and disposition of unattended vehicles; taking abandoned vehicles into custody.

(a) Any motor vehicle, trailer, semitrailer or parts thereof which is:

(1) Left unattended on a public highway or other public property and constitute a traffic hazard;

(2) Illegally parked;

(3) Left unattended for more than ten days either on public property or private property without the permission of the owner, lessee, or occupant; or

(4) Immobilized on a public highway by weather conditions or other emergency situations;

may be removed for safekeeping by the town police to a designated storage area; provided, however, no such vehicle shall be so removed from privately owned premises without the written request of the owner, lessee, or occupant thereof.

(b) Such vehicle shall be presumed to be abandoned if it:

(1) Lacks either:

a. A current license plate;

b. A current town sticker; or

c. A valid state inspection sticker; and

(2) Has been in a specific location for four days without being moved.

(c) The person at whose request such vehicle is removed from privately owned property shall indemnify the town against loss or expense incurred by reason of such removal, storage, or sale thereof and costs incurred in locating the owner. No motor vehicle, trailer, semitrailer, or parts thereof will be removed from private property without the written request of the owner, lessee, or occupant of the premises.

(d) Each removal shall be reported immediately to the office of the town manager who shall in turn cause written notice to be given to the owner of such vehicle as promptly as possible. The owner shall pay the town all reasonable charges incidental to such removal and storage prior to reobtaining possession of such vehicle. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record in the office of the state department of motor vehicles against the motor vehicle, trailer, semitrailer or parts thereof, the vehicle shall be treated as an abandoned vehicle under state law.

(e) The town may take into custody and dispose of abandoned vehicles, as defined by, and as provided for under, state law. The town may employ its own personnel, equipment, and facilities, or hire persons, equipment, and facilities, or firms or corporations that may be independent contractors for removing, preserving, storing, and selling at public auction abandoned motor vehicles.

(f) This section shall not operate to deprive anyone of any lawful recourse against abandoned or improperly parked cars or their owners.

(Code 1988, § 1-49; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 4-12-2010)

State law reference(s)—Abandoned motor vehicles, Code of Virginia, §§ 46.2-1200, 46.2-1201, 46.2-1213.

Secs. 10-195—10-211. Reserved.

DIVISION 3. INOPERABLE VEHICLES

Sec. 10-212. Restriction of keeping of inoperative motor vehicles, etc.; removal of such vehicles.

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

Inoperable motor vehicle means any motor vehicle which is not in operating condition, or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle, or for which there are displayed neither valid license plates nor a valid inspection decal.

Motor vehicle means as prescribed in Code of Virginia, § 46.2-100.

Police chief means the police chief of the town, as well as subordinates and independent contractors acting under his direction and authority.

Reasonable notice means a written notice either mailed first class to a party's last known address at least seven days prior to an event or hand-delivered to a party at least five days prior to an event.

Semitrailer means as prescribed in Code of Virginia, § 46.2-100.

Shielded or screened from view means not visible by someone standing at ground level from outside of the property on which the subject vehicle is location.

Trailer means as prescribed in Code of Virginia, § 46.2-100.

(b) *Basic prohibition.* It shall be unlawful for any person to keep, except within a fully enclosed building or structure on any property, any inoperable motor vehicle, trailer, or semitrailer.

(c) *Remediation by town.* The owners of property shall, at such time as the police chief may prescribe by reasonable notice, remove therefrom by any such inoperable motor vehicles, trailers, or semitrailers that are not kept within a fully enclosed building or structure. The police chief may then remove the offending vehicles if the owner fails to do so in accordance with the notice. In the event the police chief removes any such vehicles, the town may then dispose of such vehicles after giving additional reasonable notice to the owner of the vehicle. The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the town however taxes and levies are collected; and every cost authorized by this subsection with which the owner of the premises shall have been assessed, shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the town.

(d) *Exception for vehicles shielded or screened from view.* Notwithstanding the provisions of subsections (b) and (c) of this section, on any lot there may exist a single inoperable motor vehicle, trailer, or semitrailer, which is not enclosed in a building or structure but is either shielded or screened from view, or covered by a commercial cover designed for such vehicle or trailer, which cover shall be in good condition.

(e) *Scope of section; exceptions.* This section shall apply to all property in the town which is zoned for residential, commercial, or agricultural purposes.

(1) The provisions of this section shall not apply to a licensed business which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer, or scrap processor.

(2) If an owner of an inoperable motor vehicle, trailer, or semitrailer demonstrates that he is actively restoring or repairing the vehicle, and if it is either shielded or screened from view, or covered by a commercial cover designed for such vehicle or trailer, which cover shall be in good condition, he may retain that vehicle, and one other inoperable motor vehicle also shielded or screened from view and

being used for restoration or repair on the property. This subsection can only be used to allow a single vehicle being repaired or restored and a single vehicle being used for repair or restoration.

(f) *Civil penalties.* The violation of this section shall not constitute a criminal offense but shall give rise to civil penalties. The civil penalty for any violation of this section shall be $200.00 for an initial violation with respect to a given inoperable motor vehicle, trailer, or semitrailer (inclusively, an "offending vehicle"), and $500.00 for each subsequent violation. Each day in which the violation continues shall constitute a separate offense, but the offender may not be charged more than once in any ten-day period for the same offending vehicle. Further, the maximum penalty for any single offending vehicle shall be $5,000.00. Nevertheless, if there have been no previous citations issued in the preceding 12 months for the subject property, the police chief verifies that the violation has been rectified, and the violator pays the civil penalty to the town treasurer within three days of the issuance of the citation, then the civil penalty shall be $25.00 instead of $200.00. For ease of reference, the foregoing is summarized in the following table, which is qualified by reference to the narrative above:

Schedule of Penalties for Violations

Violations	*Penalty*
Initial violation if no previous citation in preceding 12 months; violation has been rectified; and payment is made within three days of citation	$25.00
Initial violation if above conditions are not met	$200.00
Subsequent violations (may only be charged once in any 10-day period for the same offending vehicle)	$500.00 ($5,000.00 maximum)

(Code 1988, § 1-50; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 2-15-2010)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-904.

Secs. 10-213—10-232. Reserved.

DIVISION 4. AUTOMOBILE GRAVEYARDS

Sec. 10-233. Operation and maintenance restrictions.

(a) No person, firm, corporation, or other entity shall operate or maintain an automobile graveyard in the town unless it is completely screened from public view at all times by a fence, structure, trees, or shrubbery. Any fence, structure, trees, or shrubbery used to screen an automobile graveyard shall be at least 50 inches high. (See Code of Virginia, § 15.2-903.)

(b) For the purposes of this section, the term "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located, or found. (See Code of Virginia, § 33.1-348.)

(c) This section shall not be construed as authorization for the establishment or maintenance of any automobile graveyard.

(Code 1988, § 1-50.1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Chapter 12 FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. FIRE CODES AND STANDARDS

DIVISION 1. GENERALLY

Secs. 12-19—12-39. Reserved.

DIVISION 2. STANDARDS

Sec. 12-40. Accumulation of combustible materials.

No person shall permit any waste, paper, straw, litter, weeds, or any other combustible material to accumulate on property owned or occupied by him in such a manner as to create an unreasonable risk of fire.

(Code 1988, § 1-58; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Code of Virginia, §§ 15.2-1113, 15.2-1115.

Sec. 12-41. Defective chimneys, etc.

No person shall permit a chimney, roof, or stove pipe to be in such condition as to create an unreasonable risk of fire.

(Code 1988, § 1-59; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Code of Virginia, §§ 15.2-1113, 15.2-1115.

Sec. 12-42. Carrying of open flames.

No person shall ignite any open flame in or carry open flame into a building where combustible materials are stored openly.

(Code 1988, § 1-60; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Code of Virginia, § 15.2-1118.

Sec. 12-43. Open fires.

No open fires shall be kindled within 50 feet of any building; nor shall any open fire be left unattended. This section shall not be construed as authorization for the starting of any fire.

(Code 1988, § 1-61; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 12-9-2013)

State law reference(s)—Code of Virginia, § 15.2-1118.

Sec. 12-44. Fires in containers.

No fire in an approved container may be kindled or maintained within 25 feet of any structure or property line. This section shall not be construed as authorization for the starting of any fire.

(Code 1988, § 1-62; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Code of Virginia, § 15.2-1118.

Sec. 12-45. Deposit of materials likely to cause fires.

No person shall deposit hot ashes, smoldering coals, any flammable petroleum-based material, or any other material likely to create or support a spontaneous ignition near any combustible material so as to create an unreasonable risk of fire.

(Code 1988, § 1-63; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to regulate or prohibit flammables, fireworks, etc., Code of Virginia, § 15.2-1113; abatement of nuisances, Code of Virginia, § 15.2-1115.

Sec. 12-46. Flammable decorations.

Cotton batting, straw, dry vines, leaves, trees, celluloid, paper, or other readily flammable materials shall not be used for decorative purposes in show windows, stores, or any place of assembly unless such materials shall have first been treated and rendered flame-proof; provided, however, that nothing in this section shall be held to prohibit the display of saleable goods permitted and offered for sale in stores. Electric light bulbs in stores and in any place of assembly shall not be decorated with paper or other combustible materials unless such papers or materials shall first have been rendered flameproof.

(Code 1988, § 1-64; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to regulate or prohibit flammables, fireworks, etc., Code of Virginia, § 15.2-1113; abatement of nuisances, Code of Virginia, § 15.2-1115.

Sec. 12-47. Penalties.

Any violation of this article shall constitute a Class 2 misdemeanor and be punished in accordance with section 1-15.

(Code 1988, § 1-65; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Chapter 14 MISCELLANEOUS OFFENSES

ARTICLE I. IN GENERAL

Sec. 14-1. Summons.

(a) Whenever any person is detained by or is in the custody of an arresting officer for violation of a town ordinance punishable as a misdemeanor or traffic infraction, such officer shall, except as otherwise provided in this section, take the name and address of such person and the license number of his motor vehicle, if any, and issue a summons or otherwise notify him in writing to appear at a time and place to be specified in such summons or notice, such time to be at least five days after such arrest. Such officer shall release such person from custody upon the giving by such person of a written promise to appear at such time and place. Any person refusing to give such promise to appear shall be taken immediately by the arresting officer before the nearest or most accessible magistrate. Any person who willfully violates such written promise to appear, given in accordance with this section, shall be guilty of a Class 1 misdemeanor.

(b) Notwithstanding the provisions of subsection (a) of this section, as to any person:

(1) Charged with an offense causing or contributing to an accident resulting in the injury or death of any person;

(2) Charged with reckless driving or driving under the influence of intoxicants;

(3) Whom the arresting officer has good cause to believe has committed a felony; or

(4) Whom the officer has reason to believe may disregard a summons issued hereunder;

the arresting officer may, in his discretion, take such person forthwith before the nearest or most accessible magistrate.

(Code 1988, § 1-54; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Code of Virginia, §§ 19.2-74, 19.2-82.

Sec. 14-2. Assessment for electronic summons system.

There is hereby imposed and assessed by the town, in accordance with Code of Virginia, § 17.1-279, as amended, an additional sum of $5.00 as part of the costs in each criminal and traffic case prosecuted on a town warrant or summons in either the circuit court, general district court, or juvenile and domestic relations district court. The assessment shall be collected by the clerk of the court in which the warrant or summons is filed and remitted to the town treasurer. Such funds shall be held by the town and used to defray the hardware, software and other equipment costs associated with implementation and maintenance of the electronic summons system.

(Code 1988, § 1-54.1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999; Ord. of 7-1-2019)

Secs. 14-3—14-22. Reserved.

ARTICLE II. OFFENSES RELATING TO PERSONS

Sec. 14-23. Assault and battery.

Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor.

(Code 1988, § 1-9; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-57.

Sec. 14-24. Peeping or spying into a structure occupied as a dwelling.

(a) It shall be unlawful for any person to enter upon the property of another and secretly or furtively peep, spy or attempt to peep or spy into or through a window, door or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy.

(b) It shall be unlawful for any person to use a peephole or other aperture to secretly or furtively peep, spy or attempt to peep or spy into a restroom, dressing room, locker room, hotel room, motel room, tanning bed, tanning booth, bedroom or other location or enclosure for the purpose of viewing any nonconsenting person who is totally nude, clad in undergarments, or in a state of undress exposing the genitals, pubic area, buttocks or female breast and the circumstances are such that the person would otherwise have a reasonable expectation of privacy.

(c) The provisions of this section shall not apply to a lawful criminal investigation or a correctional official or local or regional jail official conducting surveillance for security purposes or during an investigation of alleged misconduct involving a person committed to the department of corrections or to a local or regional jail.

(Code 1988, § 1-14; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-130.

Sec. 14-25. Peeping or spying into dwelling or occupied building by electronic device; penalty.

It is unlawful for any person to knowingly and intentionally cause an electronic device to enter the property of another to secretly or furtively peep or spy or attempt to peep or spy into or through a window, door, or other aperture of any building, structure, or other enclosure occupied or intended for occupancy as a dwelling, whether or not such building, structure, or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy. A violation of this section is a Class 1 misdemeanor. The provisions of this section shall not apply to a lawful criminal investigation.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-130.1.

Sec. 14-26. Drinking in public.

(a) If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he is, upon conviction, guilty of a Class 4 misdemeanor.

(b) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the board of directors of the state alcoholic beverage control

authority in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

(c) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the board at an event for which a banquet license, mixed beverage special events license, or local special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

(Code 1988, § 1-22; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Drinking alcoholic beverages, or offering to another, in public place, penalty, exceptions, Code of Virginia, § 4.1-308.

Sec. 14-27. Indecent exposure.

Every person who intentionally makes an obscene display or exposure of his person or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, shall be guilty of a Class 1 misdemeanor. No person shall be deemed to be in violation of this section for breastfeeding a child in any public place or any place where others are present.

(Code 1988, § 1-41; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-387.

Sec. 14-28. Intoxication in public.

Any person who is intoxicated in public, whether such intoxication results from alcohol, narcotic drugs, or other intoxicant or drugs of whatever nature shall be deemed guilty of a Class 4 misdemeanor. If there is located within the area of this town, the county or the City of Harrisonburg a court-approved detoxification center, a law enforcement officer may authorize the transportation, by police or otherwise, of public inebriates, to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center.

(Code 1988, § 1-42; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Intoxication in public, Code of Virginia, § 18.2-388.

Sec. 14-29. Expectorating in public places.

No person shall spit, expectorate, or deposit any sputum, saliva, mucus, or any form of saliva or sputum upon the floor, stairways, or upon any part of any public building or place where the public assembles, or upon the floor of any part of any public conveyance or upon any sidewalk abutting on any public street, alley, or lane of this town. Any person violating any provision of this section shall be guilty of a Class 4 misdemeanor.

(Code 1988, § 1-43; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-322.

Sec. 14-30. Urination and defecation in public.

(a) No person shall urinate or defecate in any public building (except in an appropriate toilet facility); or upon any street, sidewalk, alley or other public property; or in any other place where such person is visible to public view.

(b) Any person violating this section shall be guilty of a Class 4 misdemeanor and shall be punished in accordance with section 1-15.

(Code 1988, § 1-43.1; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Secs. 14-31—14-50. Reserved.

ARTICLE III. OFFENSES RELATING TO MINORS

DIVISION 1. GENERALLY

Sec. 14-51. Minors in pool rooms and loitering in public places prohibited.

(a) Any minor who frequents, plays in, or loiters in any public pool room or billiard room, or any proprietor or agent thereof who permits any minor to do the same in any such place within the town, shall be guilty of a Class 3 misdemeanor.

(b) The frequenting, playing in or loitering in public places of amusement by minors is prohibited. The punishment for violations of this subsection is that prescribed for a Class 3 misdemeanor.

(Code 1988, § 1-6; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to prohibit loitering and to establish curfews for minors, Code of Virginia, § 15.2-926.

Sec. 14-52. Certain sales to minors.

Any person who sells, barters, gives, furnishes, or causes to be sold, bartered, given, or furnished to any minor a dirk, switchblade knife, or bowie knife having good cause to believe him to be a minor shall be guilty of a Class 1 misdemeanor.

(Code 1988, § 1-7(a); Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Sale of certain weapons to minors, Code of Virginia, § 18.2-309.

Secs. 14-53—14-77. Reserved.

DIVISION 2. CURFEW

Sec. 14-78. Established.

(a) No minor shall be upon the streets or in any other public place in the town between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by a parent or a legal guardian or other person of majority age lawfully in charge of such minor. A violation of this section by a minor shall be disposed of as provided in Code of Virginia, §§ 16.1-278.4 and 16.1-278.5.

(b) Any parent, guardian, or other person having custody of a minor who allows the minor to violate this section shall also be guilty of a Class 4 misdemeanor.

(c) Nothing in this section shall be construed to prohibit an unaccompanied minor from attending meetings held in connection with religious exercises, schools, scouting or other similar organizations, nor shall this section be applied if such minor is involved in an emergency, legitimate employment, or an errand for his parents, guardian or other person having custody of him.

(Code 1988, § 1-8; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to establish curfews for minors, Code of Virginia, § 15.2-926.

Secs. 14-79—14-99. Reserved.

ARTICLE IV. OFFENSES RELATING TO PROPERTY

Sec. 14-100. Petit larceny.

Any person who commits larceny from the person of another of money or other thing of value of less than $5.00, or commits simple larceny not from the person of another of goods or chattels of value of less than $1,000.00 shall be guilty of petit larceny punishable as a Class 1 misdemeanor.

(Code 1988, § 1-12; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-96.

Sec. 14-101. Possessing merchandise without paying for it.

(a) Any person who, without authority, with the intention of converting goods or merchandise to his own or another's use without having paid the full purchase price thereof, or of defrauding the owner of the value of the goods or merchandise:

(1) Willfully conceals or takes possession of the goods or other merchandise of any store or mercantile establishment;

(2) Alters price tags or markings or other price or marking on such goods or merchandise, or transfers goods from one container to another; or

(3) Counsels, assists, aids, or abets another in the performance of any of the above acts when the value of the goods or merchandise involved in the offense is less than $1,000.00;

shall be guilty of petty larceny punishable as a Class 1 misdemeanor.

(b) The willful concealment of goods or merchandise of any store or other mercantile establishment while still on the premises thereof shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise.

(c) When a person is convicted of an offense of larceny or any offense deemed to be or punished as larceny under any provision of this Code, and it is alleged in the warrant, indictment or information on which he is convicted, and admitted, or found by the jury or judge before whom he is tried, that he has been before convicted in the commonwealth or in another jurisdiction for any offense of larceny or any offense deemed or punishable as larceny, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies or a combination thereof, he shall be confined in jail not less than 30 days nor more than 12 months.

(Code 1988, § 1-13; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-103.

Sec. 14-102. Trespassing.

Any person who, without authority, goes upon or remains upon the lands, buildings, or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or the agent of any such person, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign posted by such persons or at the direction of such persons or the agent of any such person or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises, or a portion or area thereof, at a place where it or they may be reasonably seen or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to Code of Virginia, §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 18.2-152.9 or 19.2-152.10 or ex parte order issued pursuant to Code of Virginia, § 20-103, and after having been served with such an order, shall be guilty of a Class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of Code of Virginia, §§ 18.2-132 through 18.2-136.

(Code 1988, § 1-17; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Trespassing, Code of Virginia, § 18.2-119.

Sec. 14-103. Destroying or damaging property.

(a) If any person unlawfully destroys, defaces, damages, or removes without the intent to steal any property, real or personal, not his own, or breaks down, destroys, defaces, damages, or removes without the intent to steal, any monument or memorial for war veterans, not his own, described in Code of Virginia, § 15.2-1812; any monument erected to mark the site of any engagement fought during the Civil War, or any memorial to designate the boundaries of the town, tract of land, or any tree marked for that purpose, he shall be guilty of a Class 3 misdemeanor, provided that the court may, in its discretion, dismiss the charge if the locality or organization that owns or is responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

(b) If any person who is not the owner of such property intentionally causes such injury, he is guilty of a Class 1 misdemeanor if the value of or damage to the property, memorial, or monument is less than $1,000.00. The amount of loss caused by the destruction, defacing, damage, or removal of such property, memorial, or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.

(Code 1988, § 1-20; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Injuring, etc., any property, monument, etc., Code of Virginia, § 18.2-137.

Sec. 14-104. Damaging public buildings, etc.; penalty.

(a) Any person who willfully and maliciously breaks any window or door of any courthouse, house of public worship, schoolhouse or town hall, or other public building, damages or defaces any other public building or any statuary in or on any public buildings or public grounds, or destroys any property in any of such buildings shall be guilty of a Class 1 misdemeanor if the damage is less than $1,000.00.

(b) Any person who willfully and unlawfully damages or defaces any book, newspaper, magazine, pamphlet, map, picture, manuscript, or other property located in any library, reading room, museum, or other educational institution shall be guilty of a Class 1 misdemeanor if the damage is less than $1,000.00.

State law reference(s)—Damaging, etc. public buildings, Code of Virginia, § 18.2-138.

Sec. 14-105. Injuries to trees, fences in public squares.

A person shall be guilty of a Class 3 misdemeanor if he:

(1) Cuts down, pulls up, girdles or otherwise injures or destroys any tree growing in the grounds in any public square or grounds, without the consent of the circuit court of the county or the town; or

(2) Willfully and maliciously injures the fences or herbage of any such square or grounds.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-139.

Sec. 14-106. Destruction of trees, shrubs, etc.

(a) It shall be unlawful for any person to pick, pull, pull up, tear, tear up, dig, dig up, cut, break, injure, burn, or destroy, in whole or in part, any tree, shrub, vine, plant, flower, or turf found growing or being upon the land of another, or upon any land reserved, set aside, or maintained by the town as a public park or square, or as a refuge or sanctuary for wild animals, birds, or fish without having previously obtained the permission in writing of such other or his agent or the town manager or other delegated official to do so unless the same be done under the personal direction of such owner, his agent, tenant, or lessee, or the town manager or such other delegated official.

(b) Any person violating this section shall be guilty of a Class 3 misdemeanor, provided that the approval of the owner, his agent, tenant, or lessee, or the town manager or custodian of such park or sanctuary afterwards given in writing or in open court shall be a bar to further prosecution or suit.

(Code 1988, § 1-21; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Destruction of trees, etc., Code of Virginia, § 18.2-140.

Sec. 14-107. Abandoned refrigerators and containers.

Any person, firm, or corporation who discards, abandons, leaves or allows to remain in any place any icebox, refrigerator or other container with an airtight interior storage area of more than two cubic feet of clear space, without first removing the doors or hinges from such icebox, refrigerator, container, device or equipment, shall be guilty of a Class 3 misdemeanor. However, this section does not apply to any icebox, refrigerator, container, device or equipment being used for the purpose for which it was originally designed, being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment therein.

(Code 1988, § 1-24; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-319.

Sec. 14-108. Injuring, breaking, defacing, destroying, preventing operation of vehicle, aircraft or boat.

Any person who shall individually or in association with one or more others willfully break, injure, tamper with or remove any part of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying said vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a Class 1 misdemeanor.

(Code 1988, § 1-46; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-146.

Sec. 14-109. Entering or setting vehicles in motion.

Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other devise, brakes or mechanism thereof or to set into motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a Class 1 misdemeanor, except that the foregoing provision shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(Code 1988, § 1-47; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-147.

Secs. 14-110—14-131. Reserved.

ARTICLE V. OFFENSES RELATING TO FRAUD

Sec. 14-132. Defrauding keepers of motor vehicles, boats or other watercrafts.

Any person who stores a motor vehicle, boat or other watercraft with any person, firm, or corporation engaged in the business of conducting a garage, marina, watercraft dealership or other facility for the storage of motor vehicles, boats or other watercrafts; furnishing of supplies to motor vehicles, boats or other watercrafts; or alteration or repair of motor vehicles, boats or other watercrafts, and obtains storage, supplies, alterations or repairs for such motor vehicle, boat or other watercraft without having an express agreement for credit, or procures storage, supplies, alterations or repairs on account of such motor vehicle, boat or other watercraft so stored, without paying therefor, and with the intent to cheat or defraud the owner or keeper of such garage, marina or boat repair facility; or with such intent obtains credit at such garage, marina or boat repair facility for such storage, supplies, alterations or repairs through misrepresentation or false statement; or with such intent removes or causes to be removed any such motor vehicle, boat or other watercraft from any such garage, marina

or boat repair facility while there is a lien existing thereon for the proper charges due from him for storage, supplies, alterations or repairs shall be guilty of a Class 2 misdemeanor.

(Code 1988, § 1-15; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-189.

Sec. 14-133. Defrauding hotels, motels, campgrounds, or boardinghouses.

(a) It shall be unlawful for any person, without paying therefor and with the intent to cheat or defraud the owner or keeper to:

(1) Put up at a hotel, motel, campground or boardinghouse;

(2) Obtain food from a restaurant or other eating house;

(3) Gain entrance to an amusement park; or

(4) Without having an express agreement for credit, procure food, entertainment or accommodation from any hotel, motel, campground, boardinghouse, restaurant, eating house or amusement park.

(b) It shall be unlawful for any person, with intent to cheat or defraud the owner or keeper out of the pay therefor, to obtain credit at a hotel, motel, campground, boardinghouse, restaurant or eating house for food, entertainment or accommodation by means of any false show of baggage or effects brought thereto.

(c) It shall be unlawful for any person, with intent to cheat or defraud, to obtain credit at a hotel, motel, campground, boardinghouse, restaurant, eating house or amusement park for food, entertainment or accommodation through any misrepresentation or false statement.

(d) It shall be unlawful for any person, with intent to cheat or defraud, to remove or cause to be removed any baggage or effects from a hotel, motel, campground, boardinghouse, restaurant or eating house while there is a lien existing thereon for the proper charges due from him for fare and board furnished.

(e) Any person who violates any provision of this section, if the value of service, credit or benefit procured or obtained is less than $1,000.00, is guilty of a Class 1 misdemeanor.

(Code 1988, § 1-16; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Defrauding hotel, motel or other inn keepers, Code of Virginia, § 18.2-188.

Secs. 14-134—14-164. Reserved.

ARTICLE VI. OFFENSES RELATING TO HEALTH AND SAFETY

Sec. 14-165. Careless fires.

(a) Any person who intentionally sets or procures another to set fire to any woods, brush, leaves, grass, straw, or any other inflammable substance capable of spreading fire, and who intentionally allows the fire to escape to lands not his own, whereby the property of another is damaged or jeopardized, shall be guilty of a Class 1 misdemeanor, and shall be liable for the full amount of all expenses incurred in fighting the fire.

(b) If any person carelessly, negligently or intentionally set any woods or marshes on fire, or sets fire to any stubble, brush, straw, or any other substance capable of spreading fire on lands, whereby the property of

another is damaged or jeopardized, he shall be guilty of a Class 4 misdemeanor, and shall be liable for the full amount of all expenses incurred in fighting the fire.

(Code 1988, § 1-28; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Regulating or prohibiting making of fires, etc., Code of Virginia, § 15.2-922.1; setting woods, etc., on fire, Code of Virginia, § 18.2-87; careless fires damaging property, Code of Virginia, § 18.2-88.

Sec. 14-166. Interference with water and sewer lines.

(a) Any person who willfully and maliciously diverts any public wastewater or sewer line or diverts or wastes any public water supply by tampering with any fire hydrant shall be guilty of a Class 2 misdemeanor.

(b) Any person who willfully and maliciously diverts any public wastewater or sewer line or diverts or wastes any public water supply by tampering with any fire hydrant shall be guilty of a Class 2 misdemeanor.

State law reference(s)—Damaging or diverting water supply or wastewater services, Code of Virginia, § 18.2-162; diverting or wasting public water supply, Code of Virginia, § 18.2-162.1.

Sec. 14-167. Injuring, destroying, removing, or tampering with firefighting equipment; penalty.

Any person who injures, destroys, removes, tampers with, or otherwise interferes with the operation of any equipment or apparatus used for fighting fires or for protecting property or human life by a fire company or fire department, as those terms are defined in Code of Virginia, § 27-6.01, or any emergency medical services vehicle, as defined in Code of Virginia, § 32.1-111.1, intending to temporarily or permanently prevent the useful operation of such equipment or apparatus is guilty of a Class 1 misdemeanor.

(Code 1988, § 1-29; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-151.1.

Sec. 14-168. Interference with public services or utilities.

Any person who shall intentionally destroy or damage any facility which is used to furnish oil, telegraph, telephone, electric, gas, sewer, wastewater or water service to the public, provided that the destruction or damage may be remedied or repaired for less than $1,000.00, such act shall constitute a Class 3 misdemeanor. On electric generating property marked with no trespassing signs, the security personnel of a utility may detain a trespasser for a period not to exceed one hour pending arrival of a law enforcement officer.

(Code 1988, § 1-30; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-162.

Sec. 14-169. Tampering with metering device; diverting service; civil liability.

(a) Any person who tampers with any metering device incident to the facilities set forth in section 14-168, or otherwise intentionally prevents such a metering device from properly registering the degree, amount or quantity of service supplied, or diverts such service, except telephonic or electronic extension service not owned or controlled by any such company without authorization from the owner of the facility furnishing the service to the public, shall be guilty of a Class 1 misdemeanor.

(b) The presence of any metering device found to have been altered, tampered with, or bypassed in a manner that would cause the metering device to inaccurately measure and register the degree, amount or quantity of service supplied or which would cause the service to be diverted from the recording apparatus of the meter shall be prima facie evidence of intent to violate and of the violation of this section by the person to whose benefit it is that such service be unmetered, unregistered or diverted.

(c) The court may order restitution for the value of the services unlawfully used and for all costs. Such costs shall be limited to actual expenses, including the base wages of employees acting as witnesses for the commonwealth, and suit costs. However, the total amount of allowable costs granted hereunder shall not exceed $250.00, excluding the value of the service.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-163.

Sec. 14-170. Unlawful use of, or injury to, telephone and telegraph lines; copying or obstructing messages; penalty.

(a) If any person commits any of the following acts, he is guilty of a Class 2 misdemeanor:

(1) Maliciously injure, molest, cut down, or destroy any telephone or telegraph line, wire, cable, pole, tower, or the material or property belonging thereto;

(2) Maliciously cut, break, tap, or make any connection with any telephone or telegraph line, wire, cable, or instrument of any telegraph or telephone company which has legally acquired the right-of-way by purchase, condemnation, or otherwise;

(3) Maliciously copy in any unauthorized manner any message, either social, business, or otherwise, passing over any telephone or telegraph line, wire, cable, or wireless telephone transmission in the commonwealth;

(4) Willfully or maliciously prevent, obstruct, or delay by any means or contrivance whatsoever the sending, conveyance, or delivery in the commonwealth of any authorized communication by or through any telephone or telegraph line, wire, cable, or wireless transmission device under the control of any telephone or telegraph company doing business in the commonwealth;

(5) Maliciously aid, agree with, employ, or conspire with any unauthorized person unlawfully to do or cause to be done any of the acts hereinbefore mentioned.

(b) If any person, with the intent to prevent another person from summoning law enforcement, fire, or rescue services:

(1) Commits any act set forth in subsection (a) of this section; or

(2) Maliciously prevents or interferes with telephone or telegraph communication by disabling or destroying any device that enables such communication, whether wired or wireless;

he is guilty of a Class 1 misdemeanor.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-164.

Sec. 14-171. Pulling down fences or leaving gates open.

Any person who, without permission of the owner, pulls down the fence of another and leaves the same down, or, without permission, opens and leaves open the gate of another, or any gate across a public road established by order of court or if any person other than the owner of the lands through which a line of railroad runs, who opens and leaves open a gate at a public or private crossing of the railroad right-of-way, shall be guilty of a Class 4 misdemeanor.

(Code 1988, § 1-31; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-143.

Sec. 14-172. Handbills.

(a) A person shall be guilty of a Class 4 misdemeanor if he:

(1) Distributes or causes to be distributed any handbills in such a manner so as to interfere with the safe and orderly flow of traffic on any sidewalk or street;

(2) Places or causes to be placed any handbill in or upon any automobile or other vehicle unless the owner thereof demonstrates his willingness to accept it;

(3) Distributes or causes to be distributed any handbill in or upon any private premises which are then uninhabited and vacant;

(4) Distributes or causes to be distributed any handbill, in or upon private premises which are inhabited, in a manner other than by handing it directly to the owner, occupant, or other person then present in or upon such private premises, provided handbills may be placed securely thereon so as to prevent being blown about such inhabited premises or elsewhere unless requested by anyone upon such premises not to do so or unless a sign is posted conspicuously upon such premises in any manner indicating the occupants do not desire to have hand bills left upon such premises;

(5) Affixes in any way a handbill, poster, or advertisement to any public property, real or personal, including telegraph, telephone, electric transmissions poles and trees, except as may be authorized by law; or

(6) Throws, places, or distributes or causes to be thrown, placed, or distributed any commercial handbill in or upon any place within the town.

(b) Handbills may be distributed in any public place to those persons willing to accept them.

(Code 1988, § 1-36; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

Secs. 14-173—14-197. Reserved.

ARTICLE VII. OFFENSES RELATING TO PEACE AND ORDER

Sec. 14-198. Disorderly conduct in public places.

(a) A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance, or alarm or recklessly creating a risk thereof, he:

(1) In any streets, highways, public buildings, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person at whom, individually, such conduct is directed;

(2) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drugs of whatever nature, disrupts any meeting of the governing body of any political subdivision of the commonwealth, or a division or agency thereof, or any school, literary society or place of worship, if the disruption prevents or interferes with the orderly conduct of such

meeting or has a direct tendency to cause acts of violence by the person at whom, individually, the disruption is directed; or

(3) Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drugs of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption prevents or interferes with the orderly conduct of the operation or activity or has a direct tendency to cause acts of violence by the person at whom, individually, the disruption is directed.

(b) However, the conduct prohibited under this section shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this article.

(c) The person in charge of such building, place, conveyance, operation, activity or meeting may eject therefrom any person who violates any provisions of the section with the aid, if necessary, of any persons called upon for such purpose.

(d) The provisions of this section shall not apply to any elementary or secondary school student if the disorderly conduct occurred on the property of any elementary or secondary school, on a school bus as defined in Code of Virginia, § 46.2-100, or at any activity conducted or sponsored by any elementary or secondary school.

(e) Such violators shall be guilty of a Class 1 misdemeanor.

(Code 1988, § 1-33; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, §§ 15.2-925, 18.2-415.

Sec. 14-199. Loitering or loafing.

Any person loitering or standing on any street, sidewalk, curb or upon or around any public place, whether on public or private property, who fails to move on after being requested to do so by a police officer shall be guilty of a Class 4 misdemeanor and shall cease to occupy such position on the street, sidewalk, or curb.

(Code 1988, § 1-34)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-926.

Secs. 14-200—14-221. Reserved.

ARTICLE VIII. OFFENSES RELATING TO ADMINISTRATION OF JUSTICE

Sec. 14-222. Obstruction of justice, resisting arrest.

(a) If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the commonwealth, witness, any law enforcement officer, or animal control officer employed pursuant to Code of Virginia, § 3.2-6555, in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the commonwealth, witness, law enforcement officer, or animal control officer employed pursuant to Code of Virginia, § 3.2-6555, he is guilty of a Class 1 misdemeanor.

(b) Any person who, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the commonwealth, witness, any law enforcement officer, or an animal control officer employed pursuant to Code of Virginia, § 3.2-6555, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a Class 1 misdemeanor.

(Code 1988, § 1-10; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-460.

Sec. 14-223. Prisoner fleeing custody of officer.

Any person lawfully confined in jail or lawfully in the custody of any court or officer of the court or of any law enforcement officer for violation of his probation or parole or on a charge or conviction of a misdemeanor, who escapes therefrom, shall be guilty of a Class 1 misdemeanor.

(Code 1988, § 1-11; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-479(A).

Sec. 14-224. False reports to police officers.

It shall be unlawful for any person to knowingly give a false report as to the commission of any crime to any law enforcement official with intent to mislead; to knowingly, with the intent to mislead a law enforcement agency, cause another to give a false report to any law enforcement official by publicly simulating a violation of Code of Virginia, § 18.2-30 et seq., or 18.2-77 et seq.; or without just cause and with intent to interfere with the operations of any law enforcement official, to call or summon any law enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm. Violation of the provisions of this section shall be punishable as a Class 1 misdemeanor.

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-461.

Sec. 14-225. False fire alarms.

Any person who, without just cause therefor, calls or summons, by telephone or otherwise, any emergency medical services vehicle or firefighting apparatus, or any person who maliciously activates a manual or automatic fire alarm in any building, regardless of whether an emergency medical service vehicle or fire apparatus responds or not, shall be guilty of a Class 1 misdemeanor.

(Code 1988, § 1-27; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 18.2-212.

Secs. 14-226—14-243. Reserved.

ARTICLE IX. OFFENSES RELATING TO GAMBLING

Sec. 14-244. Illegal gambling.

Except as otherwise provided in Code of Virginia, title 18.2, chapter 8, article 1 (Code of Virginia, § 18.2-325 et seq.), any person who illegally gambles or engages in interstate gambling shall be guilty of a Class 3 misdemeanor. If an association or pool of persons illegally gamble, each person therein shall be guilty of illegal gambling.

(Code 1988, § 1-44; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Gambling, Code of Virginia, §§ 18.2-326, 18.2-333, 18.2-334.

Sec. 14-245. Illegal gambling devices.

Any person maintaining or permitting the use of a gambling device, as defined by Code of Virginia, § 18.2-325(3), shall be guilty of a Class 3 misdemeanor.

(Code 1988, § 1-45; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Illegal gambling, Code of Virginia, §§ 18.2-325, 18.2-326.

Secs. 14-246—14-268. Reserved.

ARTICLE X. OFFENSES RELATING TO WEAPONS AND EXPLOSIVES

Sec. 14-269. Discharging firearms.

If any person willfully discharges or causes to be discharged any firearm in any street, or in any place of public business or place of public gathering, and such conduct does not result in bodily injury to another person, such person shall be guilty of a Class 1 misdemeanor. This section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose said willful act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. This section shall not apply to the discharge of firearms for the killing of deer on land of at least five acres that is zoned for agricultural use.

(Code 1988, § 1-55; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to prohibit the discharge of firearms, Code of Virginia, § 15.2-1113; discharge of firearms, Code of Virginia, § 18.2-280.

Sec. 14-270. Airguns, slingshots and other instruments for projecting missiles.

Any person using, within the town, any instrument for projecting missiles, including, but not limited to, airguns, BB guns, slingshots, grit shooters, and bows and arrows, shall be guilty of a Class 4 misdemeanor, provided this section shall not apply to archery ranges of colleges or schools.

(Code 1988, § 1-56; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-916.

Sec. 14-271. Fireworks.

(a) Any person who transports, manufactures, sells, or offers for sale a firecracker, torpedo, skyrocket, or other substance or thing of whatever form or construction commonly known as fireworks, without a permit, shall be guilty of a Class 1 misdemeanor, except that any person who purchases, stores, transports, ignites, or explodes such items as a part of a personal or family celebration shall be guilty of a Class 3 misdemeanor.

(b) This section shall not apply to members of the armed forces acting within the scope of their duties, to persons using such materials for emergency signaling, or to persons involved in the operation of a railroad. This section shall not apply to the use or sale of sparklers, fountains, pharaoh's serpents, caps for pistols, or to pinwheels or whirligigs so long as such fireworks are ignited or exploded on private property with consent of the owner thereof. The town manager or other delegated officer shall have authority to issue permits for

lawful fireworks exhibitions to be held by benevolent or fraternal groups, clubs, associations or organizations.

(Code 1988, § 1-57; Ord. of 9-10-1990; Ord. of 4-5-1999; Ord. of 10-4-1999)

State law reference(s)—Authority to prohibit the discharge of fireworks, Code of Virginia, § 15.2-1113; regulation of transportation of certain articles through the town, Code of Virginia, § 15.2-2029; fireworks, Code of Virginia, § 27-97.

Chapter 16 SOLID WASTE

Sec. 16-1. Definitions.

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

Ashes means the residue from the burning of wood, coal, or other combustible materials.

Curbside means a location near the property line, easily accessible to the town or the town's contractor, and adjacent to the public right-of-way, but which location shall not be in the street or on the sidewalk in a manner so as to interfere with vehicular or pedestrian traffic.

Garbage means animal and vegetable waste capable of rotting or decaying and which results from the handling, preparation, cooking, or consumption of food.

Person means, in addition to any person, also a firm, partnership, association, corporation, or organization of any kind.

Refuse means all solid wastes (except body wastes), whether capable of rotting or decaying or not, including but not limited to, garbage, rubbish, ashes, soot cleanings, dead animals, feathers, abandoned automobiles, and solid market and industrial wastes.

Rubbish means solid wastes (excluding ashes) not capable of decaying or rotting, and consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

Manager or *town manager* means the manager for the town, his designee, or such other person as may be appointed by the town council from time to time to fulfill the duties of the town manager hereunder.

(Ord. of 2-8-2021, § 7-1)

Sec. 16-2. Refuse collection.

(a) The town may engage a private contractor to collect refuse from residences within the town. The contractor will collect such refuse as is provided in its contract with the town.

(b) The town may operate a recycling center or contract for recycling services.

(c) From time to time, the town manager may schedule the collection of refuse that is qualitatively or quantitatively beyond what the contractor will collect, within limits to be set by the town manager. Collection under this subsection is referred to in this chapter as "bulk collection."

(Ord. of 2-8-2021, § 7-2)

Sec. 16-3. Type of refuse collected.

The town, or the town's contractor, will collect garbage, rubbish, and acceptable categories of refuse from residences within the town, provided that the manager shall have a right to determine what refuse is acceptable depending upon the quantity and type of refuse, and the obligations of the town's contractor under section 16-2(a). The town may also decline to accept what the manager considers to be an unreasonable accumulation of garbage and rubbish during a collection period without imposing a charge calculated to cover the actual costs of the collection of the excess material. The town may, but shall not be obligated to, collect commercial refuse for a fee to be negotiated according to the type of waste and quantity thereof.

(Ord. of 2-8-2021, § 7-3)

Sec. 16-4. Refuse not acceptable for disposal.

Without limitation, the following categories of refuse shall not be acceptable for disposal:

(1) Dangerous materials or substances such as poisons, acids, caustics, infected materials and explosives.

(2) Materials resulting from the construction or demolition of buildings and structures or from the clearance of vacant or improved property in preparation for construction or occupancy. The manager may, but shall not be obligated to, accept this refuse upon negotiating a fee for the collection for the same with the user.

(3) All large and bulky materials, such as motor vehicles or parts of motor vehicles, tree trunks and stumps that may require special preparation and processing for disposal.

(4) Any materials which create an unusually bad odor such as manure or rotten and unhatched eggs.

(5) The bodies of dead animals.

(6) Hot ashes.

(7) Liquids.

(Ord. of 2-8-2021, § 7-4)

Sec. 16-5. Placement of refuse.

Refuse shall be placed curbside in a manner so as not to interfere with vehicular or pedestrian traffic.

(Ord. of 2-8-2021, § 7-5)

Sec. 16-6. Time of placement.

Refuse shall be placed for collection no earlier than 5:00 p.m. on the afternoon preceding the collection day and must be removed to a point at the side or rear of the structure not later than 8:00 a.m. of the day following collection.

(Ord. of 2-8-2021, § 7-6)

Sec. 16-7. Regulations concerning containers.

(a) Except for bulk collection or as otherwise specifically provided herein, all refuse must be placed for collection in containers of a type and size approved by the town, maintained in good condition and free from holes. The town may require the use of containers provided by the town or by the town's contractor. The town will not be responsible for collection of materials that are not placed in approved containers.

(b) The town may impose a limit on the weight of refuse placed in containers or on the number of containers per residence.

(Ord. of 2-8-2021, § 7-7)

Sec. 16-8. Allowing refuse to be scattered.

No person shall leave or deposit refuse in such a location and in such amount that it may be carried by the elements upon any street, sideway, alley, or other public place, or into any occupied premises within the town. The owners and occupants of real property shall be responsible for the proper maintenance of dumpsters, recycle containers, grease dumpsters, and similar storage bins. Except for the placement of items allowable for bulk collection and within the time limitation specified in section 16-15, no refuse or other similar materials shall be allowed to accumulate in the immediate area of any such bin. Because refuse and other similar materials around dumpsters can attract unwelcome animals, harbor germs, interfere with traffic, and obstruct parking, the violation of this section shall be a per se violation of the nuisances ordinance and shall trigger the civil penalties established therein.

(Ord. of 2-8-2021, § 7-8)

Sec. 16-9. Town manager to promulgate rules and regulations.

The town manager is empowered to adopt and put into force such rules and regulations governing refuse collection and refuse disposal as the town manager may deem necessary, provided that such rules and regulations are consistent with this chapter and impose no criminal penalties.

(Ord. of 2-8-2021, § 7-9)

Sec. 16-10. Scheduled collections.

The collection dates for refuse collection, bulk collection, and recycling collection, if any, shall be fixed from time to time by the town manager.

(Ord. of 2-8-2021, § 7-10)

Sec. 16-11. Rates and charges.

The rates charged for the collection of refuse shall be fixed from time to time by the town council. Such fees shall be mandatory for all residents in the town, irrespective of the actual use of the services provided. Businesses that utilize a refuse collection service other than the town's service shall be exempt from the town's fee. The town may bill refuse, water, and sewer services together, and may allocate payments received to refuse services first and water and sewer services last. If a fee for refuse service is not paid when due, penalties and interest shall be imposed pursuant to section 2-171.

(Ord. of 2-8-2021, § 7-11)

Sec. 16-12. Collection of refuse produced outside of the town limits.

The refuse collection program is operated by the town for the disposal of refuse produced within the town's corporate limits. No person shall deposit any refuse produced outside the town at any point within the town for collection and disposal, without first obtaining the express permission of the town manager. Violation of this section shall constitute a Class 3 misdemeanor.

(Ord. of 2-8-2021, § 7-12)

Sec. 16-13. Bulk collection; yard waste.

The town manager may schedule and require separate collection of yard waste such as weeds, brush, or trimmings. Such yard waste collection service may, at the discretion of the town manager, be limited to certain seasons. The town manager may impose requirements on the size and weight of yard waste and may require that yard waste be placed in biodegradable bags.

(Ord. of 2-8-2021, § 7-13)

Sec. 16-14. Bulk collection; all other items.

The collection of refuse under section 16-2(c), such as heavy items, large amounts of brush, appliances, furniture, or mattresses, may take place at such time or times as designated by the town manager, who may impose limitations on the items that the town will collect.

(Ord. of 2-8-2021, § 7-14)

Sec. 16-15. Time of placement for bulk collection.

Refuse for bulk collection shall not be placed curbside except for the 48 hours before the start of collection.

(Ord. of 2-8-2021, § 7-15)

Sec. 16-16. Civil penalty for certain violations.

Because the outdoor placement of refuse can cause a fire risk, obstruct streets or sidewalks, pose a danger to transportation, or provide harborage for rats or other vermin, a violation of sections 16-5, 16-6, 16-7(a), 16-8, and 16-15 shall be a per se violation of the nuisances ordinance and shall trigger the civil penalties established therein.

(Ord. of 2-8-2021, § 7-16)

Chapter 18 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. STREETS AND SIDEWALKS

DIVISION 1. GENERALLY

Sec. 18-19. Applicability of chapter beyond/within state secondary highway system.

Unless expressly provided to the contrary, the provisions of this chapter shall not apply to any streets, sidewalks, or land within the confines of the state secondary system of highways. This chapter shall apply, however, to any streets, sidewalks, or land which lies beyond the state secondary system. Further, this chapter shall apply within the state secondary system to the extent the town acts with the concurrence of the state department of transportation. (See 1982-1983 Op. Atty. Gen. Va. 272.)

(Code 1988, § 2-56.1; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Secs. 18-20—18-41. Reserved.

DIVISION 2. CONSTRUCTION AND PAVING

Sec. 18-42. Paving of streets.

No streets are to be paved at the expense of the town unless agreed to by the council. It shall be unlawful to attempt to grade, pave, light, clean or otherwise improve at the expense of the town, any street hereafter dedicated to the public by the owner of private property, unless the same shall have been accepted by the council and under its direction, laid out by the town manager or other duly delegated authority.

(Code 1988, § 2-57; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 18-43. Sidewalks.

(a) The owners of property, in front of which the sidewalks are not paved, shall, whenever the town council, by ordinance, determines that such sidewalk be paved and upon notice to that effect by the town manager, pay 50 percent of the cost of paving to the town treasurer.

(b) If such owner shall neglect, after 30 days' notice to him from the town manager, to pay one-half the cost of paving, then one-half of the cost of the paving shall be certified by the town manager to the town treasurer who shall record the same. The treasurer shall record the name of the owner and street upon which his property abuts, and the frontage of the property on the street. The amount of the landowner's liability (one-half of the total cost) shall be a lien on property and shall be collected by the town treasurer in the same manner that he collects taxes. The notice required by this section may be served on the owner in person, or if he be a nonresident, by mailing to him at his last known address, the notice by registered mail, or by publication in a local newspaper for two successive weeks.

(Code 1988, § 2-58; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 18-44. Notice of paving.

(a) Before the council shall, in accordance with section 18-43, order landowners to pave a sidewalk, the council shall first give notice by personal service on all persons entitled to such notice, except:

(1) Notice to an infant, a mentally incapacitated person or other person under a disability may be served on his guardian, conservator or committee;

(2) Notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having charge of the property or on the tenant of the property; or

(3) In any case when the owner is a nonresident or when the owner's residence is not known, such notice may be given by publication in a newspaper having general circulation in the locality once a week for four successive weeks.

(b) In lieu of such personal service on the parties or their agents and of such publication, the notice to all parties may be given by publishing the same in a newspaper having general circulation in the town, once a week for two successive weeks. The second publication shall be made at least seven days before the parties are cited to appear. Any landowner wishing to make objections to an assessment or apportionment may appear in person or by counsel and state such objections.

(Code 1988, § 2-59; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2400.

Sec. 18-45. When permit for paving required.

No person shall pave a sidewalk within the town without first obtaining a permit from the town manager. Any permit shall designate the material and foundation to be used, the width of the pavement, and such other matters as may be relevant. The actual paving shall be done under the supervision of the town manager. Violation of this section shall constitute a Class 4 misdemeanor.

(Code 1988, § 2-60; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 18-46. Injury to sidewalk; penalty.

Any person injuring any sidewalk, shall, when required by the town manager, pay the town treasurer such amount as is estimated by the town manager to be necessary to repair the injury. The town manager shall then have the sidewalk repaired. If the person causing the injury fails to pay repair costs to the town treasurer within 15 days, the costs shall be collected in accordance with section 18-43(b).

(Code 1988, § 2-61; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 18-47. Excavating in streets and sidewalks.

No person, firm or corporation shall dig up any street, lane, alley, or park for any purpose without first obtaining written permission therefor from the town manager. Any person, firm, or corporation violating this section shall be guilty of a Class 4 misdemeanor.

(Code 1988, § 2-62; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 18-48. Warning lights on street obstructions.

Any person who shall break or dig up any street or deposit any material thereon shall place as many lights as may be necessary to warn passersby of the obstruction in the streets, so long as such breach or obstruction shall remain in the streets. Violation of this section shall constitute a Class 3 misdemeanor.

(Code 1988, § 2-63; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Secs. 18-49—18-69. Reserved.

DIVISION 3. SNOW REMOVAL

Sec. 18-70. Snow removal from sidewalks.

(a) All persons occupying, owning, or having charge of any property within the town shall be required to remove the snow from the entire sidewalk in front of such property, within six daylight hours after the snow has ceased to fall.

(b) If any property owner or tenant fails to clean snow from his sidewalk after six daylight hours from the time snow ceases to fall, and if after such reasonable notice under the circumstances as determined by the town manager, the owner or occupant of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance and remove the snow from the sidewalk, the town may do so and charge and collect the cost thereof from the owner or occupant of the property affected in any manner provided by law for the collection of state or local taxes.

(c) Every charge authorized by this section in excess of $200.00 which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as liens for other unpaid local real estate taxes and shall be enforceable in the same manner as provided in Code of Virginia, §§ 58.1-3940 et seq., and 58.1-3965 et seq. The town may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(d) This section shall apply throughout the town, within and without the state secondary system, notwithstanding section 18-19.

(Code 1988, § 2-64; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Authority to require removal of snow from sidewalks, Code of Virginia, § 15.2-1115.

Sec. 18-71. Removal of vehicles from streets during snowfall.

Whenever snow accumulates on any street to a depth of two or more inches, the owners or operators of motor vehicles parked on that street shall remove the vehicles no later than two hours after the snow has accumulated to two inches without waiting for the snow to cease. Any person violating this section shall pay a fine of $5.00 for each offense.

(Code 1988, § 2-65; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Chapter 20 SUBDIVISIONS[7]

ARTICLE I. IN GENERAL

Sec. 20-1. Title.

This chapter is known and may be cited as the "Subdivision Code of Dayton, Virginia."

(Code 1988, § 8-1)

Sec. 20-2. Declaration of policy.

It is declared to be the policy of the town to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town. Such subdivisions shall be guided and regulated in such a manner as to meet the requirements set out in this chapter for orderly and harmonious growth.

(Code 1988, § 8-2)

Sec. 20-3. Definitions.

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

Agent means the person designated by the town council to act on its behalf on subdivision matters.

Alley means a passageway open to public travel affording a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

Clerk's office means the clerk's office of the circuit court of the county.

Commission means the planning commission of the town.

Cul-de-sac means a street with only one outlet and having an appropriate turnaround for safe and convenient reverse traffic movement.

Person means a natural person or a partnership, corporation, or any other form of legal entity.

Plat means a map or drawing on which the proposed subdivision of land is presented for approval and, when in final form, for recording.

Plat of subdivision means the schematic representation of land divided or to be divided.

Street means any way for vehicular traffic other than alleys, including streets, lanes, boulevards, expressways, roads, highways, thoroughfares, or however otherwise designated.

Subdivide means to divide a lot or parcel of land into two or more parcels. The term "subdivide" also includes the reduction of one parcel to increase the size of an adjoining parcel.

[7]State law reference(s)—Planning and subdivision of land, Code of Virginia, § 15.2-2200 et seq.

Subdivider means an individual, corporation, or other entity owning a parcel of land to be subdivided, whether or not represented by an attorney or agent.

Subdivision means land which has been, or is proposed to be, subdivided.

(Code 1988, 8-3; Ord. of 5-6-2002)

Sec. 20-4. Prohibition against subdividing without complying with chapter.

(a) No person shall subdivide land without making and recording a plat of such subdivision and without fully complying with the provisions of this chapter.

(b) No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.

(c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein, provided that nothing in this chapter 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.

(d) It shall be unlawful for any person, corporation, partnership, or other entity to subdivide or improve property in a manner which deviates from the preliminary or final plats as approved.

(e) Any person violating the foregoing provisions shall be subject to a fine of not more than $500.00 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided herein.

(Code 1988, § 8-4)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2254.

Sec. 20-5. Exceptions.

(a) *Abbreviated procedures.*

(1) *Finding.* The council finds that requiring subdividers to comply with this chapter in its entirety could create substantial injustice or hardship with respect to the classes of subdivisions defined in subsection (a)(2) of this section.

(2) *Qualification.* This subsection (a) shall apply to the following classes of subdivisions:

a. Divisions of property into two pieces, with one being retained by the subdivider and the other being conveyed to the owner of an adjoining lot;

b. Subdivisions in which no water, sewer, drainage, street or other improvements are required, and in which no such improvements will be dedicated to public use or otherwise transferred to the town.

(3) *Submission of subdivider's proposal.* With respect to subdivisions identified in subsection (a)(2) of this section, the agent may permit the subdivider to submit his proposal under the abbreviated procedures of this subsection (a), if the agent is satisfied that doing so will not undermine the council's intent expressed in section 20-2. The abbreviated procedures consist of the following:

a. The subdivider shall submit a written summary describing the salient features of the subdivision;

b. He shall also submit a final plat complying with section 20-70;

c. If the subdivision is an adjoining lot transfer under subsection (a)(2)a of this section, the final plat shall also indicate, by broken lines, the preexisting boundary between the portion of the divided lot being conveyed and the adjoining lot. The broken line shall be labeled with the following language: "Property line hereby vacated." Recordation of the final Plat shall operate to vacate the common property line;

d. The agent shall review the materials submitted, and approve the final plat if the subdivision complies with the terms of this chapter;

e. If the agent rejects the proposal, the subdivider may resubmit his materials to the agent under this section or invoke the full subdivision procedures set out in this chapter.

(b) *Variance from standards.* The council further recognizes that in rare instances, compliance with article III of this chapter, dealing with certain subdivision improvement standards, could cause substantial injustice. Upon the petition of a subdivider and a finding of clear and substantial injustice, the council may relax the standards imposed by article III of this chapter.

(c) *Multifamily housing.* Divisions of property made in accordance with section 30-297 or 30-337 shall be exempt from the provisions of this chapter.

(Code 1988, § 8-4.1; Ord. of 5-6-2002)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2242(1).

Sec. 20-6. Payment of share of certain costs.

(a) Every subdivider or developer of land shall be obligated to pay the 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 the subdivider or developer, but necessitated or required, at least in part, by the construction or improvement of such subdivision or development; provided, however, no such payment shall be required until such time as the town or a designated department or agency thereof shall have established a general sewer, water and drainage improvement program for an area having related and common sewer, water, and drainage conditions and within which the land owned or controlled by the subdivider or developer is located. The subdivider's pro rata share of these expenditures shall be calculated in accordance with Code of Virginia, § 15.2-2243.

(b) In lieu of such payment, a subdivider or developer may post a personal, corporate or property bond, cash escrow or other method of performance guarantee satisfactory to the agent, conditioned on payment at commencement of such studies or construction.

(c) Each such payment received shall be expended only for necessary engineering and related studies and the construction of those facilities identified in the established sewer, water, and drainage program. The payments received shall be kept in a separate account for each of the individual improvement programs until such time as they are expended for the improvement program. All bonds, payments, cash escrows or other performance guarantees hereunder shall be released and used, with any interest earned, as a tax credit on the real estate taxes on the property if construction of the facilities identified in the established water, sewer and drainage programs is not commenced within twelve years from the date of the posting of the bond, payment, cash escrow or other performance guarantee.

(Code 1988, § 8-5)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2243.

Sec. 20-7. Building or zoning permits subject to compliance.

Until this chapter is complied with, the town will issue no building or zoning permits for any improvement or activity on property which has been subdivided.

(Code 1988, § 8-6; Ord. of 5-6-2002)

Sec. 20-8. Proceeding to restrain or abate violations.

In case of any violation or attempted violation of the provisions of this chapter, the agent or the town council, in addition to other remedies, may institute any appropriate action or proceeding to prevent such violation, or attempted violation, to restrain, correct or abate such violation, or attempted violation, or to prevent any act which would constitute such a violation.

(Code 1988, § 8-7; Ord. of 5-6-2002)

Sec. 20-9. Administrative procedures; right of agent to establish.

In addition to the provisions of this chapter, the agent may, from time to time, establish reasonable additional administrative procedures deemed necessary for the proper administration of this chapter, but such procedures shall be subject to disapproval by the council. The agent may establish reasonable fees for the review of plats and the inspection of facilities required to be installed.

(Code 1988, § 8-8)

Sec. 20-10. Fees.

A subdivider shall pay to the treasurer of the town a fee for review of plats and plans as the council from time to time deems appropriate.

(Code 1988, § 8-29; Ord. of 9-9-1991; Ord. of 5-6-2002)

Secs. 20-11—20-20. Reserved.

ARTICLE II. PLATS

DIVISION 1. GENERALLY

Sec. 20-21. Vacation; alteration.

Subdivision plats may be vacated in accordance with Code of Virginia, §§ 15.2-2271 and 15.2-2272. Additionally, subdivision plats may be vacated or altered in the manner prescribed by Code of Virginia, § 15.2-2275.

(Code 1988, § 8-30; Ord. of 9-9-1991; Ord. of 5-6-2002)

State law reference(s)—Vacation of plat before sale of lots, Code of Virginia, § 15.2-2271; after sale, Code of Virginia, § 15.2-2272; boundary lines, Code of Virginia, § 15.2-2275.

Secs. 20-22—20-45. Reserved.

DIVISION 2. PRELIMINARY PLAT

Sec. 20-46. Filing requirement.

The first step in the approval of a subdivision shall be the filing of a preliminary plat with the agent.

(Code 1988, § 8-9; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-47. Contents of plat.

The preliminary plat shall be drawn to scale and shall include supporting data showing the following:

(1) The proposed subdivision name and acreage;

(2) Date, north point, and graphic scale;

(3) Names and addresses of the owners of the property, including any existing mortgagees, and the designer of the layout;

(4) Location and names of adjoining developments or names of the owners of adjoining lands;

(5) Existing and proposed streets, easements and other rights-of-way within and adjoining the subdivision, including right-of-way and roadway widths, approximate grades, and proposed street names;

(6) Location of existing and proposed utilities adjacent to the tract to be subdivided, including size and elevation;

(7) Location of building setback lines and zoning district lines;

(8) Lot lines, lot and block numbers, and approximate dimensions;

(9) Proposed method of water supply, drainage provisions, sanitary sewer layout or other accepted sanitary plan, methods of flood control where applicable, and all other public utilities. Connections with existing facilities, sizes of proposed facilities, and any accessory structure shall also be shown;

(10) The location of existing water courses and other geographic features;

(11) Any requirements for property development set out elsewhere in this Code, including any tree canopy plan required by article II, chapter 28.

(Code 1988, § 8-10; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-48. Review for approval.

The agent shall review the preliminary plat with the planning commission, which shall approve or disapprove of it. In not more than 60 days from the time of submission, the agent shall advise the subdivider of approval or disapproval of the preliminary plat and other required exhibits as submitted or modified and, if approved, the same shall be expressed on the plat stating the conditions of approval, if any, or if disapproved shall express such disapproval and the reasons therefor. Approval of the preliminary plat does not constitute approval of the final plat.

(Code 1988, § 8-11; Ord. of 9-9-1991; Ord. of 5-6-2002)

Secs. 20-49—20-69. Reserved.

DIVISION 3. FINAL PLAT

Sec. 20-70. Requirements and contents.

(a) The final plat shall be prepared in all cases and filed with the agent. The final plat shall be prepared by a surveyor or civil engineer duly licensed by the commonwealth. The subdivider shall submit to the agent a reasonable number of copies, as required by the agent, clearly and legibly drawn to scale and of a size compatible with size requirements of the county clerk of the circuit court for recordation purposes. When more than one sheet is necessary an index sheet of the same size may be required showing the entire subdivision.

(b) The final plat shall show:

(1) Bearings and distances to nearest existing street lines or other permanent monuments and shall be accurately described on the plat.

(2) Exact boundary lines of the tract.

(3) Name of subdivision, acreage, exact location, width and the names of all streets and alleys within and immediately adjoining the plat.

(4) Streets and lines showing angles of deflection, angles of intersection, radii and lengths of tangents.

(5) Lot lines with dimensions to the nearest 1/100foot and bearings to the nearest ten seconds.

(6) Numbered lots and blocks.

(7) Location, dimensions, and purposes of any easements and any areas to be reserved or dedicated for public use. Easements shall be labeled specifically as to type (e.g., 15-foot stormwater drainage easement).

(8) Accurate location and description of monuments and markers, and the type of material used for the monuments or markers.

(9) The following certificate, in addition to any professional engineer's or land surveyor's certificate:

"The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees, if any."

This statement shall be signed by the necessary parties, including trustees, and acknowledged before a notary public or other officer authorized to take acknowledgements.

(c) The final plat shall:

(1) Comply with the minimum standards and procedures for land boundary surveying practice and all other regulations adopted by the state board for architects, professional engineers, land surveyors and landscape architects.

(2) Be oriented so that north is shown at the top of the page, wherever practicable.

(3) Comply with the standards adopted under Code of Virginia, § 42.1-82 of the Virginia Public Records Act.

(Code 1988, § 8-12; Ord. of 9-9-1991; Ord. of 5-6-2002)

State law reference(s)—Mandatory provision of subdivision ordinance, Code of Virginia, § 15.2-2241(1).

Sec. 20-71. Additional filings with final plat.

At the time of filing the final plat with the agent, the subdivider shall also submit the following:

(1) A certificate as to adequacy of the proposed water supply and sewage system, if not connected to the town's system (but this provision does not constitute authorization for alternative or private water or sewer systems);

(2) A certificate by a professional engineer that any required improvements constructed by the subdivider have been designed to meet the minimum standards of these regulations or as otherwise required by law;

(3) The performance bond or other instrument described under section 20-142.

(Code 1988, § 8-13; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-72. Approval of final plat; recordation in circuit court clerk's office.

(a) *Approval.* The agent shall act on the final plat, without review by the commission or council, in the same manner and within the same time restraints as is required on the preliminary plat under section 20-48. It shall be approved if it is consistent with the preliminary plat and otherwise complies with this article. If the final plat is approved, such fact shall be endorsed on the plat itself, executed by the agent. No approval shall be granted until the provisions of section 20-142 pertaining to the construction of improvements have been complied with.

(b) *Recordation generally.* After approval, the plat shall then, subject to all of the provisions of this article, be filed and recorded in the clerk's office, and indexed in the general index to deeds under the names of the owners of land signing the statement set forth under section 20-70(b)(9) and under the name of the subdivision.

(c) *Timing of recordation.* Subject to subsections (d)(1) and (2) of this section, unless the approved final plat is filed for recordation within six months after final approval, or such longer period as may be approved by the council in writing, the approval previously given shall be deemed withdrawn and the subdivider shall return the plat marked "void" to the agent.

(d) *Extensions of recordation deadline.*

(1) *Incremental recordation.* If a subdivider records a final plat comprising a section of a development as shown on an approved preliminary plat and furnishes the guaranty required by section 20-142 for that section, the subdivider shall have the right to record the remaining sections shown on the preliminary plat for a period of five years from the recordation date of the first section or for such longer period as the agent may determine to be reasonable.

(2) *Improvements underway.* In any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit (and with a guaranty approved under section 20-142), the time for such plat recordation shall be extended to one year after final approval or the time limit specified in the surety agreement approved by the town council, whichever is greater.

(Code 1988, § 8-14; Ord. of 9-9-1991; Ord. of 5-6-2002)

State law reference(s)—Mandatory provisions of subdivision regulations, Code of Virginia, § 15.2-2241.

Secs. 20-73—20-102. Reserved.

ARTICLE III. DESIGN STANDARDS

Sec. 20-103. Length, width and shape of blocks.

The length, width and shape of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated;

(2) Zoning requirements as to lot sizes and dimensions;

(3) Need for convenient access, circulation and control and safety of street traffic; and

(4) Limitations and opportunities of topography.

(Code 1988, § 8-19; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-104. Approval of design of irregularly shaped blocks, etc.

Irregularly shaped blocks or oversized blocks indented by culs-de-sac, parking courts, or loop streets and containing interior block parks or playgrounds will be acceptable when the design is approved by the agent.

(Code 1988, § 8-20; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-105. Lot dimensions.

The lot size, width, depth, and shape of lots shall be appropriate for the location of the subdivision and for the type of development and use proposed and shall comply with the requirements of the zoning ordinance.

(Code 1988, § 8-21; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-106. Prohibition against peculiarly shaped elongations.

Peculiarly shaped elongations unusable for normal purposes may not be used to satisfy area, setback, or other dimensional regulations.

(Code 1988, § 8-22; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-107. Prohibition of alleys on residential lots.

Alleys are prohibited at the rear or side of residential lots.

(Code 1988, § 8-22.1; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-108. Prohibition of reserved strips.

Reserved strips controlling access to streets are prohibited.

(Code 1988, § 8-22.2; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-109. Names of streets.

Proposed streets that are in alignment with existing streets already named shall bear their existing names. No new streets shall duplicate names of existing streets, irrespective of any suffix. All street names shall be subject to approval by the town council and names of existing streets shall not be changed except by approval of the council.

(Code 1988, § 8-22.3; Ord. of 9-9-1991; Ord. of 5-6-2002)

Secs. 20-110—20-131. Reserved.

ARTICLE IV. IMPROVEMENTS

Sec. 20-132. Administrative procedures.

The agent's authority to establish administrative procedures under section 20-9 extends to the standards for public improvements expressed in this article. Subject to disapproval by the council, the agent may interpret or define the general standards expressed herein.

(Code 1988, § 8-15.1; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-133. Alleys for commercial and industrial use.

Alleys at least 20 feet in width shall be provided at the rear of all lots designated for commercial and industrial use. Intersecting alleys, where unavoidable, shall be provided with at least a 15-foot radius at each corner. Dead-end alleys are prohibited.

(Code 1988, § 8-16; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-134. Connection of streets.

Wherever deemed feasible by the town, streets shall extend to the edge of the subdivision in designated locations so that they may be connected to streets in present or future adjacent or contiguous to adjacent subdivisions. Such streets shall be coordinated acceptably to connect not only in location, but also in width, grade, and drainage.

(Code 1988, § 8-18.1; Ord. of 9-9-1991; Ord. of 5-6-2002)

State law reference(s)—Mandatory provision of subdivision ordinances, Code of Virginia, § 15.2-2241(2).

Sec. 20-135. Standards for street construction.

(a) *Design.* All streets must be designed to meet the specifications in the latest edition of the state department of transportation's subdivision street requirements, except the town requires curb and guttering on all subdivision streets. On streets with speed limits less than or equal to 40 miles per hour, the curb and guttering shall be of type CG-6, as specified in the department of transportation requirements. On streets with speed limits greater than 40 miles per hour, the curb and guttering shall be of the type specified as CG-

7. The subdivision street requirements make use of certain categories of streets, traffic volume, and terrain. The town shall determine which categories apply.

(b) *Installation.* Subdividers shall be required to install all streets in the subdivision. Installation of all required street signs shall also be the responsibility of the subdivider.

(Code 1988, § 8-18.2; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-136. Standards for water and sewer facilities.

(a) *General requirement.* If water and sewer lines do not already serve the property to be subdivided, the town, subject to section 20-6, will extend its lines to the boundary of the developer's property (if such property boundary is within the town), but the developer must extend the lines throughout the subdivision in easements to be dedicated to the town. Once installed and accepted by the town, the lines become part of the town's utility system and they become town property. All fees for connection to the town's water and sewer systems through the new lines shall accrue to the town.

(b) *Subdivision water mains.* Subdivision water mains shall be designed to supply reasonable quantities of water at reasonable pressure within the subdivision, to be durable and reasonably maintenance-free, to interconnect with, and cause no harm to, the town's water supply and distribution system, and to provide adequate fire hydrants. Additionally, all such water mains shall comply with all requirements of the state department of health and any other applicable governmental requirements. Without limiting the foregoing, the town imposes the following general requirements:

(1) All water mains shall be constructed of class 52 ductile iron (or equivalent, in the judgment of the agent) and shall be at least eight inches in diameter. (This requirement applies to residential subdivisions. In other contexts, larger lines may be required.)

(2) Unless clearly impracticable, the water system shall employ looped lines. Where allowed, dead-end lines shall be equipped with fire hydrants, flush valves, or blow-offs to allow flushing.

(c) *Subdivision wastewater mains.* All wastewater mains shall be constructed so as to be of adequate capacity for the maximum expected flow of wastewater, to be durable and maintenance free and to withstand leakage to the maximum extent practicable, to interconnect with, and cause no harm to, the town's sewer collection system. Additionally, all such wastewater mains shall comply with all requirements of the state department of health and any other applicable governmental requirements. Without limiting the foregoing, the town imposes the following general requirements:

(1) Wastewater lines shall be a minimum of eight inches in diameter, and shall be composed of schedule 35 PVC (or equivalent, in the judgment of the agent). (This requirement applies to residential subdivisions. In other contexts, larger lines may be required.)

(2) Manholes shall be provided at all intersections with other mains, points of change in alignment or grade, change or pipe size, and at the end of a line that will be extended at a later date. The length of line between manholes shall not exceed 500 feet. Manholes for sewer lines up to 24 inches in diameter shall not be less than four feet inside diameter with an opening of 24 inches. Steps shall be provided. Service laterals shall be installed to the property line of the lot and properly marked as to their location.

(d) *Service lines.* Water and sewer service lines shall be installed from the main to the property line. Water meter boxes and yolks shall be set in place. The depth shall be sufficient to prevent freezing but not so deep as to require extensions and make it difficult to maintain or read the meters.

(Code 1988, § 8-18.3; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-137. Standards for other utilities.

All electric, telephone, and television cable distribution lines and connections must be underground.

(Code 1988, § 8-18.4; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-138. Standards for drainage.

(a) *General requirement.* Subdivisions shall be designed so as not to cause or permit unreasonable drainage of surface water onto adjoining properties, whether public or private. For purposes of this subsection, the term "unreasonable drainage" means drainage which could potentially cause harm or significant inconvenience and is materially greater than would occur if the subdivided property were left in its undeveloped state. This subsection applies in addition to any other applicable law concerning surface water drainage.

(b) *Regional drainage systems; designation of land for drainage facilities.* Unless an areawide storm sewer system has been established under section 20-6, the subdivider may be required to designate certain areas of the subdivision or other land for detention ponds of other drainage facilities. The town will not approve any such drainage facilities unless adequate provisions are made for the maintenance thereof.

(c) *General standards.* All drainage facilities shall be designed to drain foreseeable quantities of water from the streets and lots of the subdivision, and to be durable and reasonably maintenance-free town.

(Code 1988, § 8-18.5; Ord. of 9-9-1991; Ord. of 5-6-2002)

State law reference(s)—Mandatory provisions of subdivision regulations, Code of Virginia, § 15.2-2241(3).

Sec. 20-139. Installation of permanent monuments.

(a) Permanent reference monuments shall be installed marking subdivision boundaries, street corners, intersections of street lines, and angle points. Additionally, each lot in any new subdivision must contain at least one permanent monument.

(b) Permanent monuments shall be granite or concrete and of such reasonable length and width as are required by the agent. In implementing this requirement, the agent shall be guided by the council's intent that permanent monuments be of sufficient size and strength to withstand activities which should be considered normal within the subdivision. Permanent monuments must be set to approved finished grades.

(Code 1988, § 8-18.6; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-140. Installation of street signs.

Uniform street name signs of a design approved by the agent shall be installed at all street intersections at the cost of the subdivider.

(Code 1988, § 8-18.7; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-141. Lighting.

Subdividers shall be required to install streetlights throughout the subdivision at their expense.

(Code 1988, § 8-18.8; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-142. Construction of improvements; guaranty by subdivider.

(a) *Basic requirement.* All of the improvements required of the subdivider shall be installed by the subdivider at its cost. Unless the planning commission determines otherwise when approving the preliminary plat, all required improvements shall be completed within 24 months after recordation of the final plat.

(b) *Guaranty.* Prior to approval of the final plat, the subdivider shall guarantee construction of the improvements required by this article. For purposes of the guarantee, the agent shall estimate the cost of the improvements and may also require an additional 25 percent guarantee in order to allow for inflation, administrative costs, and damage to existing roads and utilities.

(c) *Form of guaranty.* The subdivider may guarantee construction of the improvements by prepaying the person who will construct them and certifying to the agent that he has done so. In lieu of making such advance payment, the developer may furnish instruments of guaranty in appropriate legal form and consisting of:

(1) A certified check or cash escrow;

(2) A personal, corporate, or property bond with surety or security satisfactory to the council;

(3) An irrevocable letter of credit from a banking or savings and loan institution; or

(4) A contract for the construction of such facilities guaranteed by contractor's bond with satisfactory surety.

(d) *Release of guaranties.* Subject to section 20-143, all guaranties shall be released by the agent in the manner provided by Code of Virginia, § 15.2-2245.

(Code 1988, § 8-27; Ord. of 9-9-1991; Ord. of 5-6-2002)

State law reference(s)—Mandatory provisions of subdivision regulations, Code of Virginia, § 15.2-2241(5); release of guarantees, Code of Virginia, § 15.2-2245.

Sec. 20-143. Inspection of improvements.

(a) No improvements shall be deemed accepted (and no bond released) until the improvements have been inspected by the agent or his designee and found to be in compliance with all applicable law and the plats and other documents filed with the town. Prior to inspection, the subdivider shall prepay the town's estimate of reasonable inspection cost, including the retention of an engineer if deemed desirable by the agent.

(b) A certificate of partial or final completion of improvements from either a duly licensed professional engineer or land surveyor, as defined in and limited to Code of Virginia, § 54.1-400, may be accepted in lieu of an inspection, in the discretion of the agent. Any such certificate must make reference to all applicable town standards and all plats and other documents submitted by the subdivider.

(Code 1988, § 8-28.1)

State law reference(s)—Performance guarantees, Code of Virginia, § 15.2-2245; regulation of architects, engineers, etc., Code of Virginia, § 54.1-400 et seq.

Secs. 20-144—20-169. Reserved.

ARTICLE V. DRAINAGE SYSTEM AND EASEMENTS

Sec. 20-170. Utility easements; other easements.

Easements at least ten feet wide, centered on side or rear lot lines, shall be provided for utilities. Title to such easements shall be held by the town, subject to the use of public service corporations and other entities by applicable franchises or agreements. Easements may also be required in, along, or adjacent to natural water courses as drains for sanitary sewers. In appropriate cases approved by the town, utility easements may be conveyed directly to public service corporations furnishing cable television, gas, telephone and electric service to the proposed subdivision by reference on the final plat to a declaration of terms and conditions of such common easements and recorded in the land records of the county.

(Code 1988, § 8-25; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-171. Drainage system and easements.

If, in creating a drainage system under section 20-138, the subdivider relies on easements traversing lots in the subdivision, the subdivider must provide for the integrity of the drainage system by attaching a covenant running with the lots in the subdivision, in substantially the following form:

> "Some lots in the subdivision are encumbered by a stormwater drainage easement, and no lot owner shall interfere with the drainage system within that easement—by grading, filling, landscaping, or otherwise—without the written permission of the Town of Dayton.
>
> The Town may enter any lot on which such stormwater drainage system lies for the purpose of inspecting, modifying, or repairing the system. If such repairs are necessitated because of interference with the system by the lot owner, the Town shall be entitled to effect such repairs at the lot owner's expense. Further, the Town shall be entitled to its attorneys' fees in any judicial action to enforce this covenant. This covenant creates no obligation on the part of the Town."

(Code 1988, § 8-25.1; Ord. of 9-9-1991; Ord. of 5-6-2002)

Sec. 20-172. Maintenance of improvements.

The town has no obligation to improve, maintain, or take any action with respect to streets or other improvements not constructed, inspected, and accepted in accordance with this article.

(Code 1988, § 8-26; Ord. of 9-9-1991; Ord. of 5-6-2002)

Chapter 22 TAXATION[8]

ARTICLE I. IN GENERAL

Secs. 22-1—22-18. Reserved.

[8]State law reference(s)—Business, profession, occupational license tax, Code of Virginia, § 58.1-3700 et seq.; certain excise taxes permitted, Code of Virginia, § 58.1-3840; transient occupancy tax, Code of Virginia, § 58.1-3819.

ARTICLE II. AD VALOREM TAXES

DIVISION 1. GENERALLY

Sec. 22-19. Annual collections.

All real property taxes shall become due, in their entirety, on December 5 of the year for which assessed.

(Code 1988, § 12-4; Ord. of 12-4-2000; Ord. of 5-5-2003; Ord. of 12-31-2003; Ord. of 5-10-2021)

Secs. 22-20—22-41. Reserved.

DIVISION 2. LAND USE ASSESSMENT

Sec. 22-42. Legislative findings.

The town finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and having heretofore adopted a land use plan hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, title 58.1, chapter 32, article 4 (Code of Virginia, § 58.1-3229 et seq.) and of this division. The council further finds that because the county has made similar provisions in its ordinances, and the town makes use of the county's property assessments in levying its real estate tax, the town should defer to the county, to the extent possible, in the administration of this division.

(Code 1988, § 12-1; Ord. of 12-4-2000)

Sec. 22-43. Application.

(a) Any owner of land in the town may apply to the town under Code of Virginia, § 58.1-3234, for use value assessment for real estate devoted to agricultural use, real estate devoted to horticultural use, real estate devoted to forest use, or real estate devoted to open-space use, within the meaning of Code of Virginia, § 58.1-3230.

(b) Upon request, the treasurer shall supply appropriate forms. Alternatively, such an owner may make a similar application to the county under section 7-33 et seq., of the county code. Subject to section 22-44(b), the town will deem such an application to be an application for town tax relief as well.

(Code 1988, § 12-2; Ord. of 12-4-2000)

Sec. 22-44. Approval; town authority.

(a) Subject to subsection (b) of this section, the county's approval of the application shall ipso facto allow use value assessment for town taxes.

(b) The town, not the county, is ultimately responsible for determining eligibility for use value assessment for town taxes. Any approval (or denial) of an application by the county shall be subject to review and reversal by the town (insofar as town taxes are concerned). Further, the treasurer may require that a separate application be filed. With respect to an application filed with the town, the county's procedures, as they are currently set forth in section 7-33 et seq., of the county code, shall apply to the process, mutatis mutandis.

(Code 1988, § 12-3; Ord. of 12-4-2000)

Secs. 22-45—22-61. Reserved.

ARTICLE III. MEALS TAX[9]

Sec. 22-62. Definitions.

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

Cater means the furnishing of food, beverages, or both on the premises of another, for compensation.

Food means all food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater; delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shop, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal means any prepared food or drink which is offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Treasurer means the treasurer and any duly designated deputies, assistants, inspectors or other employees.

(Code 1988, § 13-1; Ord. of 6-1-2003; Ord. of 6-9-2003)

State law reference(s)—Tax authority, Code of Virginia, § 58.1-3840.

Sec. 22-63. Levy.

There is hereby imposed and levied by the town on each person a tax at the rate of five percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.

[9]State law reference(s)—Tax on meals authorized, Code of Virginia, § 58.1-3840.

(Code 1988, § 13-2; Ord. of 6-1-2003; Ord. of 6-9-2003; Ord. of 6-11-2007; Ord. of 7-1-2007)

Sec. 22-64. Collection of tax by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the department for the visually impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. All tax collection shall be deemed to be held in trust for the town.

(Code 1988, § 13-3; Ord. of 6-1-2003; Ord. of 6-9-2003)

Sec. 22-65. Exemptions; limits on application.

(a) No such taxes on meals may be imposed on food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the state special supplemental food program for women, infants, and children.

(b) No such taxes on meals may be imposed when sold or provided by:

(1) Restaurants, as such term is defined in Code of Virginia, § 35.1-1, to their employees as part of their compensation when no charge is made to the employee;

(2) Volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first $100,000.00 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes;

(3) Churches that serve meals for their members as a regular part of their religious observances;

(4) Public or private elementary or secondary schools or institutions of higher education to their students or employees;

(5) Hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;

(6) Day care centers;

(7) Homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics;

(8) Age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees; or

(9) Sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed $2,500.00. For the exemption described in this subsection, the sellers' annual income shall include income from sales at all local farmers markets and roadside stands, not just those sales occurring in the town.

(c) Exemptions.

(1) The tax shall not be levied on meals:

a. When used or consumed and paid for by the commonwealth, any political subdivision of the commonwealth, or the United States;

b. Provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or

c. Provided by private establishments that contract with the appropriate agency of the commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

(2) In addition, as set forth in Code of Virginia, § 51.5-98, no blind person operating a vending stand or other business enterprise under the jurisdiction of the state department for the blind and vision impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

(d) Notwithstanding any other provision of this section, no tax shall be levied under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 USC 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

(Code 1988, § 13-4; Ord. of 6-1-2003; Ord. of 6-9-2003; Ord. of 10-14-2013)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3840.

Sec. 22-66. Gratuities and service charges.

No such taxes on meals may be imposed on:

(1) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal;

(2) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price.

(Code 1988, § 13-5; Ord. of 6-1-2003; Ord. of 6-9-2003)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3840.

Sec. 22-67. Report of taxes collected; remittance; preservation of records.

(a) It shall be the duty of every person required by this article to pay to the town the taxes imposed by this article to make a report thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article.

(b) Reports and tax payments for the months of January, February and March shall be made on or before the following April 20. Reports and tax payments for the months of April, May and June shall be made on or before the following July 20. Reports and tax payments for the months of July, August and September shall be made on or before the following October 20. Reports and tax payments for the months of October, November and December shall be made on or before the following January 20.

(c) Further, every such person shall maintain records supporting the reports required by subsection (a) of this section. Such records shall be kept and preserved for a period of five years. The treasurer shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Code 1988, § 13-6; Ord. of 6-1-2003; Ord. of 6-9-2003)

Sec. 22-68. Penalty.

(a) *General assessment.* Should any tax due under this article not be paid when due, the treasurer shall assess a penalty according to the following schedule:

(1) Ten percent of the tax due, if payment is made within one month of the due date;

(2) 15 percent of the tax due, if payment is made more than one month after the due date, but not more than two months afterward;

(3) 20 percent of the tax due, if payment is made more than two months after the due date, but not more than three months afterward;

(4) 25 percent of the tax due, if payment is made more than three months afterward.

(b) *Interest.* In addition to the penalties provided for in subsection (a) of this section, interest shall accrue on any delinquent taxes at the annual rate of ten percent, beginning on the day after the due date. Likewise, any meals taxes paid on an erroneous assessment shall be refunded with interest at the rate of ten percent per annum.

(c) *Exemption.* Penalties and interest shall not be imposed if the failure to pay the tax was not the fault of the taxpayer, as determined by the treasurer.

(d) *Attorney's fees.* Should the town consult an attorney with respect to the collection of delinquent meals taxes, the taxpayer shall also be responsible for the town's attorney's fees, in a reasonable amount not to exceed 20 percent of the taxes collected by, or upon the advice of, the attorney.

(e) *Criminal sanctions.* Any person willfully failing or refusing to file a return or under this article or failing to collect or pay over the tax imposed hereby, shall, upon conviction thereof, be guilty of a Class 1 misdemeanor; provided, however, that if the assessed tax is $1,000.00 or less, such violation shall be a Class 3 misdemeanor.

(Code 1988, § 13-7; Ord. of 6-1-2003; Ord. of 6-9-2003; Ord. of 7-1-2003; Ord. of 6-12-2006; Ord. of 7-1-2006)

State law reference(s)—Similar provisions, Code of Virginia, §§ 58.1-3906, 58.1-3907, 58.1-3916.

Sec. 22-69. Regulations.

The treasurer is authorized, but not required to, adopt rules and regulations not inconsistent with the provisions of this article for the purpose of carrying out and enforcing the payment, collection, and remittance of the tax levied by this article. A copy of those rules and regulations shall be on file and available for public examination in the treasurer's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article.

(Code 1988, § 13-8; Ord. of 6-1-2003; Ord. of 6-9-2003)

Secs. 22-70—22-96. Reserved.

ARTICLE IV. BUSINESS, PROFESSIONAL, OCCUPATIONAL LICENSE TAXES[10]

Sec. 22-97. Definitions.

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

Affiliated group means:

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

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

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

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

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

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

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock," as used in this definition, shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(3) Two or more entities if such entities satisfy the requirements in subsection (1) or (2) of this definition as if they were corporations and the ownership interests therein were stock.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of

[10]State law reference(s)—Business, profession, occupational license tax, Code of Virginia, § 58.1-3700 et seq.

the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or *assessing official* means the town treasurer.

Base year means the calendar year preceding the license year, subject to the provisions of section 22-105(c).

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: advertising or otherwise holding oneself out to the public as being engaged in a particular business; or filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Contractor shall have the meaning prescribed in Code of Virginia, § 58.1-3714(B), as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

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

Entity means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the commonwealth or another state.

Financial services.

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

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

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

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

Security means, for purposes of this article, the same as in the Securities Act (Code of Virginia, § 13.1-501 et seq.), or in similar laws of the United States regulating the sale of securities.

(2) Those engaged in rendering financial services include, without limitation, the following:

a. Buying installment receivables;

b. Chattel mortgage financing;

c. Consumer financing;

d. Credit card services;

e. Credit unions;

f. Factors;

g. Financing accounts receivable;

h. Industrial loan companies;

i. Installment financing;

j. Inventory financing;

k. Loan or mortgage brokers;

l. Loan or mortgage companies;

m. Safety deposit box companies;

n. Security and commodity brokers and services;

o. Stockbrokers; and

p. Working capital financing.

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of chapter 37 of title 58.1 of the Code of Virginia.

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

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

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the business, professional and occupational license guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The term "professional" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term "purchases" shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale. Such merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine or chooses not to disclose the cost of manufacture (Code of Virginia, § 58.1-3700.1).

Real estate services means rendering a service with respect to the purchase, sale, lease, rental, or appraisal of real property. Such services include, but are not limited to, the following:

(1) Appraisers of real estate;

(2) Escrow agents, real estate;

(3) Fiduciaries, real estate;

(4) Real estate agents, brokers and managers;

(5) Real estate selling agents; and

(6) Rental agents for real estate.

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

Security broker means a "broker," as such term is defined under the Securities Exchange Act of 1934 (15 USC 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

Security dealer means a "dealer" as such term is defined under the Securities Exchange Act of 1934 (15 USC 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

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

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

(Code 1988, § 3.1-2; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997; Ord. of 3-11-2013; Ord. of 1-1-2014)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3700.1.

Sec. 22-98. License requirement.

(a) Every person engaging in any business, trade, profession, occupation or calling (collectively hereinafter "a business"), as defined in this article, in the town, unless otherwise exempted by law, shall apply for a license for each such business if such person maintains a definite place of business in this town, such person does not maintain a definite place of business anywhere, but does reside in this town, which for the purposes of this article, shall be deemed a definite place of business, or there is no definite place of business but such person operates amusement machines, or is classified as a peddler or itinerant merchant, carnival or circus as specified in Code of Virginia, § 58.1-3717, 58.1-3718, or 58.1-3728, respectively, or is a contractor subject to Code of Virginia, § 58.1-3715, or is a public service corporation subject to Code of Virginia, § 58.1-3731.

(b) A separate license shall be required for each definite place of business and for each business.

(c) A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(1) Each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the town;

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

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

(d) No license shall be required for authorized participants in the Dayton Autumn Celebration, the Dayton Redbud Festival, the Dayton Fun Day, and other events as authorized from time to time by the town council, provided that such participants have paid any requisite fees to the town. These exceptions apply only to activities directly connected with the events at issue.

(Code 1988, § 3.1-3; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997; Ord. of 10-14-2013; Ord. of 6-8-2015)

State law reference(s)—Similar provisions, Code of Virginia, § 58.l-3703.1(A)(1).

Sec. 22-99. Due dates and penalties.

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

(b) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1, or, in the case of new businesses, not later than 30 days after beginning business.

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

(d) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer may impose a ten percent late payment penalty. The penalties shall not be imposed, or, if imposed, shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly, and that the failure was due to events beyond his control. For the purposes of this subsection, the following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

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

Events beyond the taxpayers control mean and include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written

information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

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

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

(Code 1988, § 3.1-4; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3703.1(A)(2).

Sec. 22-100. Situs of gross receipts.

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

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

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

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

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

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the town solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

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

(Code 1988, § 3.1-5; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3703.1(A)(3).

Sec. 22-101. Limitations and extensions.

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

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

(c) The period for collecting any local license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to section 22-102(b) or (d), or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 1988, § 3.1-6; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3703.1(A)(4).

Sec. 22-102. Appeals and rulings.

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

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

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

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

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

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

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

The term "appealable event" includes a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the town, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the town.

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

(1) Not well grounded in fact;

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

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

(4) Otherwise frivolous.

Jeopardize by delay means a finding, based on specific facts, that a taxpayer desires to:

(1) Depart quickly from the locality;

(2) Remove his property therefrom;

(3) Conceal himself or his property; or

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

(b) *Administrative appeals to treasurer.*

(1) *Filing and contents of administrative appeal.*

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

b. The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality. However, the appeal of the classification of the business shall not apply to any license year for which the tax commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

(2) *Notice of right of appeal and procedures.* Every assessment made by the treasurer pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal. For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, the town shall maintain on its website the specific procedure to be followed in the town with regard to such appeal and the name and address to which the appeal should be directed.

(3) *Suspension of collection activity during appeal.* Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the treasurer shall be suspended until a final determination is issued by the treasurer, unless the treasurer determines that collection would be jeopardized by delay, as defined in this section; the taxpayer has not responded to a request for relevant information after a reasonable time; or the appeal is frivolous as defined in subsection (a) of this section. Interest shall accrue in accordance with the provisions of section 22-99(e), but no further penalty shall be imposed while collection action is suspended.

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

(c) *Administrative appeal to the tax commissioner.*

(1) Any person assessed with a local license tax as a result of a determination or that has received a determination with regard to the person's appeal of the license classification applicable to the person's business, upon an administrative appeal to the treasurer pursuant to subsection (b) of this section, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment or

determination to the tax commissioner within 90 days of the date of the determination by the treasurer. The appeal shall be in such form as the tax commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the treasurer. The tax commissioner shall permit the treasurer to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the treasurer are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner pursuant to Code of Virginia, § 58.1-1822, may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

(2) Suspension of collection activity during appeal. On receipt of a notice of intent to file an appeal to the tax commissioner under subsection (c)(1) of this section, collection activity with respect to the amount in dispute relating to any assessment by the treasurer shall be suspended until a final determination is issued by the tax commissioner, unless the treasurer determines that collection would be jeopardized by delay, as defined in this section; determines, or is advised by the tax commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or determines that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of section 22-99(e), but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subsection (c)(1) of this section is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(3) Implementation of determination of tax commissioner. Promptly upon receipt of the final determination of the tax commissioner with respect to an appeal pursuant to subsection (c)(1) of this section, the treasurer shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the tax commissioner's determination and shall provide that information to the taxpayer in accordance with the provisions of this subsection.

(4) If the determination of the tax commissioner sets forth a specific amount of tax due, the treasurer shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the tax commissioner. If the determination of the tax commissioner sets forth a specific amount of refund due, the treasurer shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the tax commissioner.

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

(6) If the determination of the tax commissioner does not set forth a specific amount of refund due, or otherwise requires the treasurer to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the treasurer shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax

commissioner, whichever is later. The new assessment or refund amount shall be certified and the treasurer shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

(d) *Judicial review of determination of tax commissioner.*

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

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

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

b. Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

c. No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment.

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

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

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

a. Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant subsection (c) of this section shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of the date of the

determination of the tax commissioner, a notice of intent to file an application for judicial review of the tax commissioner's determination pursuant to Code of Virginia, § 58.1-3984, and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in this section.

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

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

(4) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of section 22-99(e), but no further penalty shall be imposed while collection action is suspended.

(e) *Rulings.*

(1) Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the treasurer. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the town.

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

(Code 1988, § 3.1-7; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997; Ord. of 4-9-2007)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3703.1(A)(5)—(8).

Sec. 22-103. Recordkeeping and audits.

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

(Code 1988, § 3.1-8; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3703.1(A)(9).

Sec. 22-104. Exclusions and deductions from gross receipts.

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1988, § 3.1-9; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-3732.

Sec. 22-105. License fee and tax.

(a) Every person or business subject to licensure under this article shall be assessed and required to pay annually a fee for the issuance of such license in the amount as provided on the town fee schedule.

(b) Except as may be specifically provided in Code of Virginia, § 58.1-3706, and except as provided in Code of Virginia, §§ 58.1-3712 and 58.1-3713, every such person or business shall be assessed and required to pay annually a license tax on all the gross receipts of such persons includable as provided in this article at a rate set forth as follows, for the class of enterprise listed. However, the fee imposed by subsection (a) of this section shall be credited against the tax imposed by this subsection, so if the fee is greater than the tax, no tax is due.

(1) For contractors and persons constructing for this own account for sale, $0.12 per $100.00 of gross receipts;

(2) For retailers, $0.15 per $100.00 of gross receipts;

(3) Lessors of real property are not required to pay license tax because of the act of leasing real property to another. For other providers of financial, real estate and professional services, $0.30 per $100.00 of gross receipts;

(4) For repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this article or otherwise by law, $0.20 per $100.00 of gross receipts;

(5) For wholesalers, $0.05 per $100.00 of purchases;

(6) For carnivals, circuses and speedways, $100.00 for each performance held in this town;

(7) For fortune tellers, clairvoyants and practitioners of palmistry, $1,000.00 per year;

(8) For itinerant merchants or peddlers, $200.00 per year, except that there shall be no fee for festival merchants;

(9) For savings and loan associations and credit unions, $50.00 per year;

(10) For persons having no regularly established place of business in this state and who provide photography services consisting of the taking of pictures or the making of pictorial reproductions in the commonwealth (and every agent or canvasser for such photographer), $30.00 per year;

(11) Alcoholic beverages. For persons engaging in the business of manufacturing, bottling, wholesaling, or retailing alcoholic beverages, the following tax schedule applies:

a. For each distiller's license, $1,000.00 per year. No license shall be required of any person distilling not more than 5,000 gallons of spirits in the license year;

b. For each winery license, $1,000.00 per year;

c. For each brewery license, $1,000.00 per year;

d. For each bottler's license, $500.00 per year;

e. For each wholesale beer license, $75.00 per year;

f. For each wholesale wine distributor's license, $50.00 per year;

g. For each wholesale druggist's license, $10.00 per year;

h. For each retail on-premises wine and beer license for a hotel, restaurant, or club, $37.50 per year;

i. For each retail off-premises wine and beer license, $37.50 per year;

j. For each retail on-premises beer license for a hotel, restaurant or club, $25.00 per year;

k. For each retail off-premises beer license, $25.00 per year;

l. For each fruit distiller's license, $1,500.00 per year;

m. For each hospital license, $10.00 per year;

n. For each banquet license, $5.00 per year;

(12) Coin-operated amusement and other machines:

a. For the operators of coin amusement machines, $200.00 per year or $20.00 per year for each such machine operated within the town, whichever is less, provided, however, that no tax shall be owed by a person owning fewer than three coin-operated machines and operating such machines on property owned or leased by that person;

b. In addition to any tax owed under subsection (b)(12)a of this section, gross receipts from machines vending merchandise shall be taxed under subsection (b)(2) of this section. gross receipts from coin-operated amusement machines shall be taxed under subsection (b)(4) of this section;

(13) Heat, light, power and gas companies. For persons furnishing heat, light, power, or gas for domestic, commercial and industrial consumption in the town, the annual license tax shall equal to one half of one percent of the gross receipts of such business derived from within the town during the preceding calendar or fiscal year;

(14) Telephone companies. For persons engaged in the business of providing telephonic communications in the town, the annual license tax shall equal one-half of one percent of the gross receipts during the preceding year from local telephone exchange service, including flat rate service and message rate service, but excluding long distance telephone calls.

(c) For purposes of this section, gross receipts shall be calculated as of the base year, except in the following cases:

(1) New businesses: New businesses shall estimate their gross receipts for the license year, and their tax shall be based on the estimate. On or before March 1 of the following year, they shall correct their estimate. If they underestimated, they shall pay the additional tax owed, without interest. If they overestimated, the town will credit or refund the overpayment, without interest.

(2) Businesses in operation for only a portion of the base year: Businesses which were in operation for only a portion of the base year shall estimate their gross receipts for the license year, according the same procedures set forth in subsection (c)(l) of this section.

(3) Contractors taxed under Code of Virginia, § 58.1-3715: The tax for contractors without a definite place of business in the town shall be based on gross receipts for the license year.

(4) Public service corporations: Corporations taxed under subsection (b)(13) or (b)(14) of this section may elect to pay a license tax based on the preceding fiscal year.

(Code 1988, § 3.1-10; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 11-4-1996; Ord. of 9-8-1997; Ord. of 12-12-2011; Ord. of 4-14-2014; Ord. of 6-8-2020)

State law reference(s)—Alcoholic beverage licenses, Code of Virginia, § 4-38; limitation on rates, Code of Virginia, § 58.1-3706; authority to levy severance tax on gas, Code of Virginia, § 58.1-3712; local gas road improvement tax, Code of Virginia, § 58.1-3713; contractors, Code of Virginia, § 58.1-3715; tax authorized on wholesalers, Code of Virginia, § 58.1-3716; tax authorized on peddlers at wholesale, limitations, Code of Virginia, §§ 58.1-3718, 58.1-3719; tax on amusement machines, etc., Code of Virginia, § 58.1-3720; tax on coin machine operations, Code of Virginia, § 58.1-3721; license tax on carnivals, circuses, etc., Code of Virginia, § 59.1-3728; rate limitations, Code of Virginia, § 58.1-3731.

Secs. 22-106—22-123. Reserved.

ARTICLE V. TRANSIENT OCCUPANCY TAX[11]

Sec. 22-124. Tax imposed.

There is hereby levied and imposed on each transient a tax equivalent to 4.5 percent of the total amount paid for lodging, by or for any such transient, to any lodging place.

(Code 1988, § 3.2-1; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-125. 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:

Lodging means any room or space furnished to any transient.

Lodging place means any public or private hotel, inn, hostelry, house, townhouse, apartment, bed and breakfast, tourist cabin, camping grounds, motel, roominghouse, or any other building or facility of any kind within the town offering lodging, for compensation, to any transient.

Transient means any person who, for any period of fewer than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging in any lodging place.

(Code 1988, § 3.2-2; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-126. Collection.

(a) The transient occupancy tax must be added to the amount of the purchase, and then collected by the seller and paid by the purchaser at the time such charge is due.

(b) All transient occupancy tax collections are to be held in trust for the town.

(c) The wrongful and fraudulent use, disposition, or embezzlement of such collections constitutes embezzlement pursuant to Code of Virginia, § 18.2-111, as amended.

(Code 1988, § 3.2-3; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

[11]State law reference(s)—Transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 22-127. Reporting.

(a) Every person required to pay the transient occupancy tax imposed by this article must keep and maintain records of all purchases taxable under this article, for a period of five years from the date of each purchase, setting forth information as the treasurer may require, including, but not limited to, the following:

(1) The date of all taxable purchases;

(2) The amount of all taxable purchases;

(3) The amount of tax levied on all purchases; and

(4) The amount of tax collected on all purchases.

(b) The treasurer has the power to examine and duplicate all such records at reasonable times, without unreasonably interfering with any business, for the purpose of enforcing the provisions of this article.

(c) Every person required to pay the transient occupancy tax imposed by this article must, by the 20th day of the following month, file a report with the treasurer, setting forth information as the treasurer may require, including, but not limited to, the following:

(1) The monthly gross purchases of transient occupancy;

(2) The monthly gross tax levied on all purchases; and

(3) The monthly gross tax collected on all purchases.

(Code 1988, § 3.2-4; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-128. Payment.

(a) The seller must pay all transient occupancy tax collections to the town as provided in this article.

(b) The seller may deduct from transient occupancy tax collections a commission of three percent of the amount of transient occupancy taxes collected if the seller timely collects, reports, and pays the transient occupancy taxes.

(Code 1988, § 3.2-5; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-129. Interest and penalties.

Any person who willfully fails or refuses to collect, report, or pay the transient occupancy tax as required under this article within the time required must also pay a penalty in the amount of ten percent of the transient occupancy tax, or a minimum of $10.00 if such failure is not more than 30 days in duration, and thereafter, must pay interest in the amount of ten percent annually.

(Code 1988, § 3.2-6; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-130. Enforcement.

(a) If any person fails or refuses to timely collect, report, or pay the transient occupancy tax imposed under this article, or if the treasurer has reasonable cause to believe that an erroneous statement has been filed, the treasurer will obtain facts and information on which to base an estimate of the tax due to the town and will investigate and take testimonial and other evidence as may be necessary, provided that notice and

opportunity to be heard will be given to any person who may become liable for the amount owed prior to any determination by the treasurer.

(b) As soon as the treasurer has procured whatever facts and information as may be obtainable upon which to base the assessment of any tax payable by any person who has failed to collect, report, or pay such tax, the treasurer will proceed to determine and assess against such person the tax, penalty, and interest provided in this article, and will notify the person by certified or registered mail sent to his last known address of the amount of such tax, penalty, and interest. The total amount thereof is payable ten days after the date such notice is given.

(Code 1988, § 3.2-7; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-131. Violation.

(a) Any person willfully failing or refusing to collect, report, or pay the transient occupancy tax as required under this article is guilty of a Class 1 misdemeanor, except that any such person is guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed is $1,000.00 or less.

(b) Each violation of this article constitutes a separate offense, and conviction of any such violation does not relieve any person from the collection, reporting, or payment of the transient occupancy tax imposed under this article.

(Code 1988, § 3.2-8; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-132. Records to be kept by person liable for collection and payment of tax.

It is the duty of every person liable for the collection and payment to the town of any tax imposed by this article to keep and to preserve for three years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the town. The treasurer may inspect such records at all reasonable times.

(Code 1988, § 3.2-9; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-133. Tax immediately due and payable upon cessation of business.

Whenever any person required to collect and remit the tax imposed and levied by this article goes out of business, disposes of his business or otherwise ceases to operate, all of such taxes collected, and any tax payable under this article, must then be reported and remitted to the treasurer of the town.

(Code 1988, § 3.2-10; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Sec. 22-134. Exemptions from tax.

No tax is payable under this article on charges for lodging paid to any hospital, medical clinic, convalescent home, or home for the aged.

(Code 1988, § 3.2-11; Ord. of 12-6-1993; Ord. of 7-10-1995; Ord. of 9-8-1997; Ord. of 6-8-2020)

Secs. 22-135—22-151. Reserved.

ARTICLE VI. MOTOR VEHICLE LICENSE FEE[12]

Sec. 22-152. License fee imposed by town.

(a) There is imposed by the town council a license fee upon every motor vehicle, trailer, and semitrailer regularly garaged, stored, or parked in the town, and used or intended to be used upon the streets and highways of this town.

(b) The term "motor vehicle" includes, but is not limited to, automobiles, trucks and motorcycles. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space shall be considered a part of a motor vehicle. For the purposes of this section, neither a bicycle nor a moped shall be deemed to be a motor vehicle. The term "moped" means as it is defined in Code of Virginia, § 46.2-100.

(Code 1988, § 2-66; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Definitions, Code of Virginia, § 46.2-100; license tax or fee authorized, Code of Virginia, § 46.2-752.

Sec. 22-153. Who must procure town license.

Every firm, corporation, partnership or any other business entity, or combination thereof, or person who owns a motor vehicle, trailer, or semitrailer which is normally garaged, stored or parked in the town shall make application for and procure a motor vehicle license from the town. If it cannot be determined where the motor vehicle, trailer, or semitrailer is normally garaged, stored or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

(Code 1988, § 2-67; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-752.

Sec. 22-154. Exceptions.

This article shall not apply to:

(1) Motor vehicles, trailers, or semitrailers owned by a nonresident and used exclusively for pleasure or personal transportation and not for hire or for the conduct of any business or occupation or as a TNC partner vehicle, as defined in Code of Virginia, § 46.2-2000, and not otherwise for hire or for the conduct of any business or occupation other than that set forth in subsection (2) of this section.

(2) Motor vehicles, trailers, or semitrailers owned by a nonresident and used for transporting into and within the town for sale in person or by his employees of wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream, or eggs produced or grown by him, and not purchased by him for sale.

[12]State law reference(s)—Authority to levy license tax or fee, Code of Virginia, § 46.2-752 et seq.

(3) Motor vehicles, trailers, or semitrailers owned by an officer or employee of the commonwealth who is a nonresident of the town and who uses the vehicle in the performance of his duties for the commonwealth under an agreement for such use.

(4) Motor vehicles, trailers, or semitrailers kept by a dealer or manufacturer for sale or for sales demonstration.

(5) Motor vehicles, trailers, or semitrailers operated by a common carrier of persons or property operating between cities and towns in the commonwealth and not in intra-city transportation or between cities and towns on the one hand and points and places outside cities and towns on the other and not in intra-city transportation. For purposes of this section, the term "common carrier" is defined as it is defined in Code of Virginia, § 46.2-755.

(6) A maximum of one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the department of motor vehicles and has been issued a disabled veteran's motor vehicle license plate.

(7) Any daily rental passenger car as defined in Code of Virginia, § 58.1-2401, the rental of which is subject to the tax imposed by Code of Virginia, § 58.1-1736(A)(2).

(8) Motor vehicles, trailers, or semitrailers when a similar tax or fee is imposed by the county, city, or town wherein the vehicle is normally garaged, stored or parked.

(9) The motor vehicle, trailer, or semitrailer is inoperable and unlicensed pursuant to Code of Virginia, § 46.2-734.

(10) The motor vehicle, trailer, or semitrailer qualifies and is licensed as an antique vehicle pursuant to Code of Virginia, § 46.2-730.

(11) The motor vehicle, tractor or semitrailer is mandatorily exempted from local motor vehicle license tax by state law, once the owner has submitted acceptable documentation that the exemption applies.

(Code 1988, § 2-68; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-13-2012)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-755.

Sec. 22-155. Payment of personal property taxes required.

No motor vehicle, trailer or semitrailer shall be licensed unless and until the applicant for such license produces before the town treasurer satisfactory evidence that all personal property taxes upon the motor vehicle, trailer or semitrailer to be licensed have been paid, which have been properly assessed or are assessable against the applicant by this town.

(Code 1988, § 2-69; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-752.

Sec. 22-156. Record date; situs.

(a) The license fee is levied and shall be collected from every person owning a motor vehicle, trailer or semitrailer ("vehicle") which is normally garaged, stored or parked within the town as of the record date (excluding vehicles which are not operated on town streets during the license year).

(b) The record date is January 1 of the license year.

(c) If it cannot be determined where the vehicle is normally garaged, stored or parked, the situs shall be the domicile of its owner. In the event the owner of the vehicle is a full-time student attending an institution of higher education, the situs, for the purpose of imposing this license fee, shall be the domicile of the student, provided the student has presented sufficient evidence that he has paid a personal property tax on the vehicle in his domicile.

(Code 1988, § 2-70; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 9-12-2011; Ord. of 8-13-2012)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-752.

Sec. 22-157. License year.

The license year for the licensing of vehicles under this article shall commence on January 1 of each year and shall expire on December 31 of the same calendar year.

(Code 1988, § 2-72; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-13-2012)

Sec. 22-158. Amount of fee.

The amount of such annual license fee shall be as established by the town council from time to time.

(Code 1988, § 2-73; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 22-159. Invoice for license fee; due date.

The treasurer will charge the license fee prescribed by this article for each motor vehicle, trailer, or semitrailer subject to the license fee. The fee will be due December 5 of the license year. Vehicle owners or lessees, who have served outside of the United States in the armed services of the United States shall have a 90-day grace period, beginning on the date they are no longer serving outside the United States, in which to pay the fee imposed by this article.

(Code 1988, § 2-74; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-13-2012)

Sec. 22-160. Penalties.

(a) If any license fee imposed by this article is not paid by the due date, there shall be added to such license fee a delinquent charge in the amount provided on the town fee schedule per vehicle to be assessed and paid along with the license fee.

(b) Any violation of this article, including the failure to obtain the license as required herein, shall be punishable as a Class 4 misdemeanor.

(c) The treasurer is authorized to enter into an agreement with the commissioner of the department of motor vehicles under which the commissioner will refuse to issue or renew any vehicle registration of any applicant who has not paid the license fee required by this section, tangible personal property tax or parking citations. Any fee charged by the commissioner shall be added to the delinquent tax bill or the amount of the parking citation.

(Code 1988, § 2-76; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-13-2012)

State law reference(s)—Local license fee payment required before issuance of state registration and renewal, Code of Virginia, § 46.2-752(J); authority to declare unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer to fail to obtain and to display the local license, Code of Virginia § 46.2-752(G).

Secs. 22-161—22-188. Reserved.

ARTICLE VII. BANK FRANCHISE TAX[13]

Sec. 22-189. Definitions.

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

Bank means any incorporated bank, banking association, savings bank that is a member of the Federal Reserve System, or trust company organized by or under the authority of the laws of the commonwealth and any bank or banking association organized by or under the authority of the laws of the United States, doing business or having an office in the commonwealth or having a charter which designates any place within the commonwealth as the place of its principal office, and any bank which establishes and maintains a branch in this commonwealth under Code of Virginia, § 6.2-836 et seq., or 6.2-849 et seq., whether such bank or banking association is authorized to transact business as a trust company or not, and any joint stock land bank or any other bank organized by or under the authority of the laws of the United States upon which the commonwealth is authorized to impose a tax. The term "bank" shall exclude all corporations organized under the laws of other states and doing business in the commonwealth, corporations organized not as banks under the laws of the commonwealth and all natural persons and partnerships.

Bank holding company means any corporation that is organized under state laws, is doing business in the commonwealth, and is a bank holding company under the provisions of the Federal Bank Holding Company Act of 1956.

Net capital means a bank's net capital computed pursuant to Code of Virginia, § 58.1-1205.

(Code 1988, § 4-1)

State law reference(s)—Similar definitions, Code of Virginia, § 58.1-1201.

Sec. 22-190. Imposition of franchise tax.

Pursuant to the provisions of Code of Virginia, § 58.1-1209, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equaling 80 per centum of the state rate of franchise tax set forth in Code of Virginia, § 58.1-1204. If such bank also has offices that are located outside the corporate limits of the town, the tax shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 1988, § 4-2)

Sec. 22-191. Filing of return and payment of tax.

(a) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this town shall prepare and file with the town treasurer a return, as provided by

[13]State law reference(s)—Town bank franchise tax, Code of Virginia, § 58.1-1209.

law, in duplicate which shall set forth the tax on net capital computed pursuant to Code of Virginia, § 58.1-1200 et seq. The town treasurer shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the state department of taxation.

(b) In the event that the principal office of a bank is located outside the boundaries of this town and such bank has branch offices located within this town, in addition to the filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the town treasurer or appropriate assessing officer of this town a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212.

(c) Each bank, on or before June 1 of each year, shall pay into the treasurer's office (or other appropriate official of the town) all taxes imposed pursuant to this article.

(Code 1988, § 4-3)

State law reference(s)—Similar provisions, Code of Virginia, § 58.1-1207.

Sec. 22-192. Penalty upon bank for failure to comply with article.

Any bank which shall fail or neglect to comply with any provision of this article shall be subject to a penalty of five percent of the tax due, which fine shall be recovered upon motion, after five days' notice in the circuit court of this town. The motion shall be in the name of the commonwealth and shall be presented by the attorney for the commonwealth of this locality.

(Code 1988, § 4-5)

State law reference(s)—Similar definitions, Code of Virginia, § 58.1-1216.

Secs. 22-193—22-222. Reserved.

ARTICLE VIII. CONSUMER UTILITY TAX[14]

DIVISION 1. GENERALLY

Sec. 22-223. Definitions.

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

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas in the town.

Gas utility means a public utility authorized to furnish natural gas service in the state.

Kilowatt hours (kWh) delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called "cogenerators") as defined in Code of Virginia, § 56-594. The term "kilowatt hours (kWh) delivered" means kWh

[14]State law reference(s)—Consumer utility taxes, Code of Virginia, § 58.1-3814 et seq.

supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Pipeline distribution company means a person, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Provider of billing services means the person who bills a consumer for electric services rendered or a gas utility or pipeline distribution company which delivers natural gas to a consumer. If both the service provider and another person separately and directly bill a consumer for electricity service or a gas utility or pipeline distribution company which delivers natural gas to a consumer, then the service provider shall be considered the provider of billing services.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including, but not limited to, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily means the larger portion of the use for which electric or natural gas utility service is furnished.

(Code 1988, § 5-16; Ord. of 10-2-2000)

Sec. 22-224. Billing, collection and remittance of tax.

On a monthly basis, the service provider shall bill the consumer tax to all users who are subject to the tax and to whom it delivers services subject to this article. Such taxes shall be paid by the service provider to the town in accordance with Code of Virginia, §§ 58.1-2901 and 58.1-3814(F) and (G). If any consumer receives and pays for such services but refuses to pay the tax imposed by this section, the service provider shall notify the town of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for service and the tax and remit the tax portion to the town. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the town.

(Code 1988, § 5-17; Ord. of 10-2-2000)

Sec. 22-225. Violations.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this article, and any officer, agent or employee of any service provider violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not less than $100.00 nor more than $1,000.00, or by imprisonment in jail for not more than 30 days, or by both such fine and imprisonment. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this article.

(Code 1988, § 5-18; Ord. of 10-2-2000)

Sec. 22-226. Records of service providers.

Every service provider shall keep complete records showing any purchases of electricity or natural gas by consumers in the town. The records shall show the sum charged to each consumer with respect to each purchase, the date thereof, the date of payment therefore, and the amount of tax imposed hereunder. Upon reasonable

notice from the town treasurer or his designee, such records will be made available for inspection and copying at the office of the town treasurer or other reasonable location.

(Code 1988, § 5-19; Ord. of 10-2-2000)

Secs. 22-227—22-245. Reserved.

DIVISION 2. ELECTRIC UTILITY CONSUMER TAX[15]

Sec. 22-246. Levy.

In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) *Residential consumers.* For residential consumers, such tax shall be $0.0373 on each kWh delivered monthly by a service provider, not to exceed $1.50 monthly.

(2) *Nonresidential consumers.* For nonresidential consumers, such tax shall be $0.0251 per kWh for the first 625 kWh delivered monthly by a service provider and $0.0027 per kWh for all kWh in excess of 625 delivered monthly by a service provider.

(Code 1988, § 5-8; Ord. of 10-2-2000)

Sec. 22-247. Exemptions.

The United States of America, the commonwealth and the political subdivisions thereof, including this town, are exempt from the tax imposed by section 22-246.

(Code 1988, § 5-8; Ord. of 10-2-2000)

Sec. 22-248. Computation of bills not on monthly basis.

Bills shall be considered as monthly bills for the purposes of this division, if submitted 12 times per year with an interval of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(1) The kWh will be divided by two;

(2) A monthly tax will be calculated using the rates set forth above;

(3) The tax determined by subsection (1) of this section shall be multiplied by two;

(4) The tax in subsection (3) of this section may not exceed twice the monthly maximum tax.

(Code 1988, § 5-10; Ord. of 10-2-2000)

Secs. 22-249—22-274. Reserved.

[15]State law reference(s)—Tax on water and heat, light and power companies, Code of Virginia, § 58.1-3814.

DIVISION 3. NATURAL GAS UTILITY CONSUMER TAX[16]

Sec. 22-275. Levy.

In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers," as such term is defined in Code of Virginia, § 58.1-3814(J), as follows:

(1) *Residential consumers.* Such tax on residential consumers of natural gas shall be at the rate of $0.0240 per CCF delivered monthly by a service provider to residential consumers, not to exceed $1.50 per month.

(2) *Nonresidential consumers.* Such tax on nonresidential consumers shall be at the rate of $0.0170 per CCF delivered monthly by a service provider, not to exceed $15.00 per month.

(Code 1988, § 5-12; Ord. of 10-2-2000)

Sec. 22-276. Exemptions.

The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction, shall be exempt from the tax imposed by section 22-275.

(Code 1988, § 5-13; Ord. of 10-2-2000)

Sec. 22-277. Computation of bills not on monthly basis.

Bills shall be considered as monthly bills for the purposes of this division, if submitted 12 times per year with an interval of approximately one month each. Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:

(1) The CCF will be divided by two;

(2) A monthly tax will be calculated using the rates set forth above;

(3) The tax determined by subsection (1) of this section shall be multiplied by two;

(4) The tax in subsection (3) of this section may not exceed twice the monthly maximum tax.

(Code 1988, § 5-14; Ord. of 10-2-2000)

Chapter 24 TRAFFIC AND VEHICLES

[16]State law reference(s)—Tax on water and heat, light and power companies, Code of Virginia, § 58.1-3814.

ARTICLE I. IN GENERAL

Sec. 24-1. Applicability.

This chapter applies to every street, alley, sidewalk, driveway, park area, and every other way, within the corporate limits of this municipality, the use of which the municipality has the authority to regulate.

(Code 1988, § 2-4; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-2. Definitions.

Words and phrases in this chapter shall have the meanings ascribed to them by Code of Virginia, § 46.2-100, unless the context clearly requires a different meaning.

(Code 1988, § 2-56; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Definitions, Code of Virginia, § 46.2-100.

Secs. 24-3—24-22. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Secs. 24-23—24-47. Reserved.

DIVISION 2. TRAFFIC CONTROL

Sec. 24-48. Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer, or member of the fire department at the scene of a fire, who is invested by law or ordinance with authority to direct, control, or regulate traffic.

(Code 1988, § 2-31; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Stopping, standing, parking provisions, Code of Virginia, §§ 46.2-1220, 46.2-1300.

Sec. 24-49. Obedience to official traffic-control devices.

No driver of a vehicle shall disobey the instructions of any traffic-control device placed in accordance with the provisions of the ordinances of the town, unless at the time otherwise directed by a police officer.

(Code 1988, § 2-32; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Stopping, standing, parking provisions, Code of Virginia, §§ 46.2-1220, 46.2-1300.

Sec. 24-50. Traffic control signs and regulations.

The police chief or other officer designated by the council is authorized to erect and maintain such appropriate signs, markers, semaphores, signals or other devices as may be deemed necessary by him to enforce any rules and regulations concerning vehicular traffic and travel upon highways by pedestrians, and to execute the provisions of this chapter.

(Code 1988, § 2-34; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-51. When traffic devices required for enforcement purposes.

No provision of this division for which signs or markings are required shall be enforced against an alleged violator, if, at the time and place of the alleged violation, an official sign or marking is not in proper position and sufficiently legible to be seen by an ordinarily observant person.

(Code 1988, § 2-35; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Secs. 24-52—24-75. Reserved.

DIVISION 3. PERMIT FOR PROCESSIONS

Sec. 24-76. Drivers and participants in a procession.

All vehicles comprising a funeral or other procession shall proceed as near to the righthand edge of the roadway as practicable and shall follow the preceding vehicles in such procession as closely as is practicable and safe.

(Code 1988, § 2-40; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-77. Permits required for parades, processions, and sound trucks.

No funeral or other procession or parade, excepting the forces of the United States Armed Services, the military forces of this state, and the forces of the police and fire departments, shall occupy, march, or proceed along any street or roadway, except in accordance with a permit issued by the police chief or other officer designated by the council and such other regulations as are set forth herein which may apply. No sound truck or other vehicle equipped with amplifier or loudspeaker shall be driven upon any street for the purpose of selling, offering for sale, or advertising in any fashion, except in accordance with a permit issued by the police chief or other designated officer. The police chief shall issue all such permits unless the activity proposed would cause undue inconvenience or annoyance to the townspeople or would present a safety hazard.

(Code 1988, § 2-41; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Secs. 24-78—24-97. Reserved.

DIVISION 4. ENFORCEMENT AND PENALTIES

Sec. 24-98. Illegal cancellation of traffic citations.

It shall be unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner other than as provided by this division.

(Code 1988, § 2-48; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-99. Disposition of traffic fines and forfeitures.

All fines or forfeitures collected upon a finding of violations of this chapter, or upon the forfeiture of bail of any person charged with violation of any of the provisions of this chapter, shall be paid into the municipal treasury and deposited in the general fund. Fees shall be disposed of according to law.

(Code 1988, § 2-49; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1308.

Sec. 24-100. Enforcement.

(a) The police chief or other official shall cause the appropriate complaints, warrants, or summons to be issued for delinquent parking citations.

(b) Unless otherwise provided in subsection (c) of this section, the fines for violations of this chapter shall be $25.00, or $50.00 if the fine is not paid in full within ten days.

(c) The fines for violations of this chapter shall be as follows:

Fines for Violations

Violations	*Fine if Paid Within 10 Days*	*Fine if Paid After 10 Days*
Parking in a no parking zone.	$20.00	$40.00
Parking in a tow away zone	$20.00	$40.00
Blocking a private or public driveway	$20.00	$40.00
Parking on a yellow line	$20.00	$40.00
Parking within 15 feet of a fire hydrant	$35.00	$70.00
Parking on the wrong side of the street	$20.00	$40.00
Parking in a loading zone	$20.00	$40.00
Parking on a sidewalk	$35.00	$70.00
Overtime parking	$20.00	$40.00

Parking a vehicle with no state tags	$25.00	$50.00
Double parking	$20.00	$40.00
Violation of official sign	$20.00	$40.00
Blocking traffic	$20.00	$40.00
Blocking an emergency entrance	$35.00	$70.00
Parking in a handicapped zone	$100.00	$200.00
Parking in a fire lane	$30.00	$60.00

(d) In any prosecution charging a violation of this chapter, proof that the vehicle described in the complaint, summons, parking ticket, citation, or warrant, was parked in violation of this chapter or regulation, together with proof that the defendant was at the time the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation.

(Code 1988, § 2-50; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-12-2019)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1220.

Sec. 24-101. Violations of this chapter; penalties for misdemeanors or other traffic violations.

(a) Any person convicted of violating any provision of this chapter for which no other penalty is provided shall be guilty of a traffic infraction, punishable by a fine of not more than $200.00. If it is found by the judge of a court of proper jurisdiction that the violation of any provision of this chapter was a serious traffic violation and that such violation was committed while operating a vehicle or combination of vehicles used to transport property that has either:

(1) A gross vehicle weight rating of 26,001 or more pounds; or

(2) A gross combined weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross weight rating of more than 10,000 pounds;

the judge may assess, in addition to any other fines he assessed, a further monetary amount not exceeding $500.00.

(b) For the purposes of this section, the following offenses, if committed in a commercial motor vehicle, are serious traffic violations:

(1) Driving at a speed of 15 or more miles per hour in excess of the posted speed limits;

(2) Reckless driving;

(3) A violation of a town ordinance related to motor vehicle traffic control arising in connection with a fatal traffic accident;

(4) Improper or erratic traffic lane change; or

(5) Following the vehicle ahead too closely.

(c) For the purposes of this section, parking, vehicle weight, and vehicle defect violations shall not be considered traffic violations.

(Code 1988, § 2-51; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Traffic violations, Code of Virginia, § 46.2-113; serious traffic violations by commercial drivers, Code of Virginia, § 46.2-341.20.

Sec. 24-102. Penalty for driving under the influence of alcohol.

Any person convicted of driving under the influence of alcohol under section 24-124 (incorporating Code of Virginia, title 18.2, chapter 7, article 2 (Code of Virginia, § 18.2-266 et seq.) shall be punished in accordance with the analogous state law provision.

(Code 1988, § 2-52; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Driving under the influence of illegal levels of alcohol, Code of Virginia, § 18.2-270.

Sec. 24-103. Failure to comply with summons.

Any person who willfully fails to appear when required to do so by summons issued for a violation of this chapter shall be fined not less than $5.00, nor more than $25.00 in addition to the punishment, if any, imposed for the charge for which the summons was issued.

(Code 1988, § 2-53; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-104. Separate offense.

Each day that a vehicle is permitted to stop, stand or park in a place, zone, or area in violation of parking regulations shall constitute a separate offense.

(Code 1988, § 2-54; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Parking, stopping and standing, Code of Virginia, § 46.2-1220.

Sec. 24-105. Overtime parking, separate offenses.

Whenever parking is limited to a specified length of time, it shall be a separate offense for each period in excess of that authorized that a vehicle is permitted to stand in the same parking space during the same day; provided, however, that no more than three violations for overtime parking shall be charged against the driver of a vehicle for permitting it to stand in the same parking place during the same day.

(Code 1988, § 2-55; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Parking, stopping and standing, Code of Virginia, § 46.2-1220.

Secs. 24-106—24-123. Reserved.

ARTICLE III. RULES OF THE ROAD

DIVISION 1. GENERALLY

Sec. 24-124. Adoption of state law.

All of the provisions of Code of Virginia, title 46.2, Code of Virginia, title 16.1, chapter 11, article 9 (Code of Virginia, § 16.1-278 et seq.), and of Code of Virginia, title 18.2, chapter 7, article 2 (Code of Virginia, § 18.2-266 et seq.), other than those provisions thereof which plainly have no application within the town, are incorporated by reference into this article. Reference therein to "highways of the state" shall be deemed to include streets, highways, public parking lots and alleys within the town. The mention of specific state law provisions does not preclude the incorporation of unmentioned provisions. Nevertheless, to the extent that Code of Virginia, § 15.2-1429 prohibits the town from incorporating those provisions of Code of Virginia, § 18.2-270 which provide for penalties greater than those for a Class 1 misdemeanor, such provisions are not incorporated.

(Code 1988, § 2-6; Ord. of 2-4-1991; Ord. of 4-5-1999; Ord. of 8-2-2010; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 7-9-2012; Ord. of 7-8-2013; Ord. of 7-1-2019)

State law reference(s)—Authority to adopt Code of Virginia, title 46.2, Code of Virginia, § 46.2-1300; similar provision, Code of Virginia, § 46.2-1313.

Secs. 24-125—24-146. Reserved.

DIVISION 2. SPEED LIMITS

Sec. 24-147. Supplemental speed limit.

(a) Those roadways under the jurisdiction of the town shall have the following maximum speed limits (except where an already lawfully established special limit differs from this section):

(1) 25 miles an hour when passing a school during recess or while children are going to or leaving school;

(2) 30 miles an hour in a business or residential district;

(3) 35 miles an hour elsewhere in the town;

provided, however, the town manager, on all highways or streets maintained by the town, may increase or decrease the speed limits within its boundaries, provided such areas or points are clearly indicated by markers or signs and such designated speed is based upon an engineering and traffic investigation.

(b) Additionally, the town manager may reduce speed limits, without an engineering and traffic investigation, for a period not to exceed 60 days, in areas where the street or highway is under construction.

(Code 1988, § 2-19; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Authority to establish speed limits, Code of Virginia, § 46.2-1300.

Secs. 24-148—24-177. Reserved.

DIVISION 3. STOPPING, STANDING, PARKING LIMITS[17]

[17]State law reference(s)—Stopping, standing and parking, Code of Virginia, § 46.2-1220.

Sec. 24-178. Angle parking signs or markings.

Upon those streets which have been signed or marked by the police chief or other designated officer for angle parking, no person shall stop or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Code 1988, § 2-20; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Angle parking authorized, Code of Virginia, § 46.2-889.

Sec. 24-179. Parking vehicles with no state license.

It shall be unlawful to park any vehicle having no state license on any street.

(Code 1988, § 2-21; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-180. Manner of parking generally.

Except upon highways designated by the police chief (or other officer designated by the council) as one-way streets, no vehicle shall be stopped except close to and parallel to the right hand curb or edge of the roadway unless otherwise provided by rules and regulations made and promulgated by such designated officer; and upon highways designated by such officer as one-way streets, no vehicle shall be stopped except close to and parallel to either curb unless otherwise provided by rules and regulations or made and promulgated by such officer. With respect to parallel parking, the front and rear wheels of the vehicle nearest the curb shall not be more than 12 inches from the curb or edge of the roadway and the front and rear of the vehicle shall not be closer than two feet to other parked vehicles. No person having control or charge of a motor vehicle shall allow such vehicle to stand on any highway unattended without first effectively setting the handbrake, cutting off and locking the ignition, and turning the front wheels into the curb or side of the highway.

(Code 1988, § 2-22; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Location of parked vehicles, Code of Virginia, § 46.2-889.

Sec. 24-181. Parking rules and regulations promulgated by police chief or other designated officer.

The police chief or other officer designated by the council is hereby authorized and directed to make, promulgate, and enforce rules and regulations for the parking or stopping of vehicles upon the highways; to classify vehicles with reference to parking or stopping; to designate the time, length of time, the place and the manner such vehicles may be allowed to park or stop on the highways; to designate areas for bus stops, taxicab stands, and loading zones; and to revoke, alter or amend such rules and regulations at any time when, in his opinion, traffic conditions and use of the highways require. It shall be unlawful for any person to fail, refuse or neglect to observe and comply with any such rule or regulation made and promulgated by such designated officer; provided, however, no such rule or regulation shall be deemed to have been violated unless appropriate and adequate signs, markers, or other devices are erected to inform ordinarily observant persons using the highway of such rule or regulation. Such signs, markers or other devices shall be so placed that they may be readily seen.

(Code 1988, § 2-23; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-182. Stopping or parking prohibited in specified places.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(1) On a sidewalk;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within 15 feet of a fire hydrant;

(5) On a crosswalk;

(6) Within 20 feet of a crosswalk at an intersection;

(7) Within 30 feet of any flashing traffic beacon, stop sign, or traffic-control signal;

(8) Within 15 feet of the driveway entrance to any fire or rescue squad station, and when so posted, on the side of a roadway opposite the entrance to any fire station, within 75 feet of the entrance;

(9) Alongside or opposite any street or highway excavation or obstruction when such stopping or parking would obstruct traffic;

(10) On the roadway side of any vehicle, stopped or parked, at the edge or curb of a street;

(11) At any place where official signs prohibit stopping or parking.

(Code 1988, § 2-24; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Authority to establish parking regulations, Code of Virginia, § 46.2-1220; parking in certain locations prohibited, Code of Virginia, § 46.2-1239.

Sec. 24-183. Parking not to obstruct traffic.

No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of the width of any roadway for free movement of vehicular traffic.

(Code 1988, § 2-25; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-184. Stopping, standing or parking in alleys.

(a) No person shall stop or park a vehicle within an alley in a business district except for the expeditious loading or unloading of materials.

(b) No person shall stop, stand or park a vehicle within an alley in such position as to block the driveway or entrance to any abutting property.

(Code 1988, § 2-26; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-185. Parking for certain purposes prohibited.

No person shall park a vehicle upon any street or within any municipal parking lot for the principal purpose of:

(1) Displaying such vehicle for sale;

(2) Washing, greasing, or repairing such vehicle, except repairs necessitated by an emergency;

(3) Displaying advertising;

(4) Selling merchandise from such vehicle except in a duly established marketplace, or when so authorized or licensed under the ordinances of the town;

(5) Storage, or as junk or dead storage, for more than 72 hours.

(Code 1988, § 2-27; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-186. Stopping or parking in loading zones.

(a) Except as specified in subsection (b) of this section, no person shall stop or park a vehicle for any purpose or length of time other than for the expeditious unloading or loading of materials, in any place marked as a loading zone during hours when the provisions applicable to such zones are in effect.

(b) The driver of a vehicle may stop temporarily at a place marked as a loading zone for the purpose of and while actually engaged in loading or unloading passengers, when such stopping does not interfere with any motor vehicle used for the transportation of materials which is waiting to enter or about to enter such zone.

(Code 1988, § 2-28; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-187. Stopping or parking in restricted parking zone.

No person shall stop or park a vehicle, for any purpose or length of time, in any restricted parking zone other than for the purpose to which parking in such zone is restricted, except that a driver of a passenger vehicle may stop temporarily in such zone for the purpose of and while actually engaged in loading or unloading of passengers when such stopping does not interfere with any vehicle which is waiting to enter or about to enter the zone for the purpose of parking in accordance with the purpose to which parking is restricted.

(Code 1988, § 2-29; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-188. Parking of commercial vehicles near residences.

It shall be unlawful for the owner, operator, or driver of any motor vehicle of over three-fourths-ton capacity to park such vehicle or to permit it to be parked on any street, alley, or other public way in the town for longer than 30 minutes in the following areas: any areas zoned for residential use or in front of or adjacent to any portion of any lot upon which any residence is constructed. The provisions of this section shall not apply to any vehicle while actually engaged in loading or unloading.

(Code 1988, § 2-30; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Secs. 24-189—24-214. Reserved.

ARTICLE IV. BICYCLES[18]

[18]State law reference(s)—Authority to regulate bicycles, Code of Virginia, § 46.2-1315.

Sec. 24-215. Obedience to traffic-control devices.

(a) All persons operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that no right turn, left turn, or U-turn is permitted, no persons operating a bicycle shall disobey the direction of any such signs, except where such persons dismount from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

(Code 1988, § 2-36; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-216. Means of parking.

Every person who shall stand or park a bicycle upon a street shall do so in such a manner as to afford the least obstruction to pedestrian traffic.

(Code 1988, § 2-37; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Parking regulations, Code of Virginia, § 46.2-1220.

Sec. 24-217. Unlawful to operate bicycle while using earphones.

It shall be unlawful for any person to operate a bicycle while using earphones on or in both ears. For the purposes of this section, the term "earphones" shall mean any device worn on or in both ears which converts electrical energy to soundwaves or which impairs or hinders the person's ability to hear, but shall not include any prosthetic device which aids the hard-of-hearing. Any person violating this section shall be guilty of a Class 4 misdemeanor.

(Code 1988, § 2-37.1; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Similar provisions, Code of Virginia, § 46.2-1078.

Secs. 24-218—24-242. Reserved.

ARTICLE V. GOLF CARTS AND UTILITY VEHICLES[19]

Sec. 24-243. 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:

Golf cart means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

[19]State law reference(s)—Authority to permit operation of golf carts and utility vehicles on town streets, Code of Virginia, § 46.2-916.2.

Public highway means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the town, including streets, roads, and alleys.

Utility vehicle means a motor vehicle that is designed for off-road use, powered by a motor, and used for general maintenance, security, agricultural, or horticultural purposes. The term "utility vehicle" does not include riding lawn mowers.

(Code 1988, § 2-78; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-244. Required safety equipment.

All safety equipment required for inspection under section 24-247 must remain on golf carts or utility vehicles at all times when operated on any public highway or town property.

(Code 1988, § 2-79; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-245. General operation regulated.

No person shall operate a golf cart or utility vehicle on or over any public highway or town property in the town, except as provided in this article.

(Code 1988, § 2-80; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-13-2012)

Sec. 24-246. Designation of town public highways for golf cart or utility vehicle operation; posting of signs.

(a) Pursuant to Code of Virginia, § 46.2-916.2, the town council may authorize, by ordinance, the operation of golf carts and utility vehicles on designated public highways within the town after:

  (1) Considering the speed, volume and character of motor vehicle traffic using such street; and

  (2) Determining that golf cart or utility vehicle operation on particular town public highways is compatible with state and local transportation plans and consistent with the commonwealth's statewide pedestrian policy.

(b) No town public highway shall be designated for use by golf carts or utility vehicles if such golf cart or utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic, or if the public highway's speed limit is greater than 25 miles per hour. After considering such factors, the town council has determined that all public highways within the town limits with a speed limit of 25 miles per hour or less shall be considered designated for golf cart or utility vehicle use.

(Code 1988, § 2-81; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011; Ord. of 8-13-2012; Ord. of 6-8-2013)

Sec. 24-247. Safety inspection.

(a) Golf carts and utility vehicles shall pass an annual safety inspection conducted by a reputable mechanic. Such safety inspection shall only cover the following items:

  (1) Headlights, taillights, brake lights and turn signals.

  (2) Rubber or equivalent tires.

  (3) Speed limiter limiting vehicle speed to less than 20 miles per hour.

(4) Adequate steering gear, brakes, emergency or parking brake, one mirror, adequately fixed driver's seat.

(5) All other factory installed safety or mechanical systems, including checking for gasoline or propane leaks.

(b) Once per year, the owner/operator of the golf cart or utility vehicle shall be responsible for obtaining the completion of an inspection certification by a reputable mechanic on a form to be approved by the town. The owner/operator shall be required to bring the completed inspection certification, executed by the mechanic, to the town, along with proof of insurance and proof of payment of the town's vehicle license tax, and obtain a sticker to be placed in plain view on the driver's side front portion of the golf cart or utility vehicle.

(Code 1988, § 2-82; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-248. Insurance required.

Every golf cart or utility vehicle and driver thereof shall be covered by an insurance policy. Such policy shall meet the minimum liability amounts contained in Code of Virginia, § 46.2-472, and provide coverage during the operation of the golf cart or utility vehicle upon public highways.

(Code 1988, § 2-83; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Liability insurance requirements, Code of Virginia, § 46.2-472.

Sec. 24-249. Operation on public highways.

It is unlawful to operate a golf cart or utility vehicle on a public highway within the town unless the following requirements are met:

(1) No person shall operate a golf cart or utility vehicle on a town public highway unless that public highway is designated for golf cart or utility vehicle operations.

(2) No golf cart shall be driven across any public highway where the public highway being crossed has a posted speed limit of more than 25 miles per hour unless the public highway intersection is controlled by a traffic light and has a posted speed limit of no more than 35 miles per hour.

(3) Golf carts and utility vehicles shall be operated on public highways only between sunrise and sunset unless equipped with such lights as required in article 3 (Code of Virginia, § 46.2-1010 et seq.) of chapter 10 of title 46.2 of the Code of Virginia, for different classes of vehicles.

(4) No person may operate a golf cart or utility vehicle on public highways or town property unless he has in his possession a valid driver's license and then, only in accordance with such driver's license.

(5) Golf carts and utility vehicles must be operated in accordance with all applicable state and local laws and ordinances, including all laws, regulations and ordinances pertaining to the possession and use of alcoholic beverages.

(6) Only the number of people the golf cart or utility vehicle is designed to seat may ride on a golf cart or utility vehicle. Additionally, passengers shall not be carried on the part of a golf cart designed to carry golf bags.

(7) Golf carts and utility vehicles shall not be operated on any bicycle trails or sidewalks within the town limits.

(8) Golf carts and utility vehicle shall not be operated on any walking trails and must remain on roadways or parking areas while operated within town parks.

(9) Golf carts and utility vehicles shall not be operated during inclement weather, for example, snow, sleet, or ice-related conditions; nor when visibility is impaired by weather, smoke, fog or other conditions.

(10) Every golf cart or utility vehicle whenever operated on a public highway, shall display a slow-moving vehicle emblem in conformity with Code of Virginia, § 46.2-1081.

(11) The police chief, or his designee, may prohibit the operation of golf carts or utility vehicles on any public highway if the chief, or his designee, determines that the prohibition is necessary in the interest of safety.

(Code 1988, § 2-84; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-250. Exceptions.

The limitations set forth in section 24-249 shall not apply to golf carts or utility vehicles being operated to the extent necessary for town employees, operating only upon public highways located within the town, to fulfill a governmental purpose, provided the golf cart or utility vehicle is not operated on a public highway with a posted speed limit over 35 miles per hour in accordance with Code of Virginia, § 46.2-916.3(B)(2).

(Code 1988, § 2-85; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Maximum speed limits, Code of Virginia, § 46.2-916.3(B)(2).

Sec. 24-251. Local vehicle license.

No golf cart or utility vehicle shall be operated on public highways or town property until the owner has:

(1) Obtained a vehicle license. No vehicle license shall be issued to the owner of the golf cart or utility vehicle until the vehicle license fee has been paid to the town.

(2) Presented evidence that the golf cart or utility vehicle is insured in accordance with the requirements of section 24-248.

(3) Received and passed an annual safety inspection of the golf cart or utility vehicle as required by section 24-247.

(Code 1988, § 2-86; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-252. Liability disclaimer.

The ordinance from which this article is derived is adopted to address the interest of public safety. Golf carts and utility vehicles are not designed or manufactured to be used on the public highways and the town in no way advocates or endorses their operation on public highways. The town, by regulating such operation, is merely trying to address obvious safety issues, and adoption of the ordinance from which this article is derived is not to be relied upon as a determination that operation on public highways is safe or advisable if done in accordance with this article. All persons who operate or ride upon golf carts or utility vehicles on public highways do so at their own risk and peril, and must be observant of, and attentive to, the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The town has no liability under any theory of liability and the town assumes no liability for permitting golf carts or utility vehicles to be operated on the public highways under the special legislation granted by the Virginia General Assembly. Any person who operates a golf cart or utility vehicle is responsible for procuring liability insurance sufficient to cover the risk involved in using a golf cart or utility vehicle on the public highway.

(Code 1988, § 2-87; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Sec. 24-253. Violations.

Any person convicted of violating any provision of this article shall be guilty of a traffic infraction, punishable by a fine of not more than $200.00.

(Code 1988, § 2-88; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Secs. 24-254—24-284. Reserved.

ARTICLE VI. RAILROADS

Sec. 24-285. Railroad cars obstructing street or road; standing vehicle on railroad track.

It shall be unlawful for any railroad company, or any receiver or trustee operating a railroad, to obstruct, for a longer period than five minutes, the free passage on any street or road by standing cars or trains across the same, except a passenger train while receiving or discharging passengers. A passway shall be kept open to allow normal flow of traffic; provided, however, that when a train has been uncoupled, so as to make a passway, the time necessarily required, not exceeding three minutes, to pump up the air after the train has been recoupled, shall not be included in considering the time such cars or trains were standing across such street or road; nor shall it be lawful to stand any wagon or other vehicle on the track of any railroad which will hinder or endanger moving trains. Any such railroad company, receiver or trustee, or driver of any such wagon or vehicle, violating any of the provisions of this section shall be fined $100.00 for each minute beyond the permitted time, not to exceed a total fine of $500.00, and provided the total fine shall not be less than $100.00 nor more than $500.00. This section shall not apply when the train is stopped due to breakdown, mechanical failure or emergency.

(Code 1988, § 2-45; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Similar provisions, Code of Virginia, § 56-412.1.

Secs. 24-286—24-303. Reserved.

ARTICLE VII. VEHICLES

Sec. 24-304. Filling of motor vehicle tanks with gasoline while motors are running.

No one shall fill any motor vehicle with gasoline or other fuel while the motor is running, and all operators of motor vehicles shall stop their motors while tanks are being filled with gasoline.

(Code 1988, § 2-46; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

State law reference(s)—Authority to prohibit dangerous activity, Code of Virginia, § 15.2-1113.

Sec. 24-305. Offenses by persons owning or controlling vehicles.

Neither the owner nor any person employing or otherwise directing the driver of any vehicle shall require or knowingly permit the operation of such vehicle upon a street of this town in any manner contrary to law.

(Code 1988, § 2-47; Ord. of 4-5-1999; Ord. of 8-8-2010; Ord. of 7-11-2011)

Chapter 26 UTILITIES[20]

ARTICLE I. IN GENERAL

Sec. 26-1. Building code and other standards.

All water pipes, sewer pipes, fixtures, and other apparatus shall comply with all applicable building codes and standards set by the town.

(Code 1988, § 6-84; Ord. of 8-3-1998; Ord. of 3-5-2001)

Secs. 26-2—26-20. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 26-21. Water and sewer bills and rates.

The town treasurer or other designated official shall mail water and sewer bills to each customer as near as possible to the first day of every month. Water and sewer customers shall pay rates determined by the council.

(Code 1988, § 6-79; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-22. Deposits.

The town treasurer shall require any prospective water customer not holding title to the property in which water and sewer are to be used to pay a deposit to secure the payment of water and sewer bills. The amount of the deposit shall be set by the council from time to time. The deposit is refundable upon termination of the service and payment of all water and sewer charges. However, this section shall not require a deposit from a person who presents written authorization from the property owner to procure water and sewer services, and attaches to the authorization documentation showing the person to be a recipient of need-based local, state, or federal rental assistance.

(Code 1988, § 6-80; Ord. of 8-11-1987; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 8-13-2012)

Sec. 26-23. Payment of bills; penalties; disconnection.

(a) Water and sewer bills must be paid on or before the 20th day following the day the bill was issued. If the treasurer does not receive payment by the 20th day, he shall add a penalty to the bill equal to $2.50 for water service and $2.50 for sewer service or ten percent of the amount of the bill, whichever is greater. If the bill or penalty shall remain unpaid on the 50th day following the day the bill was issued, the town treasurer

[20]State law reference(s)—Authority of town to establish, maintain, and operate sewage disposal system, Code of Virginia, § 15.2-2111.

shall issue a disconnection notice to the customer. The notice shall itemize the full amount due, including penalties and it shall state:

(1) That the customer's water and/or sewer service will be disconnected in 30 days if the bill and penalty are not paid;

(2) That any disputes or complaints should be brought to the attention of the town superintendent who will listen to the inquiry, dispute, or complaint;

(3) The telephone number at which the town treasurer can be reached. (The treasurer will answer routine questions and refer appropriate cases to the superintendent.)

(b) If either the bill or penalty remains unpaid 30 days after the disconnection notice is issued and if the customer has not convinced the town superintendent that he does not owe the bill or penalty, the town superintendent shall have the customer's water and/or sewer service disconnected. Service shall be reinstated upon full payment of the account, plus a surcharge for turning the water and/or sewer service back on, set by council from time to time. The town bills refuse, water, and sewer services together. The town will allocate payments received to refuse services first and water and sewer services last.

(Code 1988, § 6-81; Ord. of 8-3-1998; Ord. of 3-1-2001; Ord. of 3-5-2001; Ord. of 8-13-2012; Ord. of 6-10-2013)

Sec. 26-24. Adjustments for excessively high consumption of water/sewer.

(a) *General procedure.* When there is an unusually high monthly increase in a customer's water and/or sewer bill due to an excessively high increase in usage as defined in subsection (b) of this section, the town and customer shall work cooperatively to determine a cause of the high usage and, if applicable, establish an adjustment to the customer's utility bill.

(b) *Definition of excessively high usage.* Excessively high usage is defined as an increase in gallons of consumption exceeding 1½ times the customer's previously peak monthly consumption within the last 12 months. For residential connections in cases where a customer's history is less than 12 months, the gallons used must be greater than or equal to 10,000 gallons per month.

(c) *Adjustment parameters.* If the individual meets the excessively high usage criteria, the town will make an adjustment to the customer's water/sewer bill as follows:

(1) The town will determine the difference between the excessively high usage reading and the average of the three highest consumption readings of the customer's account in the last 12-month period historic average usage. The difference between the excessively high usage reading and this average will be calculated and this difference will be considered the excess usage. The customer will be responsible for paying one half of the excess usage plus the customer's historic average usage as calculated. When there is insufficient data available to establish previous history consumption, the customer's adjustment shall be delayed and subsequently calculated using 120 percent of the next three months usage.

(2) The town will attempt to ascertain if the leak impacted only the water system (i.e., a leak between the meter and the structure, service line) or impacted both the water system and sewer system (i.e., leaking toilet). For excessively high usage impacting only water, the sewer charge will be waived for the excess usage billed to the customer; however, both applicable sewer and water charges will be levied against the historic average usage.

(d) *Validation of adjustment.*

(1) Under all circumstances, the adjustment shall be made only upon the correction of the problem as verified by sufficient documentation and/or change in the customer's usage pattern as determined by

the town superintendent or his duly authorized representative. For accounts where a leak or explanation of the excessively high usage cannot be determined, an adjustment will be considered, provided the customer's consumption pattern has returned to a historic average as determined by the town superintendent or his duly authorized representative. In all cases, however, failure to provide sufficient documentation of a repair or attempt to determine the cause of the excessively high usage will result in the full levy of the utility charge being made to the customer.

(2) Only one adjustment will be offered in a 12-month period. Additional adjustments within a 12-month period may be considered if in the opinion of the town superintendent or his duly authorized representative circumstances warrant additional adjustments.

(3) Where in the judgment of the town superintendent or his duly authorized representative there are abnormal or atypical activities being performed and they are deemed to be conducive to increased water usage, the qualifications for an adjustment shall be forfeited.

(Code 1988, § 6-82; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 2-11-2019)

Sec. 26-25. Violation.

Except where otherwise provided, the violation of any of the provisions of this chapter shall constitute a Class 4 misdemeanor and shall be punished in accordance with section 1-15. Each day the violation continues shall constitute a separate offense.

(Code 1988, § 6-83; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Secs. 26-26—26-53. Reserved.

ARTICLE III. WATER SYSTEM

DIVISION 1. GENERALLY

Secs. 26-54—26-79. Reserved.

DIVISION 2. WATER SERVICE

Sec. 26-80. Water connections to be made by the town.

The town superintendent or other authorized officer of the town shall be responsible for:

(1) Connecting water pipes to the town water system;

(2) Extending service lines from the individual property boundaries to the town water system; and

(3) Installing water meters and meter boxes.

(Code 1988, § 6-1; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-81. Alteration of connections.

No person shall make any alteration of or addition to a connection to the town water system without first obtaining the written permission of the town superintendent or other authorized official.

(Code 1988, § 6-2; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-82. Opening of water valve.

The town will open the valve to allow water on a lot when requested by the occupant, contractor, or developer, provided that all required fees have been paid. Except for licensed plumbers, who may turn on water values for testing purposes, no other person may turn on valves to allow water onto a lot.

(Code 1988, § 6-3; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-83. Service inside of property lines.

Town employees will do no work inside of property lines except for the installation of a water meter where the town superintendent has authorized its installation within the landowner's property lines.

(Code 1988, § 6-4; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-84. Fire hydrants.

Members of the fire department, in the course of their official duties, may use and manipulate fire hydrants. Otherwise, no one may use or manipulate fire hydrants located within the town unless authorized to do so by the town superintendent or an official of the police or fire departments.

(Code 1988, § 6-5; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-85. Water to be metered.

Wherever practicable, all water furnished by the town shall be measured by meters furnished and installed by the town. The water meters shall be the property of the town, and unless otherwise authorized by the town superintendent, they shall be placed as near to the curb line as possible on property owned by the town. Each individual residence or property shall be required to have a separate connection and meter unless otherwise authorized by the town superintendent.

(Code 1988, § 6-6; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-86. Tampering with waterworks.

No person, except a duly authorized official of the town, may remove, injure, or tamper with any part of the town's water system.

(Code 1988, § 6-7; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-87. Connection charges.

Before any person shall be allowed to connect to the town's water system, he shall pay a connection fee as established by the town council from time to time. (Persons seeking connections out of town shall pay 150 percent of the applicable connection fee.) Additionally, persons seeking connection to the water system shall pay all of the town's costs for labor and material (including the meter) plus a surcharge of ten percent.

(Code 1988, § 6-8; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001)

Sec. 26-88. Mandatory water connection.

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

Facility means any dwelling, business, office, or other improvement of property. The term "facility" also includes agricultural uses of unimproved property.

Person means any natural person, corporation, firm, partnership, company, association, or other entity.

(b) All facilities using water shall connect to the town's water distribution system if and when the town's system is within 100 feet of the lot on which the facility sits.

(c) It shall be unlawful for a person to allow a facility to make use of water from a well or other source not part of the town's water distribution system, except bottled water may be used for human consumption and similar purposes.

(d) Exemptions.

(1) The provisions of subsection (c) of this section shall not apply where (and to the extent that) the town superintendent has certified in writing that the town cannot provide water of the type or quantity reasonably required by the facility. For example, in appropriate cases, the town superintendent could find that:

a. An agricultural user reasonably requires untreated water for economic reasons; or

b. An industry could require more water than the town can reasonably deliver.

(2) Even where this exemption is invoked, the facility shall be required to obtain its water from the town distribution system to the extent the town can meet its requirements. Further, this exemption shall expire when the town superintendent certifies that the town can materially meet the facility's reasonable requirements.

(e) When a facility makes use of an alternative water source at the time it is annexed into town, the town superintendent may suspend the provisions of subsections (b) and (c) of this section for a fixed period of time, depending upon the owner's investment in the alternative water source, the expected life of the alternative water source, the health risk imposed by the alternative water source, any potential injury to the town's water source caused by the alternative source, and whether the town can economically forego connection.

(Code 1988, § 6-8.1; Ord. of 4-1-1991; Ord. of 7-13-1998; Ord. of 8-3-1998; Ord. of 3-5-2001)

Secs. 26-89—26-119. Reserved.

DIVISION 3. CROSS-CONNECTION

Sec. 26-120. Incorporation of waterworks regulations.

The provisions of 12 VAC 5-590-60 enacted by the state board of health pursuant to Code of Virginia, § 32.1-170 is hereby incorporated into this title.

(Code 1988, § 6-9; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007; Ord. of 7-1-2019)

Sec. 26-121. Cross-connection control program.

The town superintendent shall adopt and implement a cross-connection control and backflow prevention program in accordance with 12 VAC 5-590-600(B).

(Code 1988, § 6-9.1; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007)

Sec. 26-122. Discontinuance of service.

The town may deny or discontinue the water service to a consumer if a backflow prevention device is not installed. If it is found that any such device has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below ten psi gauge, the town shall take positive action to ensure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with commonwealth waterworks regulations and to the satisfaction of the town.

(Code 1988, § 6-10; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007)

Sec. 26-123. Protection of potable water supplies.

The potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this division. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as "water unsafe for drinking" in a conspicuous manner.

(Code 1988, § 6-11; Ord. of 4-1-1991; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 7-9-2007)

Secs. 26-124—26-144. Reserved.

DIVISION 4. DROUGHT MANAGEMENT

Sec. 26-145. Title.

This division shall be known and may be cited as the "Drought Management Ordinance."

(Code 1988, § 6-87; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-146. Purpose.

The purpose of this division is to provide for the voluntary and mandatory restriction of use of the town public water supply system during declared water shortages or water emergencies.

(Code 1988, § 6-88; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-147. Scope.

This division shall apply to all town residents and businesses which are served by the public water supply.

(Code 1988, § 6-89; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-148. Drought response plan.

The town council has adopted by resolution the Upper Shenandoah River Basin Regional Water Supply Plan.

(Code 1988, § 6-90; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-149. Drought indicators.

The indicators used to indicate drought severity shall be determined by watching well levels in the town. Upon determination that indicators exceed the threshold of a drought stage, as set forth in appendices A and B of the Upper Shenandoah River Basin Regional Water Supply Plan, the town may declare a specific drought stage.

(Code 1988, § 6-91; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-150. Drought stage.

The drought stages shall be drought watch, drought warning, and drought emergency, as determined by the town pursuant to the Upper Shenandoah River Basin Regional Water Supply Plan and state water control board regulation 9 VAC 25-120.

(Code 1988, § 6-92; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-151. Declaration.

Upon the finding by the town council that a drought stage exists, as defined in section 26-150, the town may issue a declaration of a drought stage. The town may declare a drought stage in the absence of a declaration by the commonwealth. The town must declare a drought stage upon declaration by the commonwealth that such a drought stage exists in the town.

(Code 1988, § 6-93; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-152. Drought stage response.

Upon notification to the town superintendent of a drought watch or drought warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Upper Shenandoah River Basin Regional Water Supply Plan (the "plan"). Upon declaration of a drought emergency, mandatory restrictions shall apply as set forth in the plan and in this division.

(Code 1988, § 6-94; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-153. Waiver of restriction.

Upon prior written request by an individual, business, or other water user, the town council, or its designee, the town superintendent may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial manner not common to other businesses or persons generally. No waiver shall be granted by the town council or its designee unless the town council or its designee determines that the public health, safety, and welfare will not be affected by the waiver. All waivers granted by the town council or its designee shall be reported at the town council's next regular or special meeting.

(Code 1988, § 6-95; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Sec. 26-154. Penalties.

First offense violations of this division shall constitute a Class 4 misdemeanor payable by a fine of $100.00. Second and subsequent violations of this division occurring during the continuance of the same drought emergency shall be a Class 4 misdemeanor payable by a fine of $250.00.

(Code 1988, § 6-96; Ord. of 8-3-1998; Ord. of 3-5-2001; Ord. of 9-9-2013)

Secs. 26-155—26-176. Reserved.

ARTICLE IV. SEWER SYSTEM[21]

DIVISION 1. GENERALLY

Sec. 26-177. Definitions.

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

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Authorized representative of industrial user means the duly authorized representative of an industrial user who is responsible for the overall operation of the facilities from which the indirect discharge originates.

Authority means the Harrisonburg-Rockingham Regional Sewer Authority, a public body politic and corporate, created pursuant to the state Water and Sewer Authorities Act, or its duly authorized representative.

Best management practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 26-206. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Note: BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

[21]State law reference(s)—Authority of town to establish, maintain, and operate sewage disposal system, Code of Virginia, § 15.2-2111.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).

Building sewer means a sewer conveying wastewater from the premises of a user to the system.

Categorical pretreatment standards or *categorical standards* means the national categorical pretreatment standards applicable to a specific category of industrial users.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, and to which the only pollutant added is heat.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

End of pipe means the location at which any private or industrial user connects to the public sewer (collection) system.

Environmental Protection Agency or *EPA* means the U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the EPA Regional Administrator or other duly authorized official of said agency.

Executive director means the person designated by the authority to supervise the operation of the portion of the system owned by the authority or her duly authorized representative.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of duration.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Human waste means waterborne human excrement as may be present from residences, buildings, industrial users or other places.

Indirect discharge or *discharge* means the discharge or the introduction of pollutants into the system from any non-domestic source.

Industrial user means a source of indirect discharge.

Instantaneous limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means the inhibition or disruption of the town's or authority's wastewater conveyances, treatment processes or operations. The term "interference" includes prevention of or interference with sewage sludge use or disposal by the town or authority.

Local limits means concentration based or other limits for designated parameters (see section 26-206(13)). Local limits apply at end of pipe and are expressed as maximum per day limits, or as otherwise specifically provided.

Member jurisdictions means the City of Harrisonburg, the county, and the towns of Bridgewater, Dayton, and Mt. Crawford which individually collect wastewater within their respective jurisdictions for treatment by the authority.

National Pollutant Discharge Elimination System Permit (NPDES or VPDES) means a permit issued pursuant to section 402 of the Act (33 USC 1342).

National Pretreatment Standards means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 USC 1317(b), (c)) which applies to industrial users.

New source.

(1) The term "new source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed National Pretreatment Standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility or installation is constructed at a site at which no other source is located;

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or c of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under subsection (1) of this definition has commenced if the owner or operator has:

a. Begun, or caused to begin as part of a continuous onsite construction program, any placement, assembly, or installation of facilities or equipment, or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

North American Industry Classification System (NAICS) means the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and *publishing* statistical data related to the U.S. business economy. The NAICS industry codes define establishments based on the activities in which they are primarily engaged.

Pass through means a discharge which exits the system into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge from other sources, are a cause of a violation of any requirement of the authority's VPDES Permit (including an increase in the magnitude or duration of a violation). An industrial user significantly contributes to such permit violation where it:

(1) Discharges a daily pollutant loading or concentration in excess of that allowed by the authority or by federal, state or local law;

(2) Discharges wastewater which substantially differs in nature and constituents from the user's average discharge;

(3) Knows or has reason to know that its discharge, alone or in conjunction with discharges from other sources, would result in a permit violation; or

(4) Knows or has reason to know that the authority is, for any reason, violating its final effluent limitations in its permit and that such industrial user's discharge either alone or in conjunction with discharges from other sources, increases the magnitude or duration of the authority's violations.

Person means any individual, partnership, firm, company, corporation, cooperative, association, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions.

Pollutant means any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pretreatment or *treatment* means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the system.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Publicly Owned Treatment Works (POTW) means a treatment works, as defined by section 212 of the Clean Water Act (33 USC 1292), which is owned by the authority. This term "publicly owned treatment works" includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Significant industrial user means:

(1) All industrial users subject to categorical pretreatment standards;

(2) Any industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the authority (excluding human waste, noncontact cooling and boiler blowdown wastewater);

(3) Any industrial user that contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the authority treatment plant; or

(4) Any industrial user that is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting the authority's operation or for violating any pretreatment standard or requirement.

Significant noncompliance. A user is in significant noncompliance if its violations meet one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter, including instantaneous limits, as defined by 9 VAC 25-31-10;

(2) Technical review criteria (TRC) violations defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit, including instantaneous limits, as defined by 9 VAC 25-31-10; multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other Pollutants except pH);

(3) Any other violation of a pretreatment effluent limit or requirement as defined by 9 VAC 25-31-10 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of authority personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the authority's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations that may include a violation of best management practices which the authority determines will adversely affect the operation or implementation of the pretreatment program.

Slug loading or *slug discharge* means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 26-206. Any discharge of non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Soluble BOD (sBOD) means the BOD result on a sample that is filtered through a 0.45 µm pore size filter.

Standard Industrial Classification (SIC) means a classification pursuant to the standard industrial classification manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent means the town superintendent, or his authorized deputy, agent or representative.

System means the treatment plant, works and facilities owned by the authority, including all sewer lines that convey wastewater to the treatment plant, and, in addition, the term "superintendent" includes the sewer lines owned by the town.

Total Kjeldahl Nitrogen (TKN) means organic nitrogen plus ammonia, as defined by the named analytical procedure.

Total Suspended Solids (TSS) means the total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provision of section 307(a) of the Act.

Treatment plant means that portion of the system designed to provide treatment to wastewater.

User means any person who causes or permits the contribution of wastewater into the system.

Wastewater means the liquid or water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with all other wastes which may be present, whether treated or untreated, which are contributed into or permitted to enter the system.

Wastewater discharge permit means as set forth in section 26-221.

Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or

underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. of 5-1-2018, § 6.12; Ord. of 8-9-2021, § 6.12)

Sec. 26-178. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD means biochemical oxygen demand.

CFR means the Code of Federal Regulations.

COD means chemical oxygen demand.

l means liter.

mg means milligrams.

mg/L means milligrams per liter.

µm means micrometer.

RCRA means the Resource Conservation and Recovery Act.

SWDA means the Solids Waste Disposal Act, 42 USC 6901 et seq.

USC means the United States Code.

TSS means total suspended solids.

NPDES/VPDES means the National/Virginia Pollutant Discharge Elimination System.

(Ord. of 5-1-2018, § 6.12.1; Ord. of 8-9-2021, § 6.12.1)

Secs. 26-179—26-205. Reserved.

DIVISION 2. REGULATIONS

Sec. 26-206. General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause a pass through or an interference with the operation or performance of the system. This general prohibition applies to all users of the system whether or not the user is subject to national pretreatment standards or any other national, state, or local requirements. A user may not contribute the following substances directly or indirectly to the system:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion hazard, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(2) Unusual concentrations of total suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residue), or any solid or viscous pollutants in amounts that will cause obstruction to the flow in the system.

(3) Any wastewater having a pH less than 5.5, or wastewater having any other corrosive property capable of causing damage or creating a hazard to the system or personnel of the authority or town.

(4) Any wastewater containing or which result in the presence of toxic pollutants or gases, vapors or fumes in sufficient quantity, either alone or by interaction with other pollutants, which injures any wastewater treatment process, may cause acute worker health or safety problems, creates a toxic effect in the receiving waters of the authority or town, or exceeds the limitation set forth in a categorical standard. A toxic pollutant shall include, but not be limited to, any pollutant identified as such pursuant to section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases or solids which, either alone or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent personnel of the authority or town from entering into the sewers for maintenance and repair.

(6) Any substance which may cause the authority's effluent or any other product of the authority, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall any substance discharged to the system cause the authority to violate any applicable sludge use or disposal criteria, or regulations developed therefor.

(7) Any substance which will cause the authority to violate its VPDES permit or applicable water quality standards of the receiving water.

(8) Any wastewater with objectionable color which cannot be removed by the treatment plant, such as, but not limited to, dye waste and vegetable tanning solutions.

(9) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater with a temperature that causes the temperature of the combined wastewater of all users at the treatment plant to exceed 37 degrees centigrade (98.6 degrees Fahrenheit).

(10) Slug loading prohibited by this division.

(11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the authority.

(12) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit.

(13) a. Any wastewater, which at the end of pipe location, exceeds the following local limits for the listed parameters:

Parameter	*Maximum Daily Limit (mg/L)*
Arsenic	0.51
Cadmium	0.09
Chromium	4.4
Copper	1.7
Cyanide	2.2
Lead	1.21

Mercury	0.002
Nickel	1.5
Selenium	0.41
Silver	2.8
Zinc	5.0

Parameter	*Maximum Daily Limit (mg/L)*	*Monthly Average Limit (mg/L)*	*Monthly Average Concentration (mg/L)*
BOD	500	350	N/A
TSS	500	350	N/A
TKN	100	N/A	70.0
Total Phosphorus	20	N/A	14.0
Nitrate + Nitrite	10.0	N/A	N/A
Oil & Grease	100	N/A	N/A
pH	(Range in standard units) 5.5—9.5	N/A	N/A

b. The executive director of the authority may impose mass limitations in place of the concentration-based limits in subsection (13)a of this section with respect to any user other than a significant industrial user. If any measured values of these parameters are over the limits listed in subsection (13)a of this section, the authority will determine if an industrial user designation is required.

c. The sample type for oil and grease and pH shall be a grab sample. The sample type for all other parameters shall be a 24-hour composite sample (or for the time period discharges occur if less than 24 hours). Compliance with a maximum daily limit shall be based on a single composite sample when there is only one sample in a 24-hour period, or an average of multiple composite samples in a day. Compliance with a monthly average limit shall be based on an average of all of the values for a specific parameter within a calendar month. Under no circumstances may grab samples be averaged.

d. Discharges of each single sample of TKN and total phosphorus in excess of the respective monthly average concentration shown in the table above but below the maximum daily limit shall not be considered an exceedance or a violation of the local limits. All discharges of TKN and total phosphorus in excess of the respective monthly average concentration shall be subject to the treatment cost recovery fees in section 26-218.

(14) Any trucked or hauled pollutants, except at discharge points designated by the authority, and pursuant to specific authorization of a wastewater discharge permit pursuant to this article or other written authority authorization.

(15) Petroleum oil, nonbiodegradable cutting oil, or products containing mineral oil in amounts that will cause interference or pass through.

(16) Any wastewater containing quantities of pollutants which exceed the applicable limitations set forth in a National Pretreatment Standard as such standards may be revised from time to time.

(17) Unusual concentrations of biochemical oxygen demand, at a flow rate or pollutant concentration that will cause interference.

(18) Any stormwater or water from any roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains.

(Ord. of 5-1-2018, § 6-13; Ord. of 8-9-2021, § 6-13)

Sec. 26-207. Prohibited substances and materials.

(a) No person shall discharge or cause to be discharged, either directly or indirectly, any wastewater, sewage or waste to the system which will cause a pass through or an interference with the operation or performance of the treatment plant or the following described substances, materials, waters, or wastes if it appears likely, in the opinion of the authority or town, that such wastes can harm the system, have an adverse effect on the waters of the state or can otherwise endanger life, limb, public property or constitute a nuisance. Consideration will be given to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the treatment plant, degree of treatability of wastes in the treatment plant and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.

(2) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the town or the authority.

(3) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(4) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement to such degree that any such material received in the wastewater at the treatment plant exceeds the limits established by the authority for such materials.

(5) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the authority as necessary, after treatment of the wastewater, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the waters of the state.

(6) Materials which exert or cause unusual concentrations of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) not to exceed 750 mg/L.

(b) When the authority or town determines that a user is violating this section, the violator may be subject to the enforcement actions in sections 26-226 through 26-233.

(Ord. of 5-1-2018, § 6-14; Ord. of 8-9-2021, § 6-14)

Sec. 26-208. Federal categorical pretreatment standards compliance.

Compliance by existing sources with categorical standards is required under federal law within three years of the date the standard is effective, unless a shorter compliance time is specified within the standard. Compliance by new sources is required under federal law on the date the standard is effective.

(1) *Nonsignificant categorical industrial users.* The authority may determine that a categorical industrial user is a nonsignificant categorical industrial user rather than a significant industrial user on a finding

that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the standard) and the following conditions are met:

a. The industrial user, prior to the authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

b. The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and

c. The industrial user never discharges any untreated concentrated wastewater.

(2) *Equivalent limitations to those expressed as mass.*

a. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

b. In any such case, the authority, in calculating equivalent mass-per-day limitations, shall calculate such limitations by multiplying the limits in the categorical standard by the industrial user's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

c. Further, in any such case, the authority, in calculating equivalent concentration limitations, shall calculate such limitations by dividing the mass limitations derived as provided in subsection (2)b of this section by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.

(3) *Equivalent limitations to those expressed as concentration.*

a. When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the authority. The authority may establish equivalent mass limits only if the industrial user meets all the following conditions:

1. To be eligible for equivalent mass limits, the industrial user must:

(i) Employ, or demonstrate that he will employ, water conservation methods and technologies that substantially reduce water use during the term of its wastewater discharge permit;

(ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical standard, and not have used dilution as a substitute for treatment;

(iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;

(iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(v) Have consistently complied with all applicable categorical standards during the period prior to the industrial user's request for equivalent mass limits.

2. Further, an industrial user subject to equivalent mass limits must:

(i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(iii) Continue to record the facility's production rates and notify the authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined initially. Upon notification of a revised production rate, the authority will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented so long as it discharges under an equivalent mass limit.

b. The authority, if it establishes equivalent mass limits, will:

1. Calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes of the industrial user by the concentration-based daily maximum and monthly average limits for the applicable categorical standard and the appropriate unit conversion factor;

2. Upon notification of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility;

3. Retain the same equivalent mass limit in a subsequent wastewater discharge permit if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment. The industrial user must also be in compliance with 40 CFR 403.17 regarding the prohibition of bypass.

The authority will not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(Ord. of 5-1-2018, § 6-15; Ord. of 8-9-2021, § 6-15)

Sec. 26-209. Modification of federal categorical pretreatment standards.

When the system achieves consistent removal (as defined by 40 CFR 403.7) of pollutants limited by categorical standards, the authority may in its discretion apply for modification of specific limits in the categorical standards. The authority may then modify pollutant discharge limits in the categorical standards to reflect such removal credits if the requirements contained in 40 CFR 403.7 are met and prior EPA approval is obtained.

(Ord. of 5-1-2018, § 6-16; Ord. of 8-9-2021, § 6-16)

Sec. 26-210. Specific pollutant limitations.

The authority has established local limits in section 26-206(13), applicable to all users. The authority further reserves the right to set specific numerical limitations on the quantity of pollutants discharged by any user to the system. Such further limitations may affect a single user, a category of users, or all users and will be set at such limits which will further the objectives of this article.

(Ord. of 5-1-2018, § 6-17; Ord. of 8-9-2021, § 6-17)

Sec. 26-211. State requirements.

Any applicable state requirements and limitations on discharges shall apply in any case where they are more stringent than requirements established by the authority.

(Ord. of 5-1-2018, § 6-18; Ord. of 8-9-2021, § 6-18)

Sec. 26-212. Authority's right of revision.

The authority reserves the right to modify the wastewater discharge permits, limitations or requirements on discharges to the system as it determines necessary to comply with the objectives of this division.

(Ord. of 5-1-2018, § 6-19; Ord. of 8-9-2021, § 6-19)

Sec. 26-213. Excessive discharge.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this division, the categorical standards or any other federal, state or local law or regulation.

(Ord. of 5-1-2018, § 6-20; Ord. of 8-9-2021, § 6-20)

Sec. 26-214. Accidental discharges.

Each user shall provide protection from accidental discharge of prohibited pollutants or other substances regulated by this division. In case of an accidental discharge, it is the responsibility of the user to immediately telephone and otherwise notify the authority of the incident. The notification shall include the location of the discharge, type of waste, concentration, volume, and corrective actions.

(1) *Written notice.* Within five days following an accidental discharge, the user shall submit to the authority and town a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the system, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any civil penalties or other liability which may be imposed under this division or other applicable law.

(2) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous or accidental discharge.

(Ord. of 5-1-2018, § 6-21; Ord. of 8-9-2021, § 6-21)

Sec. 26-215. New or increased wastewater.

(a) The authority may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the system by any user where such contributions do not meet applicable pretreatment standards or requirements or where such contributions would cause a risk of pass through or interference to the system.

(b) All industrial users shall promptly notify the authority of any significant changes to the user's operations or systems which might alter the nature, quality, volume, or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under section 26-217 at least 30 days before the change. The executive director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 26-221(1). The executive director may issue an individual wastewater discharge permit under section 26-221 or modify an existing wastewater discharge permit under section 6-28(2) in response to changed conditions or anticipated changed conditions.

(Ord. of 5-1-2018, § 6-22; Ord. of 8-9-2021, § 6-22)

Sec. 26-216. Notification of problem discharges.

All industrial users shall notify the authority and town immediately of all discharges that could cause problems to the system, including, but not limited to, any slug loadings by such users. This notification shall be followed up within five days by written notification as provided in section 26-214. Significant industrial users are required to notify the authority immediately of any changes at its facility affecting potential for a slug discharge.

(Ord. of 5-1-2018, § 6-23; Ord. of 8-9-2021, § 6-23)

Sec. 26-217. Notification of hazardous wastes.

(a) All industrial users shall notify the authority, the EPA Region 3 Waste Management Division Director, the town and the state department of environmental quality division of land protection and revitalization in writing of any discharge into the system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261 or 9 VAC 20-60. Such notification must include the name of the hazardous waste as set forth in such regulations, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the system, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed hazardous waste discharges must be submitted to the authority and town in advance of any substantial change in the volume or character of pollutants.

(b) Industrial users are exempt from the requirements of subsection (a) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or any quantity of acute hazardous waste, requires a one-time notification. Subsequent months during which the industrial user discharges additional quantities of such hazardous waste do not require additional notification.

(c) In the case of new regulations identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the authority, the EPA Region 3 Waste Management Division Director, the town and the state department of environmental quality division of land protection and revitalization of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume or toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) Industrial users who commence discharging hazardous wastes after the effective date of these notification requirements shall provide notification no later than 180 days after the discharge of the hazardous waste.

(Ord. of 5-1-2018, § 6-24; Ord. of 8-9-2021, § 6-24)

Sec. 26-218. Treatment cost recovery fees.

(a) In accordance with the formula below, the authority shall calculate and collect treatment cost recovery fees for any daily composite sample for BOD, TSS, TKN and total phosphorus concentrations in excess of the monthly average wastewater discharge permit limit or monthly average concentration as provided in section 26-206(13). Such fees shall be calculated as the sum of each treatment cost recovery fee calculated during the monitoring period. Treatment cost recovery fees shall be paid by Industrial users within 45 days of the end of the monitoring period.

$$\text{Treatment cost recovery fee} = 8.345 \times (X - Y) \times ADF \times Z \times U$$

Where:

X is each single sample concentration when in excess of the monthly average wastewater discharge permit limit (BOD=350 mg/L and TSS=350 mg/L) or monthly average concentration (TKN=70.0 mg/L and total phosphorus=14.0 mg/L).

Y is the monthly average wastewater discharge permit limit (BOD=350 mg/L and TSS=350 mg/L) or monthly average concentration (TKN=70.0 mg/L and total phosphorus=14.0 mg/L).

ADF is the average daily wastewater flow in million gallons recorded on the day the exceedance occurred.

Z is the pollutant parameter treatment cost recovery multiplier below.

U is the pollutant parameter unit cost for treatment in dollars per pound.

Treatment Cost Recovery Multiplier

Parameter	*1.0*	*1.5*	*2.0*	*3.0*
BOD	>350-500 mg/L	>500-1,000 mg/L	>1,000-1,500 mg/L	>1,500 mg/L
TSS	>350-500 mg/L	>500-1,000 mg/L	>1,000-1,500 mg/L	>1,500 mg/L
TKN	>70.0-100 mg/L	>100-125 mg/L	>125-150 mg/L	>150 mg/L
Total Phosphorus	>14.0-20 mg/L	>20.0-25 mg/L	>25-30 mg/L	>30 mg/L
Nitrate + Nitrite	NA	NA	NA	>10.0 mg/L

The unit cost for treatment (U) shall be as determined by the authority on an annual or other basis and published on the authority website.

(b) Notwithstanding the above, for industrial users whose principal classification is industry 312120 (breweries), 312130 (wineries), 312140 (distilleries), 312111 (soft drinks), and other classifications (as approved by the authority), pursuant to the North American Industry Classification System (NAICS), the factor X used for calculating the BOD treatment cost recovery fee may be computed by subtracting sBOD from BOD and using the difference, as determined by the authority on a case-by-case basis.

(c) Imposition and payment of such fees shall not excuse the exceedance of the underlying pollutant parameter monthly average limit from section 26-206(13), and any such exceedance shall continue to be subject to authority enforcement.

(Ord. of 5-1-2018, § 6-25; Ord. of 8-9-2021, § 6-25)

Sec. 26-219. Industrial user monitoring.

Permitted industrial users shall be required to monitor their wastewater discharges at the following frequencies unless stipulated differently in their individual wastewater discharge permit:

(1) All pollutant parameters except as specified below:

Other Pollutant Parameter
Discharge Frequencies

Average Daily Flow	*Monitoring Frequency*
<50,000 gpd	1/week
≥50,000 < 100,000 gpd	2/week
≥100,000 gpd	3/week

(2) Metals: once per year.

(3) Oil and grease: twice per month.

(4) pH: at least once per hour each day for the time period of the discharge.

(5) If sampling performed by an industrial user indicates a violation, the user shall notify the authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the authority within 30 days after becoming aware of the violation. Where the authority has performed the sampling and analysis in lieu of the industrial user, the authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

a. The authority performs sampling at the industrial user at a frequency of at least once per month; or

b. The authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the authority receives the results of this sampling.

(Ord. of 5-1-2018, § 6-26; Ord. of 8-9-2021, § 6-26)

Sec. 26-220. Wastewater discharges.

It shall be unlawful for any significant industrial user to discharge without a wastewater discharge permit to the system any wastewater except as authorized by the authority in accordance with the provision of this division.

(Ord. of 5-1-2018, § 6-27; Ord. of 8-9-2021, § 6-27)

Sec. 26-221. Wastewater discharge permits.

All significant industrial users proposing to connect to or contribute to the system shall obtain from the authority a wastewater discharge permit before connecting to or contributing to the system. The authority may require any other industrial user to obtain from the authority a wastewater discharge permit before connecting to or contributing to the system, if the authority determines that a wastewater discharge permit is beneficial in implementing this division.

(1) *Wastewater discharge permit application.* A user required to obtain a wastewater discharge permit shall complete and file with the authority an application in the form prescribed by the authority. The authority shall furnish the town with a copy of the application upon receipt. Proposed new users shall apply at least 90 days prior to their intent to connect to or contribute to the system. The application shall include the following information:

a. Name, address of the user and the location of the discharge if different from such address;

b. SIC number;

c. Wastewater constituents and characteristics, including, but not limited to, those identified in section 26-206(13) as determined by a reliable analytical laboratory; and sampling and analysis shall be performed in accordance with procedures established in 40 CFR 136;

d. Time and duration of contribution;

e. Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

f. Site plans showing all sewers and sewer connections by the size, location and elevation and any pretreatment facilities;

g. Description of pretreatment facilities and processes on the premises, or those to be installed;

h. Measurement of pollutants:

1. The user shall identify the pretreatment standards applicable to each regulated process; and the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by an applicable standard or the authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The samples shall be representative of daily operations. In cases where the standard or local limit requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the authority or the applicable standards to determine compliance with the standard;

2. Further, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The authority may waive flow-proportional composite sampling for any

industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this subsection; samples shall be taken immediately downstream from pretreatment facilities if such exists or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards;

3. Where a proposed alternate concentration or mass limit has been calculated in accordance with the combined wastestream formula of 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the authority. This subsection pertains to users subject to categorical standards;

4. In the case of users not subject to categorical standards, the authority shall specify on the wastewater discharge permit application which pollutants are to be sampled (including sample type and number) and tested;

i. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards or requirements, the shortest schedule by which the user is able to provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard or otherwise by this article. The following conditions shall apply to this schedule:

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards or requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

2. No increment referred to in subsection (1)i.1 of this section shall exceed nine months;

3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with such increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the authority;

j. A list of products produced;

k. Type of raw material processed; and

l. Any other information as may be required by the authority to evaluate the wastewater discharge permit application. The authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the authority may issue a wastewater discharge permit subject to the terms and conditions provided herein; or the authority may decline to issue the wastewater discharge permit.

(2) *Wastewater discharge permit modifications.* The authority may reopen and modify a wastewater discharge permit for good cause, including, without limitation, for the following reasons:

a. To incorporate any new or revised pretreatment standard or requirement.

b. To address significant alterations to the user's processes or discharge.

c. A change in the authority's facilities or processes or the regulatory requirements applicable to the authority.

d. To correct typographical or other errors in the wastewater discharge permit.

e. On the request of the permittee for good cause shown.

(3) *Wastewater discharge permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this section and all other applicable regulations, user charges and fees established by the authority or the town. Wastewater discharge permits shall contain the following:

a. Statement of duration (in no case more than five years);

b. Statement of nontransferability without, at a minimum, prior notification to the authority and town, a signed agreement between the current and new permittees stating and agreeing to the date of transfer, and approval of the transfer by the authority. The authority may, in its discretion, require a new wastewater discharge permit application from the proposed new owner;

c. Effluent limits, including best management practices, based on applicable general pretreatment standards, categorical pretreatment standards, and the requirements of this division;

d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type;

e. Statement of applicable civil and criminal penalties for violation of the wastewater discharge permit, pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;

f. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization, if determined necessary by the authority;

g. Requirements for installation and maintenance of inspection and sampling facilities, if determined necessary by the executive director;

h. Requirements for maintaining and retaining plant records relating to wastewaters and discharge as specified by the authority, and affording the authority access thereto;

i. Requirements for notification of the authority of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the system;

j. Requirements for immediate notification of all discharges that could cause problems to the system, including any slug loading;

k. Requirements for slug discharge control, if determined necessary by the authority. A slug control plan shall contain, at a minimum, the following elements: description of discharge practices, including non-routine batch discharges; description of stored chemicals; procedures for immediately notifying the authority of slug discharges, with procedures for a follow-up written notification within five days; and, if necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

l. Statement that the wastewater discharge permit may be reopened and modified as determined necessary by the authority; and

m. Other conditions as determined appropriate by the authority to ensure compliance with this division.

(4) *Wastewater discharge permit duration.*

a. Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. The user shall apply for wastewater discharge permit renewal at least 180 days prior to the expiration of the user's existing wastewater discharge permit. The terms and conditions of the new wastewater discharge permit may be subject to modification by the authority. The user shall be informed of any proposed changes in its wastewater discharge permit at least 30 days prior to the effective date of change. Any changes or new conditions in the wastewater discharge permit shall include, if necessary and consistent with legal requirements, a reasonable time schedule for compliance.

b. If the permittee has submitted a complete reapplication no later than the date identified in subsection (4)a of this section, and the authority has not, through any fault of the permittee, made a decision on wastewater discharge permit reissuance, the wastewater discharge permit shall be administratively extended and remain in effect until a final decision on the wastewater discharge permit by the authority.

(5) *Supplemental wastewater discharge permit provisions.* The following are required for supplemental wastewater discharge permits:

a. Performance bonds reserve.

b. Liability insurance reserve.

c. Payment of outstanding fees and penalties reserve.

d. Disclosure statements (compliance information on user and key personnel) reserve.

(6) *Wastewater discharge permit transfer.* Wastewater discharge permit shall be issued to a specific user for a specific operation at a specific location. A wastewater discharge permit shall not be assigned, transferred or sold to another person or user except as provided in subsection (2) of this section, and shall not be applicable to a different premises or a new or changed operation without the approval of the authority.

(Ord. of 5-1-2018, § 6-28; Ord. of 8-9-2021, § 6-28)

Sec. 26-222. Reporting requirements.

(a) *Baseline report.* Within 180 days after the effective date of a categorical standard, existing industrial users subject to such standards and currently discharging to or scheduled to discharge to the system shall submit to the authority a report which contains the information listed in subsections (a)(1) through (7) of this section. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the authority a report which contains the information listed in subsections (a)(1) through (5) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (a)(4) and (5) of this section:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owners.

(2) *Permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production, and SIC of the operation carried out by such industrial user. This description shall include a schematic process diagram which identifies points of discharge to the system from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the system from each of the following:

a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

The authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(5) *Measurement of pollutants.*

a. The categorical standards applicable to each regulated process. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or the authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the authority or the applicable standards to determine compliance with the standard. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the standards. Where an alternate concentration or mass limit has been calculated in accordance with this division, this adjusted limit along with supporting data shall be submitted to the authority.

b. The authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

c. The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the system.

(6) *Certification.* A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, stating whether standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the standards.

(7) *Compliance schedule.*

a. If additional pretreatment and/or O&M will be required to meet the standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable standard.

b. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required, the information required by subsection (a)(6) of this section and this subsection (a)(7) shall pertain to the modified limits. If the categorical pretreatment standard is modified by a removal allowance, the combined wastestream formula, and/or a fundamentally different factors variance after the user submits the report required by this section, any necessary amendments to the information requested by subsection (a)(6) of this section and this subsection (a)(7) shall be submitted by the user to the authority within 60 days after the modified limit is approved.

c. Compliance schedule for meeting categorical standards. The following conditions shall apply to the schedule required by this subsection (a)(7): The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment shall exceed nine months. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the authority.

(b) *Categorical standard deadline compliance.* Within 90 days following the date for final compliance with applicable categorical standards or in the case of a new source following commencement of the introduction of wastewater into the system, the user shall submit to the authority a report including the information described in subsections (a)(4) through (6) of this section. For industrial users subject to equivalent mass or concentration limits established by the authority, this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(c) *Periodic reports on continued compliance.* After the compliance date of a categorical standard or, in the case of a new source, after commencement of the discharge into the system, any user subject to a categorical standard shall submit to the authority during the months of June and December, unless required more frequently by the authority, a report identifying the nature and concentration of pollutants in the effluent which are limited by such standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period. At the discretion of the authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the authority may agree to alter the months during which the above reports are to be submitted. In cases where the standard requires compliance with a best management practice or other pollution prevention alternative, the user shall submit documentation required by the authority or the standard necessary to determine the compliance status of the user.

(d) *Signatory requirements for industrial user reports.* Reports and applications submitted by an industrial user must be signed:

(1) By a responsible corporate officer or a duly authorized representative of that individual. The term "responsible corporate officer" means as the president, secretary, treasurer or vice-president of the corporation in charge of the principal business function, or any other person who performs similar policymaking or decision-making functions for the corporation. In addition, the manager of one or more manufacturing, production or operating facilities of the corporation, provided the manager is

authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the industrial user submitting the reports required by subsections (a) and (b) of this section is a partnership or sole proprietorship, respectively.

(3) By a duly authorized representative of the individual designated in subsection (d)(1) or (2) of this section if:

a. The authorization is made in writing by the individual described in subsection (d)(1) or (2) of this section;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

c. The written authorization is submitted to the authority.

If an authorization under subsection (d)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (d)(3) of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative. The following statement shall be used on all reports, application and notices requiring certification, and with all submissions of data:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

(e) *Reporting period.* The reports required in subsection (b) of this section must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The authority shall require that frequency of monitoring necessary to assess and ensure compliance by industrial users with applicable local limits, pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the authority. Where time-proportional composite sampling or grab sampling is authorized by the authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the authority, as appropriate.

(f) *Grab samples.* For sampling required in support of baseline monitoring and 90-day compliance reports required by subsection (a) of this section, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the authority may authorize a lower minimum. For the reports required by subsections (b) and (h) of this section, the authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable local limits, pretreatment standards and requirements.

(g) *Dilution.* The authority may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (c) of this section shall identify the mass of pollutants regulated by the standards in the effluent of the user.

(h) *Sampling and analytical procedures.* All analyses shall be performed in accordance with procedures established by the EPA in 40 CFR 136. Sampling shall be performed in accordance with the techniques designed and implemented to obtain representative samples. If an industrial user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the authority using the procedures prescribed in this section, the results of this monitoring shall be reported.

(i) *Reporting requirements for industrial users not subject to categorical pretreatment standards.* The authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant noncategorical industrial users must submit to the authority at least once every six months (on dates specified by the authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the authority. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the authority to determine the compliance status of the user. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR 136 and amendments thereto. This sampling and analysis may be performed by the authority in lieu of the significant noncategorical industrial user.

(j) *Record maintenance of the industrial user; retention.* Any industrial user subject to the reporting requirement established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with best management practices. Such records shall include for all samples:

(1) The date, exact place, method, and time of sampling and the name of the person taking the samples;

(2) The dates analyses were performed;

(3) The individuals who performed the analyses;

(4) The analytic methods used; and

(5) The result of such analyses.

Any industrial user subject to the reporting requirements established in this section (including documentation associated with best management practices) shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this section), and shall make such records available for inspection and copying on the request of the authority. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the authority.

(Ord. of 5-1-2018, § 6-29; Ord. of 8-9-2021, § 6-29)

Sec. 26-223. Monitoring and pretreatment facilities.

(a) *Monitoring facilities.*

(1) Each user required to monitor its wastewater shall provide and operate, at the user's expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but when such location would be impractical or cause undue hardship on the user, if approved by the town, the authority may approve a facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the authority's requirements and all applicable local construction standards and specifications, and shall be available for the authority's inspection and use for sampling.

(b) *Pretreatment facilities.* Users shall provide necessary pretreatment as required to comply with this division and shall achieve compliance with all pretreatment standards and requirements within the time limitations as specified by this division, the wastewater discharge permit, any order or federal pretreatment standards, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the authority shall be proven, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the authority for review, and shall be acceptable to the authority before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the authority under the provisions of this division. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the authority prior to the user's initiation of the changes. All records relating to compliance with pretreatment standards and requirements shall be made available to officials of the EPA, the state department of environmental quality, the town and the authority upon request.

(Ord. of 5-1-2018, § 6-30; Ord. of 8-9-2021, § 6-30)

Sec. 26-224. Inspection and sampling.

The authority shall randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by the industrial users, occasional and continuing noncompliance with pretreatment standards or requirements; inspect and sample the effluent from each significant industrial user at least once a year; and evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug loadings. If the authority determines that a slug loading plan is needed, such plan shall contain, at a minimum, the elements outlined in section 26-221(3)k and set forth in 40 CFR 403.8(f)(2)(vi). The authority may inspect such facilities to ensure compliance. All users shall allow representatives of the town and the authority access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination (including the right to copy such records) and the performance of any of their duties. The town and the authority shall have the right to set upon the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the town and/or the authority will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. In addition, all users shall pay to the

town or the authority all reasonable and necessary costs incurred by the town or the authority in connection with inspections, wastewater monitoring, sampling and testing.

(Ord. of 5-1-2018, § 6-31; Ord. of 8-9-2021, § 6-31)

Sec. 26-225. Confidential information.

Information and data of a user obtained from reports, questionnaires, wastewater discharge permit applications, wastewater discharge permits, monitoring programs and inspections shall be available to the public without restriction unless the user specifically identifies such information as being business confidential or proprietary and requests that such information remain confidential. Information and data identified and marked by the user as business confidential or proprietary will be held confidential by the authority and the town to the extent permissible under law. Information and data concerning effluent data cannot be claimed as confidential.

(Ord. of 5-1-2018, § 6-32; Ord. of 8-9-2021, § 6-32)

Sec. 26-226. Harmful contributions.

(a) The authority or town may suspend the wastewater treatment service or a wastewater discharge permit or cut off the sewer connection when the authority or town determines such suspension or cut off to be necessary, in order to stop a discharge which:

(1) Presents or may present an imminent or substantial endangerment to the health or welfare of persons;

(2) Presents or may present an imminent or substantial endangerment to the environment;

(3) May cause or actually causes an interference or pass through; or

(4) May cause the authority to violate any condition of its VPDES permit.

(b) The authority or town may reinstate the wastewater discharge permit or the wastewater treatment service upon proof of the elimination of the subject discharge.

(c) In the event of a suspension or cut off under this section, within 15 days, the user shall submit a written report to the authority and town describing the event that caused the conditions of concern and the measures taken to prevent any recurrence.

(Ord. of 5-1-2018, § 6-33; Ord. of 8-9-2021, § 6-33)

Sec. 26-227. Revocation of wastewater discharge permit.

The authority may revoke any wastewater discharge permit if it determines that:

(1) A user has falsified information or records submitted or retained in accordance with this division or in connection with any wastewater discharge permit issued pursuant to this division;

(2) A user has violated the conditions of a wastewater discharge permit;

(3) A user has refused right of entry required by this division;

(4) A user has failed to timely reapply for a wastewater discharge permit or request a required wastewater discharge permit modification;

(5) A user has discharged into the system in violation of this division; or

(6) Changed circumstances require a temporary or permanent reduction or elimination of the permitted discharge.

(Ord. of 5-1-2018, § 6-34; Ord. of 8-9-2021, § 6-34)

Sec. 26-228. Notice of violation.

(a) *Issuance.* The authority may issue a written notice of violation if there are reasonable grounds to believe that the person to whom the notice of violation is directed has violated:

(1) This division;

(2) Any requirement imposed under this division; or

(3) Any order or wastewater discharge permit issued under this division.

(b) *Contents.* A notice of violation issued under this section shall:

(1) Specify the provision that allegedly has been violated;

(2) State the alleged facts that constitute the violation;

(3) Require a written response;

(4) Require correction of the cause of the violation alleged; and/or

(5) Require the user's appearance at an informal hearing at a time and place scheduled in order to respond to the charges in the notice of violation.

(Ord. of 5-1-2018, § 6-35; Ord. of 8-9-2021, § 6-35)

Sec. 26-229. Issuance of compliance order.

(a) *Generally.* After or concurrent with the issuance of a notice of violation under this division, the authority may:

(1) Issue a compliance order that requires the person to whom the order is directed to take corrective action within a time set in the order; and/or

(2) Send a compliance order that requires the person to whom the order is directed to appear at an informal hearing at a time and place scheduled in order to respond to the charges in the order.

(b) *Effective date of compliance order.* Unless and until the person subject to the order makes a timely request for an informal hearing, the order is according to its terms a final and effective order. If the person to whom an order is directed makes a timely request for a hearing, the order becomes a final compliance order when the authority renders its decision following the hearing.

(c) *Emergency compliance order.* Nothing herein shall prevent the authority from issuing an emergency compliance order, when conditions warrant, which shall be a final order when it is delivered to the user and during any informal hearing process, subject to later withdrawal or change by the authority.

(Ord. of 5-1-2018, § 6-36; Ord. of 8-9-2021, § 6-36)

Sec. 26-230. User informal hearing requests.

Within ten days after the date of a notice of violation or compliance order for which the authority has not scheduled an informal hearing, the person to whom the notice of violation or compliance order is directed may

request a hearing by written request to the executive director. Upon such request by a user, the executive director shall schedule an informal hearing before such person as the executive director designates, unless he determines that the request for a hearing is frivolous or insubstantial. Following any such hearing, the authority may take further enforcement or other action that it determines to be necessary.

(Ord. of 5-1-2018, § 6-37; Ord. of 8-9-2021, § 6-37)

Sec. 26-231. Injunctive relief.

The authority or town may bring an action for an injunction against any person who violates any provision of this division or any order or wastewater discharge permit issued under this division.

(Ord. of 5-1-2018, § 6-38; Ord. of 8-9-2021, § 6-38)

Sec. 26-232. Administrative civil penalties, special orders.

(a) In the event of a violation of this division, or an order or wastewater discharge permit hereunder, the executive director or his designee may issue to the offending person a special order assessing an administrative civil penalty and requiring other appropriate relief. No special order shall be issued until after the person accused of the violation has been provided an opportunity for a hearing, except with the consent of such person. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, on such person or any authorized representative of such person at least 30 days prior to the hearing. The notice shall specify the time and place for the hearing, facts and legal requirements related to the alleged violation, and the amount of any proposed administrative civil penalty. At the hearing, the person accused of the violation may present evidence, including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and may examine any witnesses for the authority. A verbatim record of the hearing shall be made. Within 30 days after the conclusion of the hearing, the executive director or his designee shall make findings of fact and conclusions of law and either issue the special order, withdraw the matter, or take other appropriate action.

(b) No special order shall assess an administrative civil penalty in excess of $32,500.00 per violation, or $100,000.00 in total, except with the consent of the subject of the special order. The actual amount of any administrative civil penalty assessed shall be based upon the severity of the violations, the extent of any potential or actual environmental harm or facility damage, the compliance history of the person, any economic benefit realized from the noncompliance, and the ability of the person to pay the penalty. In addition to administrative civil penalties, the special order may include a monetary assessment for actual damages to sewers, treatment works and appurtenances and for costs, attorney fees and other expenses resulting from the violations, absent the consent of the person in the order. Civil penalties in excess of the maximum amounts established herein may be imposed only by a state court of competent jurisdiction in amounts determined in its discretion but not to exceed the maximum amounts established in Code of Virginia, § 62.1-44.32.

(c) This section shall not impair the authority's right to proceed for penalty or other relief on other applicable authorities. Each day during which a violation is found to have occurred shall constitute a separate violation, other than any violation that is by its nature only as to matters occurring over a period in excess of a single day. An admission or finding of liability under this section shall not be deemed an admission in any criminal proceeding, and no civil action authorized by the section shall proceed while a criminal action is proceeding. Any special order issued by the authority, whether or not assessing an administrative civil penalty, shall inform the person of his right to seek reconsideration or review by the executive director and of his right to judicial review of any final special order. Reconsideration or review shall be initiated by written request to the executive director filed within 30 days of the date of the special order. The executive director's decision

on reconsideration or review shall be provided in writing. Judicial review shall be available only if the subject of the special order has first exhausted his opportunity for administrative reconsideration or review. An appeal shall be to circuit court on the record of proceedings before the authority. To commence an appeal, the person shall file a petition in circuit court within 30 days of the date of the final decision on the special order on reconsideration or review, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support such findings.

(Ord. of 5-1-2018, § 6-39; Ord. of 8-9-2021, § 6-39)

Sec. 26-233. Surcharge.

The authority may impose a surcharge on each member jurisdiction, user or discharge which exceeds the limitations specified in this division, sufficient to recover any costs that result either directly or indirectly from such exceedance. The assessment or payment of any such surcharge shall not constitute an acceptance of such wastes by the authority, and shall not prevent the authority from any other enforcement or other actions under this division in response to such exceedance.

(Ord. of 5-1-2018, § 6-40; Ord. of 8-9-2021, § 6-40)

Sec. 26-234. Defenses to wastewater discharge permit violations.

(a) *Upset.* For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or pretreatment requirements because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards or pretreatment requirements if the following requirements are met:

(1) *Conditions necessary for a demonstration of upset.* An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and the industrial user can identify the cause of the upset;

b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

c. The industrial user has submitted the following information to the authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(2) *Burden of proof.* In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(3) *Reviewability of authority consideration of claims of upset.* No determinations made in the course of the review shall constitute final authority action subject to judicial review. Industrial users will have the opportunity for a determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(4) *User responsibility in case of upset.* The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its pretreatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the pretreatment facility is reduced, lost or fails.

(5) *Recovery fees.* The treatment cost recovery fees, outlined in section 26-218, still apply regardless of the cause or length of the upset.

(b) *Bypass.* The term "bypass" means the intentional diversion of wastestreams from any portion of an industrial user's pretreatment facility. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(1) *Bypass not violating applicable categorical standards or pretreatment requirements.* An industrial user may allow any bypass to occur which does not cause categorical standards or pretreatment requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (b)(2) and (3) of this section.

(2) *Notice.* If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the authority, if possible, at least ten days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable standards to the authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(3) *Prohibition of bypass.* Bypass is prohibited, and the authority may take enforcement action against an industrial user for a bypass, unless;

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

c. The industrial user submitted notices, as required under subsection (b)(2) of this section.

The authority may approve an anticipated bypass, after considering its adverse effects, if the authority determines that it will meet the three conditions listed in this subsection (b)(3).

(4) *Recovery fees.* The treatment cost recovery fees, outlined in section 26-218, still apply regardless of the cause or length of the bypass.

(Ord. of 5-1-2018, § 6-41; Ord. of 8-9-2021, § 6-41)

Sec. 26-235. Public notice of significant noncompliance.

At least annually, the authority shall give public notification in the largest daily newspaper published in the county (Daily News-Record) of industrial users which were in significant noncompliance with applicable pretreatment standards or other pretreatment requirements. For the purposes of this section, a user is in significant noncompliance if its violations meet one of more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter, including instantaneous limits, as defined by 9 VAC 25-31-10;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit, including instantaneous limits, as defined by 9 VAC 25-31-10, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit or requirement as defined by 9 VAC 25-31-10 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of authority personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the authority's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order, for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within 45 days after the due date required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations that may include a violation of best management practices which the authority determines will adversely affect the operation or implementation of the pretreatment program.

(Ord. of 5-1-2018, § 6-42; Ord. of 8-9-2021, § 6-42)

Secs. 26-236—26-265. Reserved.

DIVISION 3. USE OF PUBLIC SEWER REQUIRED

Sec. 26-266. Unsanitary disposal prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town or in any area under the jurisdiction of said town, any human excrement, garbage, or other objectionable waste.

(Ord. of 5-1-2018, § 6-44)

Sec. 26-267. Improper discharge prohibited.

It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of said town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this division.

(Ord. of 5-1-2018, § 6-45)

Sec. 26-268. Private sewage disposal prohibited.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(Ord. of 5-1-2018, § 6-46)

Sec. 26-269. Connection to public sewers required.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the town and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the town, being a portion of the system, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, being a portion of the system, in accordance with the provisions of this division, within 90 days after date of official notice to do so, provided that said public sewer, being a portion of the system, is within 100 feet of the property line.

(Ord. of 5-1-2018, § 6-47)

Secs. 26-270—26-286. Reserved.

DIVISION 4. PRIVATE SEWAGE DISPOSAL

Sec. 26-287. When public sewers not available.

Where a public sanitary sewer, being a portion of the system, is not available under the provisions of section 26-269, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

(Ord. of 5-1-2018, § 6-48)

Sec. 26-288. Permit required.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the town, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee, in the amount provided on the town fee schedule, shall be paid to the town at the time the application is filed.

(Ord. of 5-1-2018, § 6-49)

Sec. 26-289. Inspection required.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any state of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent.

(Ord. of 5-1-2018, § 6-50)

Sec. 26-290. Compliance with state regulations required.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. of 5-1-2018, § 6-51)

Sec. 26-291. Private sewer use to be discontinued when public sewer available.

At such time as a public sewer, being a portion of the system, becomes available, as provided in section 26-269, to a property serviced by a private sewage disposal system, a direct connection shall be made to the system in compliance with this division, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge and filled with suitable material.

(Ord. of 5-1-2018, § 6-52)

Sec. 26-292. Town not responsible for operation and maintenance of private sewers.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.

(Ord. of 5-1-2018, § 6-53)

Sec. 26-293. Health officer requirements.

No statement contained in this division shall be construed to interfere with any additional requirements that may be imposed by any health officer.

(Ord. of 5-1-2018, § 6-54)

Secs. 26-294—26-319. Reserved.

DIVISION 5. BUILDING SEWERS AND CONNECTIONS

Sec. 26-320. Connection prohibited without permit.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit. All permits except for those issued to significant industrial users shall be issued by the town. Permits for significant industrial users shall be issued by the authority.

(Ord. of 5-1-2018, § 6-55)

Sec. 26-321. Building sewer permit class.

(a) There shall be two classes of building sewer permits:

(1) For residential and commercial service; and

(2) For service to significant industrial users.

(b) The owner or his agent shall make application on a special form furnished by the authority in the case of significant industrial users and by the town for other persons. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent or the authority.

(Ord. of 5-1-2018, § 6-56)

Sec. 26-322. Building sewer costs to be borne by owner.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that directly or indirectly may be occasioned by the installation of the building sewer.

(Ord. of 5-1-2018, § 6-57)

Sec. 26-323. Separate sewers required.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Ord. of 5-1-2018, § 6-58)

Sec. 26-324. Use of old sewers for new construction.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this division.

(Ord. of 5-1-2018, § 6-59)

Sec. 26-325. Construction to code standards.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavation, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town.

(Ord. of 5-1-2018, § 6-60)

Sec. 26-326. Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. of 5-1-2018, § 6-61)

Sec. 26-327. Runoff connection to sewer prohibited.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(Ord. of 5-1-2018, § 6-62)

Sec. 26-328. Connections to be gastight and watertight.

The connection of the building sewer into the system shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(Ord. of 5-1-2018, § 6-63)

Sec. 26-329. Duty of applicant to request inspection.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the system. The connection shall be made under the supervision of the superintendent or his representative.

(Ord. of 5-1-2018, § 6-64)

Sec. 26-330. Excavation.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

(Ord. of 5-1-2018, § 6-65)

Secs. 26-331—26-348. Reserved.

DIVISION 6. USE OF THE PUBLIC SEWERS

Sec. 26-349. Discharge of runoff to public sewers prohibited.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

(Ord. of 5-1-2018, § 6-66)

Sec. 26-350. Stormwaters to have designated sewer.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewer, or to a natural outlet approved by the superintendent. Uncontaminated industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

(Ord. of 5-1-2018, § 6-67)

Secs. 26-351—26-373. Reserved.

DIVISION 7. PROTECTION FROM DAMAGE

Sec. 26-374. Disorderly conduct.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the system or introduce a substance to the system that causes damage to the system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. In addition, such person shall pay all reasonable costs to the town and the authority, including reasonable attorney's fees, fines, repair of damage, injury to personnel, degradation of sludge quality and violations of water, air and sludge standards caused by the violation.

(Ord. of 5-1-2018, § 6-68)

Sec. 26-375. Falsified documents; tampering with monitoring devices.

Any person who knowingly makes any false statement, representation or certificate in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or the discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device required under this article shall, upon conviction, be punished by a fine not exceeding $2,500.00 per violation or confinement in jail not exceeding 12 months, either or both.

(Ord. of 5-1-2018, § 6-69)

Sec. 26-376. Penalties.

Any person who violates any provision of or fails to perform any duty imposed by this article or of any permit issued under this article shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine and not exceeding $2,500.00 per violation per day or confinement in jail not exceeding 12 months, either or both.

(Ord. of 5-1-2018, § 6-70)

Secs. 26-377—26-395. Reserved.

DIVISION 8. CONNECTION FEES, MAINTENANCE, EXCEPTIONS TO CONNECTION, REPEAL

Sec. 26-396. Connection fees.

Before any person shall be allowed to connect to the system, such person shall pay a connection fee as established by the town council from time to time. (Persons seeking connections out-of-town shall pay 150 percent of the applicable connection fee, but this section is not authorization for any out-of-town connections.) Additionally, persons seeking connection to the system shall pay all of the town's costs for labor and materials (including any meter required by the town) plus a surcharge of ten percent. To the extent the requirements of this section are greater than those imposed by section 26-322, this section shall control.

(Ord. of 5-1-2018, § 6-72)

Sec. 26-397. Maintenance of building sewers.

The maintenance of building sewers shall be the responsibility of property owners or occupants.

(Ord. of 5-1-2018, § 6-73)

Sec. 26-398. Exemptions to mandatory connection.

In cases of unusual hardship and where alternate waste disposal mechanisms are in place, the town superintendent may exempt residence from the provisions of section 26-269, provided that the town may require connection at any time thereafter.

(Ord. of 5-1-2018, § 6-74)

Chapter 28 VEGETATION

ARTICLE I. IN GENERAL

Secs. 28-1—28-18. Reserved.

ARTICLE II. TREES

Sec. 28-19. Intent.

The town council has found that the preservation of existing trees and the planting of new trees improves the quality of life in the town by mitigating the effects of growth, increasing property values, making the town more desirable to shoppers and visitors, and providing positive environmental effects. This article is intended to further these goals, while still preserving landowners' flexibility in the development of their property.

(Code 1988, § 8.1-1; Ord. of 2-7-2000)

Sec. 28-20. 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:

Caliper at planting or CAP means the diameter of a tree, at ground level, at the time of planting.

Development means any residential subdivision, commercial subdivision, planned unit development, commercial planned unit development, or other commercial improvement of property.

Major trees means the tree species identified as such in section IV(B) of the VDOT guidelines.

TSVL means Trees and Shrubs for Virginia Landscapes, Appendix A, Tree Canopy Spread After 10 or 20 Years, as published by the Virginia Nursery and Landscape Association, Inc., attached to the ordinance from which this article is derived as appendix 1, and incorporated herein, mutatis mutandis.

VDOT guidelines means the state department of transportation's guidelines for planting along state roadways, attached to the ordinance from which this article is derived as appendix 2, and incorporated herein, mutatis mutandis.

(Code 1988, § 8.1-2; Ord. of 2-7-2000)

Sec. 28-21. Requirements.

(a) *Applicability.* The general requirements of subsection (b) of this section apply only to property zoned B-1, B-2, HB-1, or M-1. The street planting requirements of subsection (c) of this section apply in all zoning classifications.

(b) *Tree canopy, generally*. All new developments shall be accompanied by the planting or retention of trees on the site to the extent that, after 20 years, there will be a tree canopy of at least ten percent of the development. In calculating the tree canopy, the following rules apply:

(1) The tree canopy includes all areas of coverage by plant material exceeding five feet in height.

(2) The extent of 20-year tree canopy shall be based on the TSVL handbook. If the tree species or CAP is not listed in the TSVL handbook, the landowner or developer may submit another treatise for approval. Where TSVL (or other reference) lists a range for the 20-year canopy, the midpoint of the range shall be the applicable standard.

(3) When existing trees are to be counted as part of the required tree canopy, the developer shall estimate the 20-year canopy, supplying any supporting documentation.

(4) The tree canopy shall be calculated by dividing the total 20-year canopy for all trees to be planted or retained by the gross area of the development (including all buildings and streets).

(c) *Along new streets.* Whenever a development includes the creation of a new street, a major tree of at least two inches CAD shall be planted at approximately 50-foot intervals, along the street, in the area dedicated for public use. All such plantings shall be in accordance with the VDOT guidelines. Trees planted under this subsection may be included in the overall tree canopy requirements of subsection (b) of this section, even if the trees are beyond the boundary of the development.

(Code 1988, § 8.1-3; Ord. of 2-7-2000)

Sec. 28-22. Exemptions and exceptions.

(a) With respect to the development of farmland and other areas devoid of woody materials, or where necessary to prevent unreasonable hardship to the developer, the town superintendent may reduce the tree canopy requirements by up to one-half if necessary for the reasonable development of the property.

(b) Nothing in this article shall require the planting of trees which would endanger the continued existence of any wetlands.

(c) This article shall not apply to dedicated school sites, playing fields, nonwooded recreational areas, and other facilities and uses of a similar nature.

(Code 1988, § 8.1-4; Ord. of 2-7-2000)

Sec. 28-23. Standards.

All trees to be planted shall meet the specifications of the AmericanHort. The planting of trees shall be done in accordance with the VDOT guidelines.

(Code 1988, § 8.1-5; Ord. of 2-7-2000)

Sec. 28-24. Administrative process.

(a) No development shall be approved and no zoning permit issued for any construction until the town manager approves a tree canopy plan submitted by the developer. The plan shall include:

(1) The area and dimensions of the development;

(2) The location, CAP, and species of trees to be planted (or retained) in order to meet the requirements of this article;

(3) For any species (or CAP) of trees not listed in TSVL, authoritative data showing the 20-year canopy for that species and CAP;

(4) Where relevant, the manner in which the trees will be planted; and

(5) Approval from the state department of transportation for plantings within dedicated streets, or certification that no such approval is required.

(b) The town manager shall approve the plan if he finds the trees to be planted meet the requirements of this article and the trees are laid out so that they are unlikely to interfere with the use of the property (e.g., buildings, sidewalks, utilities) or with each other.

(Code 1988, § 8.1-6; Ord. of 2-7-2000)

Sec. 28-25. Maintenance.

(a) As a condition of approval of any development, the developer must agree, on a bond form supplied by the town, to maintain all trees required by this article for a period of two years. At its own expense, the developer will replace any trees which die in this two-year period.

(b) No trees required by this article shall be removed without the written approval of the town manager. The town manager shall grant such approval if he is satisfied that removal of the tree will not undermine the intent of this article and the landowner has made adequate alternative provisions for satisfying this article.

(Code 1988, § 8.1-7; Ord. of 2-7-2000)

Chapter 30 ZONING[22]

ARTICLE I. IN GENERAL

Sec. 30-1. Intent.

It is the intent of this zoning code to provide for the establishment of zoning districts within which the proper use of land and natural resources shall be encouraged and regulated; to establish minimum standards for open space, building and population density; to regulate the occupancy and use of dwellings, buildings and structures, that may hereafter be erected, altered, or moved; to provide for the administration hereof; to provide for a method of amending; to provide for conflicts with other acts, codes, or regulations; to provide for the collection of fees for the furtherance of the purpose of this Code; to provide for petitions and public hearings, to provide for appeals; and to provide for penalties for the violation of this Code.

(Code 1988, § 9-1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-2. Short title.

This chapter shall be known and may be cited as "The Zoning Code of Dayton."

[22]State law reference(s)—Planning and zoning, Code of Virginia, § 15.2-2200 et seq.

(Code 1988, § 9-2; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-3. Purposes.

It is the purpose of this zoning code to promote the safety, health, morals, convenience, and general welfare; to encourage the use of lands and natural resources in the town in accordance with their character, adaptability, and suitability for particular purposes; to preserve social and economic stability, property values, and the general character and trend of community development; to prevent excessive concentration of population; to lessen congestion on the public streets and highways; to facilitate adequate provision of streets and highways, sewerage and drainage, water supply and distribution, educational, and other public resources, by establishing herein standards for community development in accordance with these objectives and by providing for the enforcement of such standards.

(Code 1988, § 9-3; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-4. Amendments.

The regulations, restrictions, boundaries, and options set forth in this Code may be amended, supplemented, revised, or repealed from time to time as conditions warrant, subject to the following conditions:

(1) *Application.* An application for a proposed amendment shall be filed with the administrator on behalf of the council. An application may be instituted by a property owner (with respect to their own property) or their designated representative or upon motion of the planning commission or by resolution of the council. The application shall contain such information and sketches as the administrator determines are required to fully describe the proposed change; no application shall be deemed complete until all such materials have been supplied.

(2) *Public hearing.* Public hearings shall be held as required by state law.

(3) *Report to the town council.* The planning commission shall make a recommendation to the town council upon all such applications and no amendment shall be passed except by a majority vote of the members of the council present and voting.

(Code 1988, § 9-15; Ord. of 5-1-1995; Ord. of 9-16-1996; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Sec. 30-5. Fees.

Fees shall be established by the town council.

(Code 1988, § 9-16; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Sec. 30-6. Penalties.

(a) *Civil penalties.* Except as provided in subsection (b) of this section, all violations of this chapter shall carry civil penalties as prescribed by this subsection.

(1) *Schedule of penalties.*

a. For a first summons regarding a violation, the civil penalty shall be $200.00 if the town provided notice of the violation at least three days prior to issuance of the summons. If the town did not provide notice, the penalty shall be $25.00.

b. For each subsequent summons, the civil penalty shall be $500.00.

c. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of $5,000.00.

(2) *Process.*

a. The zoning administrator may issue a civil summons for any violation within this subsection (a).

b. Any person summoned for such violation may make an appearance in person or in writing by mail to the town treasurer prior to the date fixed for trial in court.

c. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. 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 judgment of court.

d. If a person charged 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 by law.

e. In any trial for a scheduled violation authorized by this section, it shall be the town's burden to show the liability of the violator by a preponderance of the evidence.

f. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(3) *General notice and enforcement action.*

a. The term "notice," for purposes of this section, means a written notice hand-delivered to a person found in charge of the site or, if no such person is found, posted at the site, and mailed to the address of the landowner at the mailing address listed with the county commissioner of the revenue.

b. The existence of a civil penalty under this subsection (a) shall not operate to preclude other enforcement actions by the town.

c. The penalties provided by this subsection (a) shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor; provided, however, that when such civil penalties total $5,000.00 or more, the violation may be prosecuted as a criminal misdemeanor.

(b) *Criminal penalties.* Violations of this chapter related to activities related to land development activities or the posting of signs on public property or public rights-of-way, shall be punishable as provided in this subsection (b). Such violation shall be a misdemeanor punishable by a fine of not less than $10.00 nor more than $1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to

abate or remedy the violation in compliance with the zoning ordinance, 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; and any such failure during a succeeding ten-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than $100.00 nor 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.

(Code 1988, § 9-17; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Sec. 30-7. Validity.

Should any section, clause or provision of this Code be declared by the court to be unconstitutional or invalid, this judgment shall not affect the validity of the Code as a whole or any part thereof than the part judged invalid.

(Code 1988, § 9-18; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Sec. 30-8. Conflicts with other laws.

In the interpretation and application of the provisions of this Code, this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety, and the general welfare. Whenever the requirements of this Code are at variance with the requirements of other lawfully adopted rules, regulations or codes, the most restrictive, or that imposing the higher standards, shall govern.

(Code 1988, § 9-19; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Sec. 30-9. Definitions.

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

Acreage means a parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

Administrator means the official charged with the enforcement of this chapter. The administrator may be any appointed or elected official who is by formal resolution designated to the position by the town council. The administrator may serve with or without compensation as determined by the town council.

Agriculture means the tilling of the soil, the raising of crops, and horticulture, but does not include fruit packing plants or greenhouses. The term "agriculture" also includes the production, for commercial purposes, of animals such as cattle, sheep, goats, llamas, ducks, geese, and horses. Nevertheless, the term "agriculture" does not include poultry houses or hog farms.

Alteration means any change in the total floor area, use, adaptability, or external appearance of any existing structure.

Amusement center means any building or portion of a building in which four or more video games or other amusement machines or devices are operated for money or other consideration.

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.

Basement means a story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

Bed and breakfast means a structure in which guests are provided with sleeping quarters and breakfast for a fee. The proprietor shall reside on the same lot as the bed and breakfast. The bed and breakfast shall employ no more than two persons who do not reside on the same lot as the bed and breakfast. Guests are provided with morning meals (but not other meals), and may not be lodged for more than 14 consecutive days. A bed and breakfast shall not be considered a home occupation.

Boardinghouse means a building where, for compensation, lodging and meals are provided for at least five and up to 14 persons.

Building means any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or chattels.

Building, accessory, means a subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

Building, height of, means the vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof, if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

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

Cellar means a story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

Child care center means any facility operated for the purpose of providing care, protection and guidance for a fee to two or more children during a part of the day only.

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

Dwelling means any structure which is designated for use for residential purposes except hotels, boardinghouses, lodginghouses, tourist cabins, apartments, and automobile trailers.

Dwelling, multiple-family, means a structure arranged or designed to be occupied by more than one family.

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

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

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

Family means one or more persons occupying a premises and living in a single dwelling unit as distinguished from an unrelated group occupying a boardinghouse, lodginghouse, tourist home or hotel.

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

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

Guest room means a room which is intended, arranged, or designed to be occupied, or which is occupied, by one or more guests paying direct compensation therefor, but in which no provision is made for cooking. The term "guest room" does not include dormitories.

Home care facility means a dwelling in which children are cared for or otherwise supervised for a fee. The proprietor must reside in the dwelling and must hire no employees to assist in the care and/or supervision of the children. At any one time, a home care facility may not care for and/or supervise more than five minor children not related to the proprietor by blood or marriage, nor may it care for and/or supervise more than seven minor children in total. No children may be cared for and/or supervised between the hours of 11:00 p.m. and 6:00 a.m. The facility shall bear no signs indicating the presence of a home care facility.

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

Home occupation, level one, means any commercial endeavor which is undertaken in a structure used as a residence and meeting the following criteria:

(1) The person conducting the home occupation must be a resident of the dwelling in which the home occupation is to be located.

(2) The home occupation shall be operated only by persons residing in the dwelling, with no other employees permitted.

(3) The home occupation shall be clearly secondary to the use of the dwelling as a residence and shall not occupy more than 25 percent of the living area of the dwelling.

(4) The home occupation shall not generate significantly more traffic than is typically generated by residential uses in the neighborhood.

(5) The exterior of the dwelling shall show no evidence of the attendant home occupation. There shall be no outside display of products, goods, or commodities in conjunction with the home occupation. The use of a sign shall also be prohibited.

Home occupation, level two, means a commercial endeavor undertaken in a structure used as a residence which does not qualify as a level one home occupation but does meet the following criteria:

(1) The proprietor of a home occupation must reside in the dwelling, and either have a direct or indirect, legal, equitable, or beneficial interest in the dwelling or have the written approval of a person with such an interest for the conduct of the home occupation.

(2) The home occupation shall be operated by persons residing in the dwelling but may employ up to two other persons.

(3) The home occupation shall not occupy more than 25 percent of the living area of the dwelling.

(4) Except for the daily commute of employees, the home occupation shall not generate significantly more traffic than is typically generated by residential uses in the neighborhood.

(5) The exterior of the dwelling shall show no evidence of the attendant home occupation. There shall be no outside display of products, goods or commodities in conjunction with the home occupation. The use of a sign shall also be prohibited.

Hospital means an institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding institutions primarily for mental patients, epileptics, alcoholics, or drug addicts.

Hospital, special care, means an institution rendering care primarily for mental patients, epileptics, alcoholics, or drug addicts.

Hotel means a building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

Kennel means a place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

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

Lot means a parcel of land occupied or to be occupied by a main structure or group of main structures, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

Lot, corner, means a lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shortest of the sides fronting on streets.

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

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

Lot, width of, means the distance between side lot lines.

Lot of record means a lot which has been recorded in the clerk's office of the circuit court of the county.

Manufacturer 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.

Mobile home means a anything designed for human habitation, designed for transportation, after fabrication, on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. A mobile home retains its character as such, and remains subject to the same regulations and restrictions, even if not used for residential purposes.

Mobile home park or subdivision means any area designed to accommodate two or more mobile homes intended for residential use where residence is in mobile homes exclusively.

Neighborhood public utility means facilities which are related to utility services such as electricity, telephone, cable television, natural gas, water or sewer and of a type generally used to provide service to the immediate vicinity of the facility. The term "neighborhood public utility" does not include telecommunications antennas or towers. The term "neighborhood public utility" also does not include any utility poles which exceed 65 feet in height, have cross arms exceeding six feet in length, or have a diameter in excess of 36 inches. Finally, the term "neighborhood public utility" does not include anything included within the definition of "wide-area public utility."

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

Planning commission means the planning commission of the town.

Pool hall means a building or a portion of a building in which four or more pool or billiard tables are operated for money or other consideration.

Public utility means electricity, water, sewer, gas and other utilities served to a dwelling or structure, including all distribution lines.

Public water and sewer systems means a water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the town council and properly licensed by the state corporation commission, and subject to special regulations as herein set forth.

Rear means an open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

Required open space means any space required in any front, side, or rear yard.

Restaurant means any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.

Retail stores and shops means buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards), such as, but not limited to, the following: drug store, newsstand, wood store, candy shop, milk dispensary, dry goods and notions store, antique shop and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop, and beauty shop.

School means a place for systematic instruction in any branch of knowledge.

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

Short-term rental means any use that falls within the definitions of short-term rental, owner-occupied, or short-term rental, non-owner-occupied.

Short-term rental, non-owner-occupied, means any occupancy of a dwelling for a continuous period of less than 30 days, which does not meet the definition of "short term-rental, owner-occupied."

Short-term rental, owner-occupied, means any occupancy of a dwelling for a continuous period of less than thirty days, where the owner of the dwelling during such period also resided on the same property.

Side means an open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

Story means that portion of a building, other than the basement, included between the surface of the floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. The term "structure" includes, among other things, dwellings, buildings, signs, etc.

Telecommunications antennas means, when used anywhere in this Code, the meaning set forth in section 30-791.

Telecommunications towers means, when used anywhere in this Code, the meaning set forth in section 30-791.

Tourist court, auto court, motel cabins, or*motor lodge* means one or more buildings containing individual sleeping rooms designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

Tourist home means a dwelling where only lodging is provided for compensation for up to 14 persons (in contradiction to hotels and boardinghouses) and open to transients.

Townhouse means a single-family unit being one of a group of three or more such units attached to the adjacent dwelling by party walls with lots, utilities and other improvements being designed to permit individual and separate ownership of such lots and dwelling units.

Travel trailer means a mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation.

Use, accessory, means a subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

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

Wide-area public utility means facilities which are related to utility services such as electricity, telephone, cable television, natural gas, water or sewer and used to provide service beyond the immediate vicinity of the facilities. The term "wide-area public utility" includes electrical substations, telephone switching facilities, and similar equipment. The term "wide-area public utility" does not include telecommunications antennas or towers.

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

(Code 1988, § 9-22; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-10. Supplemental definitions; adult businesses.

(a) Notwithstanding any contrary provision in this chapter, adult businesses are distinct from and mutually exclusive of all other uses defined or referenced in this Code. Accordingly, if a use falls within the definition of an adult business, it cannot qualify as a "retail store," "restaurant," or other use.

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

Adult business means:

(1) An adult theatre;

(2) Adult store;

(3) Any business providing adult entertainment; or

(4) Any other establishment that regularly emphasizes materials or demonstrations relating to specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons.

Adult entertainment means dancing, modeling, or other live performances in which the performance is characterized by an emphasis on specified anatomical areas or specified sexual activities, or is intended for the sexual stimulation or titillation of patrons. Adult entertainment also includes the presentation of materials or images (irrespective of the media) characterized by their emphasis on specified sexual activities or specified anatomical areas or the intent to provide sexual stimulation or titillation of patrons.

Adult store means an establishment which sells or rents materials (whether printed or in electronic, optical, magnetic, or other media) characterized by their emphasis on specified sexual activities or specified anatomical areas or their predominant purpose being to provide sexual stimulation or titillation of patrons, or toys, novelties, instruments, devices or paraphernalia which represent human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs. Nevertheless, if the aforementioned items

constitute only an insubstantial portion of an establishment's stock-in-trade, the establishment shall not be considered an adult store.

Adult theatre means an establishment which presents for the viewing or listening of patrons materials characterized by:

(1) Their emphasis on specified sexual activities or specified anatomical areas; or

(2) The intent to provide sexual stimulation or titillation of patrons.

Specified anatomical areas means areas as follows:

(1) If less than completely and opaquely covered, human genitals, pubic regions, buttocks and the female breasts below a point immediately above the top of the areola; and

(2) Irrespective of coverage, human male genitals in a discernibly turgid state.

Specified sexual activities means as follows:

(1) The display of, or the reference to, human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sexual intercourse or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

(Code 1988, § 9-22.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 7-11-2005; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-11—30-38. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 30-39. Administrative officer.

(a) The provisions of this Code shall be administered by the zoning administrator or designated assistant who shall:

(1) Issue all zoning permits and make and maintain records thereof.

(2) Maintain and keep current zoning maps, and records of amendments thereto.

(3) Conduct inspections as prescribed by this Code and such other inspections as are necessary to ensure compliance with the various provisions of this Code.

(b) The zoning administrator is hereby authorized to grant a modification from any provision contained in the town zoning ordinances with respect to physical requirements on a lot or parcel of land, including, but not limited to, size, height, location or features of or related to any building, structure, or improvements, if the zoning administrator finds in writing that the strict application of the ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, and the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification. Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining

property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this section. The decision of the zoning administrator shall constitute a decision within the purview of Code of Virginia, § 15.2-2311, and may be appealed to the zoning board of appeals as provided by that section. Decisions of the zoning board of appeals may be appealed to the circuit court as provided by Code of Virginia, § 15.2-2314. The zoning administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his authority, unless the requester has agreed to a longer period.

(Code 1988, § 9-9; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 11-11-2013; Ord. of 10-13-2020)

State law reference(s)—Permitted provisions in zoning ordinances, Code of Virginia, § 15.2-2286.

Secs. 30-40—30-66. Reserved.

DIVISION 2. BOARD OF ZONING APPEALS[23]

Sec. 30-67. Composition; appointment.

The board of zoning appeals consists of five members appointed by the county circuit court.

(Code 1988, § 9-211; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

State law reference(s)—Similar provisions, Code of Virginia, § 15.2-2308(A).

Sec. 30-68. Terms of office.

The term of office of the members of the board of zoning appeals shall be for five years and shall be staggered. Appointments to fill vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(Code 1988, §§ 9-211 9-212; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

State law reference(s)—Boards of zoning appeals, Code of Virginia, § 15.2-2308.

Sec. 30-69. Disqualification.

Any member of the board shall be disqualified to act upon a matter before the board of zoning appeals with respect to property in which the member has an interest.

(Code 1988, § 9-213; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

[23]State law reference(s)—Board of zoning appeals, Code of Virginia, § 15.2-2308.

Sec. 30-70. Election of officers.

The board of zoning appeals shall choose annually its own chair and the vice-chair who shall act in the absence of the chair.

(Code 1988, § 9-214; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-71. Powers of the 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 article or of any ordinance adopted pursuant thereto.

(2) a. To authorize upon appeal in specific cases such a variance from the terms of the chapter as will not be contrary to the public interest when owing to special conditions a literal enforcement of the provisions will result in unnecessary hardships, provided that the spirit of the chapter shall be observed and substantial justice done, as follows: when a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use, condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter. No such variance shall be authorized by the board unless it finds:

1. That the strict application of the ordinance would produce undue hardship relating to the property;

2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

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

b. No such variance shall be authorized except after notice and hearing as required by the Code of Virginia, § 15.2-2204.

c. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

d. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

e. The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance. However, the use or the structure permitted by the variance may not be expanded unless the expansion itself is fully compliant with the requirements of this chapter.

(3) To hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by state law.

(4) 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 any such question, and after public hearing with notice as required by state law, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(b) None of the provisions in this section shall be construed as granting the board any power to rezone property.

(Code 1988, § 9-215; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-72. Rules and regulations.

The board of zoning appeals shall adopt such rules and regulations as it may consider necessary, not inconsistent with this article.

(Code 1988, § 9-216; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-73. Time and meeting.

The meeting of the board shall be held at the call of its chair or at such time as a quorum of the board may determine.

(Code 1988, § 9-217; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-74. Administering of oath.

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

(Code 1988, § 9-218; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-75. Keeping of minutes.

The board of zoning appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(Code 1988, § 9-219; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-76. Public meetings required.

All meetings of the board shall be open to the public.

(Code 1988, § 9-220; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-77. Quorum requirement.

A quorum of the board of zoning appeals shall be at least three members.

(Code 1988, § 9-221; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-78. Vote required.

A favorable vote of three members of the board of zoning appeals shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

(Code 1988, § 9-222; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-79. Appeal to the board.

An appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator. Such appeal shall be taken within 30 days after the decision is appealed by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed for unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril of life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

(Code 1988, § 9-223; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-80. Appeal procedure.

Appeals shall be mailed to the board of zoning appeals, care of the zoning administrator.

(Code 1988, § 9-224; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-81. Costs required.

Appeals requiring an advertised public hearing shall be accompanied by such fee as is established by the town council from time to time.

(Code 1988, § 9-225; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-82. Appeal from decision of board.

An appeal from the decision of the board of zoning appeals shall be handled as provided by state law.

(Code 1988, § 9-226; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

State law reference(s)—Appeals to the zoning board of appeals, Code of Virginia, § 15.2-22(e).

Secs. 30-83—30-107. Reserved.

DIVISION 3. ZONING PERMIT

Sec. 30-108. Required.

No person shall erect, construct, enlarge, alter, repair, or improve any building or structure, if said activities require a building permit under the uniform statewide building code, without first obtaining a zoning permit for each such building or structure. Such zoning permits shall be issued by the town manager or other official designated by the council.

(Code 1988, § 9-11; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Sec. 30-109. Application form.

The applications for zoning permits shall be on such form as from time to time approved by the council and shall indicate the location of the proposed construction, alteration, repair or improvement and shall show the dimension, height of the building and proposed use. The cost of such zoning permits shall be as established by the council from time to time.

(Code 1988, § 9-12; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 10-13-2020)

Secs. 30-110—30-131. Reserved.

DIVISION 4. SPECIAL USE PERMITS

Sec. 30-132. Purpose.

The procedures of this division are established to integrate properly the uses permitted on review with other land uses located in the district. These uses shall be reviewed by and authorized or rejected by the town council under the procedures in this chapter 30.

(Code 1988, tit. 9, ch. 22, intro. ¶; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-133. Application.

An application shall be filed with the council for review. Said application shall show the location and intended use of the site, the names of the property owners and existing land uses within 200 feet, and any other material pertinent to the request which the council may require.

(Code 1988, § 9-195; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-134. Public hearing.

Upon application, the council shall hold a public hearing as required by state law.

(Code 1988, § 9-196; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-135. Standard of review for special use permits.

(a) *Generally.* In considering the issuance of a special use permit, the council will engage in a highly fact-specific discernment of the proposed use or structure. Every property (and every application for a special use permit) presents unique facts, and the council will consider each situation on its own merits. The council will grant a special use permit only if it is well convinced that the proposed use or structure will further the town's objectives as expressed in section 30-3. This section shall not override any specific criteria expressed elsewhere in this chapter.

(b) *Adult businesses.*

(1) Notwithstanding any other provision of this chapter, unless the applicant consents to a longer period of review, an application for a special use permit for an adult business must be approved or denied within 90 days of the filing of a complete application. In considering the application, the town may consider the following factors as well as other appropriate land-use considerations:

a. The nature of the surrounding area and the extent to which the proposed use might significantly impair its present or future development;

b. The proximity of dwellings, churches, schools, parks, or other places of public gathering;

c. The probable effect of the proposed use on the peace and enjoyment of people in their homes;

d. The preservation of cultural and historical landmarks and trees;

e. The probable effect of noise and glare upon the uses of surrounding properties;

f. The conservation of property values; and

g. The contribution, if any, such proposed use would make toward the deterioration of the area and neighborhoods.

(2) Further, if an application for a special use permit for an adult business is denied and the applicant desires to appeal the denial, the town will facilitate the applicant's obtaining prompt review of the decision from the circuit court of the county. Unless the applicant agrees to an extension, the town will file a responsive pleading within ten days of service upon the town of an appeal, will file a responsive brief within 15 days of service of the applicant's brief and will agree to any reasonable expedited trial or hearing date.

(Code 1988, § 9-196.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 7-11-2005; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-136. Restrictions.

In the exercise of its review, the council may impose such conditions regarding:

(1) Location, character, or other features of the proposed use or buildings; or

(2) The term or transferability of the permit itself as it may deem advisable in the furtherance of the general purposes of this Code.

(Code 1988, § 9-197; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-137. Issuance of permit.

Upon completion of the necessary application, hearing, and approval of the town council, the zoning administrator shall issue the permit subject to all applicable rules, regulations and conditions.

(Code 1988, § 9-198; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-138. Validity of plans.

All approved plans, conditions, restrictions, and rules made a part of the approval of the council shall constitute certification on the part of the applicant that the proposed use shall conform to such regulations at all times.

(Code 1988, § 9-199; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-139—30-159. Reserved.

ARTICLE III. NONCONFORMING LOTS, USES AND STRUCTURES

Sec. 30-160. 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:

Event of prohibition means a change in regulations applicable to a structure, use, or lot which causes the structure, use, or lot to fail to comply with the provisions of this chapter. An event of prohibition can occur when property is reclassified under this chapter or when zoning regulations are adopted or amended.

Nonconforming building means a building which is lawfully in existence at the time of an event of prohibition.

Nonconforming lot means a lot of record, created lawfully, in existence at the time of an event of prohibition.

Nonconforming structure means a structure which is lawfully in existence at the time of an event of prohibition.

Nonconforming use means an activity which is ongoing and lawful at the time of an event of prohibition.

Zoning regulations means all of the applicable requirements of this chapter, other than the provisions of this article.

(Code 1988, § 9-210.1; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-161. Continuation.

(a) A nonconforming use may be continued, subject only to the provisions of this article. A nonconforming structure may continue to be occupied and used, subject only to the provisions of this article.

(b) The rights granted in subsection (a) of this section shall continue irrespective of any change in ownership of the property.

(c) If any nonconforming use is discontinued for a period exceeding two years, the rights granted in subsection (a) of this section shall be deemed abandoned and any subsequent activity must conform to the town's zoning regulations.

(d) If any nonconforming structure is unused for a period exceeding two years, the rights granted in subsection (a) of this section shall be deemed abandoned and the structure shall not thereafter be used unless it is made to comply with the town's zoning regulations.

(Code 1988, § 9-210.2; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-162. Repairs and maintenance.

(a) On any nonconforming structure or any structure containing a nonconforming use, work may be done in any of 12 consecutive months on ordinary repairs or on repair or replacement of non-loadbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the current replacement value of the structure, provided that the volume of the structure (measured by exterior walls) shall not be increased.

(a) If a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and it is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the town's zoning regulations.

(Code 1988, § 9-210.3; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-163. Restoration.

(a) If a structure containing a nonconforming use is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence exceeds 50 percent of the cost of reconstructing the entire structure, the rights granted by this article to carry on the nonconforming use shall terminate.

(b) If a nonconforming structure is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence exceeds 75 percent of the cost of reconstructing the entire structure, the

rights granted by this article shall terminate and any restoration shall comply with the town's zoning regulations.

(c) Whenever a damaged structure may be restored under subsection (a) or (b) of this section, such restoration shall be commenced within 12 months and completed within 18 months from the date of damage. If restoration is not commenced or completed within these respective periods, the rights granted by this article shall terminate.

(d) Nothing in this section authorizes the maintenance of a destroyed or partially destroyed structure.

(e) Notwithstanding the foregoing subsections of this section, if a residential or commercial nonconforming building is damaged or destroyed by a natural disaster or other act of God, it may be repaired, replaced, or rebuilt as provided in this subsection.

(f) To the extent possible, the nonconforming features of the building shall be eliminated upon repair, replacement or reconstruction. However, if it is not possible to reduce or eliminate the nonconforming features of the building, it may be repaired, replaced or rebuilt to its original nonconforming condition. Nevertheless, the repair, replacement or reconstruction shall comply with the uniform statewide building code and division 11, article V of this chapter.

(g) Unless such building is repaired, replaced, or rebuilt within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the town's zoning regulations. This two-year period shall be extended to four years if the nonconforming building is in an area under a federal disaster declaration and the building was damaged or destroyed as a direct result of conditions that gave rise to the declaration.

(Code 1988, § 9-210.4; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

State law reference(s)—Vested rights, etc., Code of Virginia, § 15.2-2307.

Sec. 30-164. Expansion and enlargement.

(a) Nonconforming structures shall not be extended or enlarged, except as provided in this section.

(b) A nonconforming use may be extended throughout any structure which was arranged or designed for such activity at the time of the event of prohibition, but no such use shall be extended to occupy any land outside such structures.

(c) Notwithstanding any other provision of this article, a nonconforming structure may be enlarged or extended if the enlargement or extension does not worsen the structure's nonconformity (either by increasing the amount of the structure which is not in conformity or by increasing the severity of any nonconformity) and the structure, after enlargement or extension, meets all provisions of this chapter which it met prior to enlargement or extension.

(Code 1988, § 9-210.5; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-165. Changes in use.

(a) Any nonconforming use may be changed to a different use, provided that no structural alterations are made and that the board of zoning appeals finds that the proposed use is equally appropriate or more appropriate to the district and the neighborhood than the existing use. In taking such action, the board of zoning appeals

shall be granting a special exception. Nothing in this section shall authorize the board to grant special exceptions in any other context.

(b) When any nonconforming use is changed in accordance with subsection (a) of this section, it may not be changed back to the prior use without again following the procedure in subsection (a) of this section.

(Code 1988, § 9-210.6; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-166. Nonconforming lots.

The board of zoning appeals shall determine appropriate setbacks and other dimensional regulations for nonconforming lots on a case-by-case basis.

(Code 1988, § 9-10.7; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-167. Moving uses and structures.

No nonconforming use or structure shall be moved to any other lot or to any other portion of the lot than that already occupied by such use or structure; provided, however, that a nonconforming structure may be moved to conform with the provisions of this chapter or reduce the degree of nonconformity.

(Code 1988, § 9-210.8; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-168. Interpretation.

This article shall be interpreted so as to be consistent with Code of Virginia, § 15.2-2307.

(Code 1988, § 9-210.9; Ord. of 6-6-1994; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-169—30-189. Reserved.

ARTICLE IV. CONDITIONAL ZONING

Sec. 30-190. Legislative intent.

The intent of this article is to provide a more flexible and adaptable zoning method to cope with situations found in zoning districts whereby zoning reclassification may be allowed subject to certain conditions preferred by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. This article is authorized by Code of Virginia, § 15.2-2298.

(Code 1988, § 9-136; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-191. Proffer of conditions.

An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in this chapter, as part of an amendment to zoning district regulations or the zoning district map.

(Code 1988, § 9-137; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-192. Requirements as to conditions.

The proffered conditions shall be in writing and shall be made prior to the public hearing before the town council. The council may also accept amended proffers once the public hearing has begun if the amended proffers do not materially affect the overall proposal.

(Code 1988, § 9-138; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-193. Limitations on conditions.

The following conditions and limitations apply as to the proffered conditions:

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

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

(3) All conditions must be in conformity with the town's comprehensive plan.

(4) All conditions must comply with Code of Virginia, § 15.2-2298.

(Code 1988, § 9-139; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-194. Enforcement and guarantees of conditions.

The zoning administrator shall be vested with all necessary authority on behalf of the town council to administer and enforce conditions attached to a rezoning or amendments to the zoning map, including:

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

(2) The bringing of legal action to ensure compliance with such conditions, including an injunction, abatement, or other appropriate action or proceeding.

(3) Requiring a guarantee, satisfactory to the town council in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the town council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

(4) 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.

(Code 1988, § 9-140; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-195. Records.

The zoning map shall show by appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

(Code 1988, § 9-141; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-196. Petition for review of decision.

Any zoning applicant who is aggrieved by the decision of the zoning administrator pursuant to the provisions of section 30-194 may petition the town council for the review of the decision of the zoning administrator.

(Code 1988, § 9-142; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-197. Amendments and variations of conditions.

There shall be no amendment or variation of conditions created pursuant to the provisions of section 30-193 until after a public hearing before the town council advertised pursuant to the applicable provisions of state law.

(Code 1988, § 9-143; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-198—30-217. Reserved.

ARTICLE V. DISTRICTS AND DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 30-218. Establishment of zoning districts.

For the purpose of promoting the public health, safety, morals, convenience, and the general welfare of the community, the town is hereby divided into districts of ten different classifications, each district being of such number, shape, kind, and area, and such common unity of purpose, and adaptability of use that is deemed most suitable to carry out the purpose of this Code.

Table No. 30-218
District Classification

R-1	Residential District
R-2	Residential District
R-3	Residential District
B-1	Business District
B-2	Business District
A-1	Agricultural District

A-2	Agricultural District
M-1	Industrial District
HB-1	Highway Business District
	Flood Plain Districts

(Code 1988, § 9-4; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-219. Zoning map.

The location and boundaries of the zoning districts established by this Code are denoted and defined as shown on the map entitled "Zoning Districts of Dayton, Virginia," and certified by the town recorder. The map, together with everything shown thereon, is hereby incorporated into this Code as if fully set forth and described herein. The zoning map shall be kept and maintained by the zoning administrator and shall be available for inspection and examination by the public at all reasonable times as any other public record.

(Code 1988, § 9-5; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-220. Scope of regulations.

The regulations applying to each district include specific limitation on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimension, and area of lot that can be covered by structures.

(Code 1988, § 9-6; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-221. Rules for interpretation of district boundaries.

Where uncertainty exists with respect to the precise location of any of the aforesaid districts shown on the zoning map, the following rules shall apply:

(1) Boundaries shown as following or approximately following streets, highways, or alleys shall be construed to follow the center lines of such streets, highways or alleys.

(2) Boundaries shown as following or approximately following platted lot lines or other property lines, such lines shall be construed to be said boundary lines.

(3) Boundaries shown as following or approximately following the center line of streams, rivers, or other continuously flowing water courses shall be construed as following the channel center line of such water courses.

(4) Boundaries shown as following or closely following the limits of the town shall be construed as following such limits.

(5) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the board of zoning appeals.

(6) Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of land accrued shall become the classification of the vacated land.

(Code 1988, § 9-7; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-222. Annexed territory.

Any territory hereafter annexed to the town shall continue to be subject to the county zoning classifications and regulations as such territory was subject at the time of annexation until otherwise changed by rezoning.

(Code 1988, § 9-8; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-223—30-252. Reserved.

DIVISION 2. R-1 RESIDENTIAL DISTRICT

Sec. 30-253. Legislative intent.

This district is intended to be used for low density single-family residential development with accessory uses necessary or compatible with residential surroundings. The additional permitted uses, by review of the town council, includes facilities sometimes required to provide the basic elements of a basic and attractive residential area.

(Code 1988, § 9-23; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-254. Uses permitted as a matter of right.

The following uses are permitted in the R-1 Residential District:

(1) One single-family dwelling, occupied by a family or not more than two unrelated persons.

(2) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.

(3) Neighborhood public utilities.

(4) Home care facilities, as defined in section 30-9.

(5) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building. Level one home occupations, as defined in section 30-9.

(6) Short-term rental, owner-occupied.

(7) Short-term rental, non-owner-occupied.

(Code 1988, § 9-24; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-255. Uses permitted with special use permit.

The following uses may be permitted in accordance with provisions contained in division 4, article II of this chapter.

(1) Schools, as defined in section 30-9.

(2) Churches or similar places of worship, with accessory structures, but not including missions or revival tents.

(3) Public parks, playgrounds and playfields, golf courses (but not miniature courses or driving tees operated for commercial purposes), swimming pools and tennis courts.

(4) Wide-area public utilities.

(5) Childcare centers, as defined, in conformity with the character of the neighborhood.

(6) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(Code 1988, § 9-25; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-256. Minimum lot area.

The minimum lot area shall be 10,000 square feet if public water and sewer is available. If only one of such services is available, the minimum lot area shall be 15,000 square feet. If neither is available, the minimum lot area shall be 20,000 square feet. There shall be no more than one dwelling unit on each lot.

(Code 1988, § 9-26; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-257. Front yard.

For all uses permitted as a manner of right the minimum depth of the front yard shall be 30 feet from the street right-of-way if the street is 50 feet or greater in width. If the street is less than 50 feet in width, then the minimum front yard shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

(Code 1988, § 9-27; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 11-11-2013; Ord. of 8-10-2020)

Sec. 30-258. Frontage.

The minimum lot width at the setback line shall be 80 feet. Lots must abut on a public street, not an alley, for a distance of not less than 30 feet.

(Code 1988, § 9-28; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-259. Minimum depth.

The minimum depth of each lot shall be 100 feet.

(Code 1988, § 9-29; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-260. Side yard.

For a single-story dwelling located on interior lots, a side yard shall not be less than ten feet in width and the sum of the two side yards shall be not less than 20 feet. For dwellings of more than one story, there shall be side yards of not less than 15 feet each. Additionally, for dwellings located on corner lots, the side yard abutting the street shall be at least as wide as the minimum front yard depth specified in section 30-257. For unattached buildings of accessory use, there shall be a side yard of not less than ten feet, provided that unattached one-story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than ten feet behind the main building.

(Code 1988, § 9-30; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 11-11-2013; Ord. of 8-10-2020)

Sec. 30-261. Rear yard.

For dwellings there shall be a rear yard of not less than 30 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Code 1988, § 9-31; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-262. Height regulations.

No dwelling shall exceed 2½ stories or 35 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height; provided, however, that the council may allow an accessory building to be as tall as 20 feet, upon the issuance of a special use permit.

(Code 1988, § 9-32; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 2-9-2004; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-263. Maximum lot coverage.

Dwellings and accessory buildings shall cover not more than 40 percent of the lot area.

(Code 1988, § 9-33; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-264. Off-street parking.

The off-street parking requirements are as regulated in article VIII of this chapter.

(Code 1988, § 9-34; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-265. Signs.

The sign regulations are as provided in article IX of this chapter.

(Code 1988, § 9-35; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Secs. 30-266—30-293. Reserved.

DIVISION 3. R-2 RESIDENTIAL DISTRICT

Sec. 30-294. Legislative intent.

This district is intended to be used for low to moderate density residential development for single-, two-, three-, or four-family dwellings and townhouse units, as well as other compatible uses.

(Code 1988, § 9-36; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-295. Uses permitted as a matter of right.

Uses in the R-2 Residential District permitted as a matter of right include:

(1) Any use permitted as a matter of right in the R-1 Residential District.

(2) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.

(3) Neighborhood public utilities.

(4) Two-, three-, or four-family dwellings and/or townhouses. All dwelling units must be occupied by families and/or not more than four unrelated persons.

(5) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activities commonly conducted as a business. Any accessory buildings shall be located on the same lot with the principal building.

(Code 1988, § 9-37; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-296. Uses permitted with special use permit.

The following uses may be permitted in accordance with provisions contained in division 4 of article II of this chapter:

(1) Schools, as defined in section 30-9.

(2) Churches or similar places of worship with accessory structures but not including missions or revival tents.

(3) Public parks, playgrounds and playfields, golf courses (but not miniature courses or driving tees operated for commercial purposes), swimming pools and tennis courts.

(4) Wide-area public utilities.

(5) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also, service agencies not involving on-premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.

(6) Child care centers, as defined in section 30-9, in conformity with the character of the neighborhood.

(7) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(8) Level two home occupations, as defined in section 30-9, upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood; provided, however, that any special use permit issued for a level two home occupation shall be personal to the proprietor to whom the permit is issued and shall not inure to the benefit of his successors in interest.

(Code 1988, § 9-38; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-297. Division of multiple-family dwellings.

Wherever a multiple-family dwelling is constructed in accordance with the regulations of this classification and the structure as a whole meets the requirements of this classification, individual units may be sold without regard to area requirements. No such sale of individual units of a multiple-family dwelling shall be deemed a subdivision. This section is subject to the provisions of division 4 of article VII of this chapter.

(Code 1988, § 9-38.1; Ord. of 10-29-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-298. Minimum lot area.

The minimum lot area where public water and sewer is available shall be 9,000 square feet for a single-family dwelling, 12,500 square feet for a two-family dwelling, 15,000 square feet for a three-family dwelling and 17,500 square feet for a four-family dwelling. If only one of such services is available, the minimum lot area shall be 150 percent of the foregoing areas. If neither water nor sewer service is available, the minimum lot area shall be 200 percent of that specified where both services are available.

(Code 1988, § 9-39; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-299. Front yard.

If the dwelling unit fronts on a street of at least 50 feet in width, then the minimum depth of the front yard shall be 30 feet. If the street is less than 50 feet in width, then the setback shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

(Code 1988, § 9-40; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 11-11-2013)

Sec. 30-300. Frontage.

The minimum lot width at the setback line shall be 75 feet for a one-family dwelling, 100 feet for a two- or three-family dwelling and 120 feet for a four-family dwelling. Lots must abut on a public street, not an alley, for a distance of not less than 30 feet.

(Code 1988, § 9-41; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-301. Minimum depth.

The minimum depth for a single-family dwelling shall be 100 feet, for a two-family dwelling 125 feet, and for a three- or four-family dwelling 150 feet.

(Code 1988, § 9-42; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-302. Side yard.

Dwellings located on interior lots will require the following side yards: for a single-family dwelling, the sum of the two side yards shall be not less than 20 feet, each side yard to be not less than ten feet in width; for two- or three-family dwellings, each side yard shall be not less than 15 feet in width, but the sum of the two side yards shall be not less than 35 feet; for a four-family dwelling, each side yard shall not be less than 20 feet in width but the sum of the two side yards shall not be less than 45 feet. Additionally, for dwellings located on corner lots, the side yard abutting the street shall be at least as wide as the minimum front yard depth specified in section 30-299. For unattached buildings of accessory use, there shall be a side yard of not less than ten feet, provided that unattached one-story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory buildings are located more than ten feet behind the main building.

(Code 1988, § 9-43; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 11-11-2013)

Sec. 30-303. Rear yard.

All dwellings shall have a minimum rear yard of 30 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Code 1988, § 9-44; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-304. Height regulations.

No dwelling shall exceed three stories or 35 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height; provided, however, that the council may allow an accessory building to be as tall as 20 feet, upon the issuance of a special use permit.

(Code 1988, § 9-45; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 2-9-2004; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-305. Maximum lot coverage.

For single-, two-, and three-family dwellings the total coverage, including dwellings and accessory buildings, shall not exceed 40 percent of the lot area, and for four-family dwellings, the total coverage shall not exceed 35 percent of the lot area.

(Code 1988, § 9-46; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-306. Townhouses.

The regulations regarding townhouses are contained in division 4 of article VII of this chapter.

(Code 1988, § 9-47; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-307. Off-street parking.

The off-street parking regulations are in article VIII of this chapter.

(Code 1988, § 9-48; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-308. Signs.

The sign regulations are as provided in article IX of this chapter.

(Code 1988, § 9-49; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-309—30-333. Reserved.

DIVISION 4. R-3 RESIDENTIAL DISTRICT

Sec. 30-334. Legislative intent.

This R-3 Residential District is intended to be used for medium to high density development, residential and institutional use with necessary or compatible accessory uses.

(Code 1988, § 9-50; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-335. Uses permitted as a matter of right.

The following uses are permitted as a matter of right in the R-3 Residential District:

(1) Any use permitted as a matter of right in the R-1 or R-2 residential districts.

(2) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.

(3) Multiple-family dwellings, condominiums, and townhouses. All dwelling units, single-family or otherwise, must be occupied by families and/or not more than five unrelated persons.

(4) Neighborhood public utilities.

(5) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(Code 1988, § 9-51; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-336. Uses permitted with special use permit.

The following uses may be permitted in the R-3 Residential District in accordance with provisions contained in division 4 of article II of this chapter:

(1) Schools, as defined in section 30-9.

(2) Churches or similar places of worship with accessory structures, but not including missions or revival tents.

(3) Public parks, playgrounds and playfields, golf courses (but not miniature courses or driving tees operated for commercial purposes), swimming pools and tennis courts.

(4) Wide-area public utilities.

(5) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also, service agencies not involving on-premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.

(6) Hospitals, but not an animal hospital.

(7) Funeral homes.

(8) University and college buildings and functions.

(9) Fraternities, sororities, and denominational student headquarters.

(10) Residential human care facility, including family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons not related by blood or marriage. No conditions may be imposed on this use as a prerequisite for authorization, except those conditions imposed to ensure compatibility with other permitted uses, and these conditions shall not be more restrictive than those imposed on other dwellings in the same district unless such additional conditions are necessary to protect the health and safety of the residents of such facilities.

(11) Clubs, fraternities, lodges, meeting places and other organizations not including any use that is customarily conducted as a gainful business.

(12) Police, fire, and rescue squad stations.

(13) Post offices.

(14) Governmental, nonprofit, and charitable agencies, providing services to the public.

(15) Nursing homes and dwelling units for retirement developments.

(16) A planned unit development as regulated in article VI of this chapter.

(17) Child care centers, as defined in section 30-9, in conformity with the character of the neighborhood.

(18) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(19) Level two home occupations, as defined in section 30-9, upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood; provided, however, that any special use permit issued for a level two home occupation shall be personal to proprietor to whom the permit is issued and shall not inure to the benefit of his successors in interest.

(Code 1988, § 9-52; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

State law reference(s)—Requirements regarding assisted-living facilities, group homes, etc., Code of Virginia, § 15.2-2291.

Sec. 30-337. Division of multiple-family dwellings.

Wherever a multiple-family dwelling is constructed in accordance with the regulations of this classification and the structure as a whole meets the requirements of this classification, individual units may be sold without regard to area requirements. No such sale of individual units of a multiple-family dwelling shall be deemed a subdivision. This section is subject to the provisions of division 4 of article VII of this chapter.

(Code 1988, § 9-52.1; Ord. of 10-29-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-338. Minimum lot area.

The lot area requirements in the R-3 Residential District for a single-, two-, three- or four-family dwelling shall be in accordance with the R-2 district. The lot area requirements for other multiple family structures in the R-3 Residential District shall be not less than 17,500 square feet, plus an additional 2,000 square feet for each additional dwelling unit.

(Code 1988, § 9-53; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-339. Front yard.

If the street on which the dwelling fronts is 50 feet or more in width, then all dwelling units shall be at least 35 feet from the street right-of-way. If the street is less than 50 feet in width, then the setback shall be 60 feet from the center of the street. In no case shall an accessory building be located or extended into the front yard.

(Code 1988, § 9-54; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-340. Frontage.

Minimum lot width at the setback line in the R-3 residential district shall be 75 feet for a single-family dwelling, 100 feet for a two- or three-family dwelling and 120 feet for all other multiple-family dwellings. Lots must abut on a public street, not an alley, for a distance of not less than 30 feet.

(Code 1988, § 9-55; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-341. Minimum depth.

The minimum depth in the R-3 residential district for a single-family dwelling shall be 100 feet; for a two-family dwelling 125 feet and for other multiple-family dwellings 150 feet.

(Code 1988, § 9-56; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-342. Side yard.

Dwellings located on interior lots in the R-3 Residential District will require the following side yards:

(1) For a single-family dwelling, the sum of the two side yards shall be not less than 25 feet, each side yard to be not less than ten feet in width; for two- or three-family dwellings, each side yard shall be not less than 15 feet in width but the sum of the two side yards shall be not less than 35 feet; for a four-family and other multiple-family dwellings each side yard shall be not less than 20 feet in width but the sum of the two side yards shall be not less than 45 feet.

(2) Additionally, for dwellings in the R-3 Residential District located on corner lots, the side yard abutting the street shall be at least as wide as the minimum front yard depth specified in section 30-339. For unattached buildings of accessory use, there shall be a side yard of not less than ten feet; provided, that unattached one-story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory buildings are located more than ten feet behind the main building.

(Code 1988, § 9-57; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-343. Rear yard.

All dwellings in the R-3 Residential District shall have a minimum rear yard of 30 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Code 1988, § 9-58; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-344. Height regulations.

Dwellings in the R-3 Residential District shall not exceed three stories or 40 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height; provided, however, that the council may allow an accessory building to be as tall as 20 feet, upon the issuance of a special use permit.

(Code 1988, § 9-59; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 2-9-2004; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-345. Maximum lot coverage.

For single-, two-, and three-family dwellings in the R-3 Residential District, the total coverage including dwellings and accessory buildings shall not exceed 40 percent of the lot area and for all other multiple-family dwellings the total coverage shall not exceed 35 percent of the lot area.

(Code 1988, § 9-60; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-346. Townhouses.

The regulations for townhouses in the R-3 Residential District are in division 4 of article VII of this chapter.

(Code 1988, § 9-61; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-347. Off-street parking.

The off-street parking regulations for the R-3 Residential District are in article VIII of this chapter.

(Code 1988, § 9-62; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-348. Signs.

The regulations regarding signs for the R-3 Residential District are as provided in article IX of this chapter.

(Code 1988, § 9-63; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-349. Condominiums.

The regulations regarding condominiums for the R-3 Residential District are in division 3 of article VII of this chapter.

(Code 1988, § 9-64; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-350—30-371. Reserved.

DIVISION 5. B-1 BUSINESS DISTRICT

Sec. 30-372. Legislative intent.

This B-1 Business District is intended to be used for general business to which the public requires direct and frequent access.

(Code 1988, § 9-65; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-373. Uses permitted as a matter of right.

The following uses are permitted as a matter of right in the B-1 Business District:

(1) (Repealed December 10, 2007.) (Note: With respect to property being used for residential purposes as of December 10, 2007, this repeal shall take effect only upon the transfer (by deed, devise, intestacy, or otherwise) of the property. The previous text read as follows: "Any use permitted as a matter of right in the R-1, R-2, or R-3 Residential Districts but those uses permitted in these residential districts shall be subject to the area regulations, parking, sign, and height regulations of the district in which such use is permitted and if permitted in more than one district then the regulations of the less restrictive district shall prevail. Town houses shall be subject to division 4 of article VII of this chapter. Condominiums are subject to division 3 of article VII of this chapter.")

(2) Those set out in section 30-336(1), (2), (3), (7), (8), (10) and (12) through (16), the R-3 Residential District, with a special use permit.

(3) Retail stores of less than 20,000 square feet in which substantially all stock is kept indoors.

(4) Restaurants.

(5) Veterinary establishments, provided that all animals shall be kept inside soundproofed, air-conditioned buildings.

(6) Banks.

(7) Barbershops, beauty parlors, chiropody, or similar personal service shops.

(8) Garden centers, greenhouses, and nurseries.

(9) Pet shops.

(10) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(11) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.

(12) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also, service agencies not involving on-premises retail or wholesale trade nor maintenance of a stock of goods for display or sale:

    a. Neighborhood public utilities.

    b. Short-term rentals, owner-occupied only if located above a business use in the same building.

c. Short-term rentals, non-owner-occupied only if located above a business use in the same building.

d. Bed and breakfasts, only if located above a business use in the same building.

(Code 1988, § 9-66; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-374. Uses permitted with special use permit.

The following uses may be permitted in the B-1 Business District in accordance with provisions contained in division 4 of article II of this chapter:

(1) Residential human care facility, including family care homes, foster homes, or group homes serving mentally retarded or other developmentally disabled persons not related by blood or marriage. No conditions may be imposed on this use as a prerequisite for authorization except those conditions imposed to ensure compatibility with other permitted uses and these conditions shall not be more restrictive than those imposed on other dwellings in the same district unless such additional conditions are necessary to protect the health and safety of the residents of such facilities.

(2) Residential uses located above a business use, in the same building.

(3) Upon a clear and convincing showing that the town's interests in promoting a thriving business district will not be infringed, any residential use permitted as a matter-of-right in the R-1, R-2, or R-3 Residential Districts. Notwithstanding the remaining provisions of this division, such uses shall be subject to the area regulations, parking, sign, and height regulations of the district in which such use is permitted (and if permitted in more than one district, then the regulations of the more restrictive district shall prevail).

(4) Pool halls, bowling alleys, dance halls, and amusement centers.

(5) Mobile home parks in accordance with division 2 of article VII of this chapter.

(6) Child care centers, as defined in section 30-9, in conformity with the character of the neighborhood.

(7) Hotels and motels.

(8) Service stations, but major repairs shall be under cover, and all tires shall be stored inside.

(9) General service, automobile repair, other repair shops, provided not more than ten persons are employed on the premises in a single shift (not including persons whose principal duties are off-premises) and provided that all storage and activities are conducted within a building. Examples of repair shops other than automobile repair shops include cleaning and dyeing establishments, laundries, painting, printing and plumbing jobs, dressmaking, millinery and tailoring shops, radio and television repair shops, upholstery and furniture repair shops.

(10) Auction houses.

(11) Hospitals.

(12) Warehouses and commercial storage facilities.

(13) Other neighborhood retail business uses upon a finding by the town council that such uses are of the same general character as those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.

(14) Wide-area public utilities.

(15) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(Code 1988, § 9-67; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 9-16-1996; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-375. Minimum lot area.

No minimum lot area is required in the B-1 Business District, except where individual water or sewage disposal systems, as opposed to public systems, are required, then regulations of the state health department and other regulatory bodies must be complied with.

(Code 1988, § 9-68; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-376. Front yards.

If the street on which the building fronts is 50 feet or more in width, then all buildings in the B-1 Business District shall be at least 25 feet from the street right-of-way. If the street is less than 50 feet in width, then the minimum front yard shall be 50 feet from the center of the street.

(Code 1988, § 9-69; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-377. Frontage.

No minimum frontage is required in the B-1 Business District, but the building must front on a public street, and not an alley.

(Code 1988, § 9-70; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-378. Minimum depth.

No minimum depth is required in the B-1 Business District.

(Code 1988, § 9-71; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-379. Side yard.

In the B-1 Business District, on the side of a lot adjoining a residential district or a dwelling, there shall be a side yard of not less than 25 feet. There shall be a side yard setback from an intersecting street of not less than 25 feet. In all other cases the side yard for commercial buildings in the B-1 Business District shall not be required.

(Code 1988, § 9-72; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-380. Rear yard.

No rear yard is required in the B-1 Business District except on the rear of a lot adjoining either a residential district or a dwelling and then it is a minimum of 20 feet.

(Code 1988, § 9-73; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-381. Height regulations.

Buildings in the B-1 Business District shall not exceed three stories or 40 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height.

(Code 1988, § 9-74; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-382. Maximum lot coverage.

The total coverage, including main and accessory buildings, in the B-1 Business District shall not exceed 40 percent of the lot area.

(Code 1988, § 9-75; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-383. Off-street parking.

Off-street parking in the B-1 Business District is regulated in article VII of this chapter.

(Code 1988, § 9-76; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-384. Signs.

Signs in the B-1 Business District are regulated as provided in article IX of this chapter.

(Code 1988, § 9-77; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Secs. 30-385—30-411. Reserved.

DIVISION 6. B-2 BUSINESS DISTRICT

Sec. 30-412. Legislative intent.

The B-2 Business District is intended to be composed of land and structured use to furnish a wider range of retail goods and services to satisfy the household and personal needs of the neighborhood.

(Code 1988, § 9-78; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-413. Uses permitted as a matter of right.

The following uses are permitted as a matter of right in the B-2 Business District:

(1) All of the uses permitted as a matter of right or with a special use permit in the B-1 Business (except the uses permitted under sections 30-373 and 30-374(1), (2), (3), (14), and (15).

(2) General service, automobile repair, or other repair shops as permitted under section 30-374(9) but without the limitation as to the number of employees.

(3) Retail stores permitted under section 30-373(3) but without the limitations as to size and outdoor stock. This section permits but is not limited to automobile dealerships, lumber yards, and manufactured housing lots.

(4) Radio or television broadcasting stations, studios, or offices, except transmission towers.

(5) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(6) Temporary buildings for uses incidental to construction work, which buildings shall be immediately adjacent to the construction work and which shall be removed upon completion or abandonment of the work.

(7) Neighborhood public utilities.

(Code 1988, § 9-79; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-414. Uses permitted with special use permit.

The following uses may be permitted in the B-2 Business District in accordance with provisions contained in division 4 of article II of this chapter.

(1) Processing and manufacturing establishments that are not objectionable because of smoke, odor, dust or noise but only when such processing and manufacturing is incidental to a retail business conducted on the premises and where not more than ten persons are employed on the premises in the processing or manufacturing activities.

(2) Tire recapping and vulcanizing within a completely enclosed building and with no outdoor storage of tires, discarded rubber or similar material.

(3) Other retail business uses upon finding by the town council that such uses are of the same character as those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.

(4) Wide-area public utilities.

(5) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(6) Adult businesses.

(7) Bed and breakfasts, only if located above a business use in the same building.

(Code 1988, § 9-80; Ord. of 12-3-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 7-11-2005; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-415. Minimum lot area.

No minimum lot area is required in the B-2 Business District, except where individual water or sewage disposal systems, as opposed to public systems, are required, then regulations of the state department of health and other regulatory bodies must be complied with.

(Code 1988, § 9-81; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-416. Front yards.

In the B-2 Business District, if the street on which the building fronts is 50 feet or more in width, then all buildings shall be at least 25 feet from the street right-of-way. If the street is less than 50 feet in width, then the minimum front yard shall be 50 feet from the center of the street.

(Code 1988, § 9-82; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-417. Frontage.

No minimum frontage is required in the B-2 Business District, but building must front on a public street, but not an alley.

(Code 1988, § 9-83; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-418. Minimum depth.

No minimum depth is required in the B-2 Business District.

(Code 1988, § 9-84; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-419. Side yard.

In the B-2 Business District on the side of a lot adjoining a residential district or a dwelling, there shall be a side yard of not less than 20 feet. There shall be a side yard setback from an intersecting street of not less than 20 feet. In all other cases, the side yard for commercial buildings shall not be required.

(Code 1988, § 9-85; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-420. Rear yard.

In the B-2 Business District, no rear yard is required except on the rear of a lot adjoining either a residential district or a dwelling and then a minimum of 20 feet.

(Code 1988, § 9-86; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-421. Height regulations.

In the B-2 Business District, buildings shall not exceed three stories or 45 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height.

(Code 1988, § 9-87; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-422. Maximum lot coverage.

In the B-2 Business District, the total lot coverage, including main and accessory buildings, shall not exceed 75 percent of the lot area.

(Code 1988, § 9-88; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-423. Off-street parking.

Off-street parking in the B-2 Business District is regulated as provided in article VIII of this chapter.

(Code 1988, § 9-89; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-424. Signs.

Signs in the B-2 Business District are regulated as provided in article IX of this chapter.

(Code 1988, § 9-90; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Secs. 30-425—30-446. Reserved.

DIVISION 7. M-1 INDUSTRIAL DISTRICT

Sec. 30-447. Legislative intent.

The M-1 Industrial District is intended primarily for manufacturing, processing, storage, wholesaling, and distribution activities.

(Code 1988, § 9-91; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-448. Uses permitted as a matter of right.

The following uses are permitted as a matter of right in the M-1 Industrial District:

(1) Any use permitted in the B-2 Business District as a matter of right or by special use permit except the uses permitted under section 30-414(7).

(2) Building material sales or storage yards except materials shall not be extracted from the premises.

(3) Contractors' equipment storage yards or plants.

(4) Cold storage, frozen food, and bottling plants.

(5) Grain and feed manufacturing and storage.

(6) Veterinary hospitals.

(7) Other than the uses prohibited under this division, all industrial or manufacturing operations, compounding, processing, packaging, or treatment of products.

(8) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(9) Water treatment facilities.

(10) Sewage treatment facilities.

(11) Neighborhood public utilities.

(Code 1988, § 9-92; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 7-11-2005; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-449. Uses prohibited.

The following uses are prohibited in the M-1 Industrial District:

(1) Slaughter houses, but this section does not prohibit the killing or processing of poultry.

(2) Acid manufacturers.

(3) Ammonia, bleaching powder or chlorine manufacturers.

(4) Asphalt manufacturers or refining.

(5) Blast furnaces.

(6) Boiler works.

(7) Brick, tile or terracotta manufacturers not requiring ovens.

(8) Coke ovens.

(9) Creosote treatment or manufacturers.

(10) Distillation of bones.

(11) Fat rendering.

(12) Dyestuff manufacturers.

(13) Fertilizer manufacturers.

(14) Forge plants.

(15) Fuel manufacturers.

(16) Gas manufacturers or storage in excess of 1,000 cubic feet.

(17) Gelatin or glue manufacturers or any process involving recovery from fish or animal material.

(18) Glass manufacturers.

(19) Gunpowder manufacturers or storage.

(20) Incineration or reduction of garbage, dead animals, outfall, or refuse other than by an authorized public agency.

(21) Iron, steel, brass or copper works or foundry.

(22) Lime, gypsum or plaster of Paris manufacturers.

(23) Oil, paint, turpentine or varnish manufacturers.

(24) Pulp mills.

(25) Petroleum products.

(26) Printing ink manufacturers.

(27) Rendering plant or other comparable processing of fish or animal material.

(28) Sawmills.

(29) Melting or refining of metals.

(30) Soap manufacturing.

(31) Stockyards.

(32) Tanning, curing or storage of raw hides or skins or leather dressing or coloring.

(33) Tar distillation or manufacturers.

(34) Any use reasonably deemed harmful to health, safety or welfare because of undue noise, vibration, smoke, dust, odor, heat or glare.

(Code 1988, § 9-93; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-450. Uses permitted with special use permit.

The following uses may be permitted in the M-1 Industrial District in accordance with the provisions contained in division 4 of article II of this chapter:

(1) Wide-area public utilities.

(2) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(3) Any other use which the town council determines is consistent with the character of the M-1 Industrial District zoning classification and which is not unreasonably offensive to owners and occupants of adjacent lands.

(4) Adult businesses.

(Code 1988, § 9-93.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 7-11-2005; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-451. Minimum lot area.

No minimum lot area is required in the M-1 Industrial District, except where individual water or sewage disposal systems, as opposed to public systems, are required, then regulations of the state department of health and other regulatory bodies must be complied with.

(Code 1988, § 9-94; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-452. Front yards.

If the street on which the building fronts is 50 feet or more in width in the M-1 Industrial District, then all buildings shall be at least 25 feet from the street right-of-way. If the street is less than 50 feet in width, then the minimum front yard shall be 50 feet from the center of the street.

(Code 1988, § 9-95; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-453. Frontage.

No minimum frontage is required in the M-1 Industrial District, but a building must front on a public street, and not an alley.

(Code 1988, § 9-96; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-454. Minimum depth.

No minimum depth is required in the M-1 Industrial District.

(Code 1988, § 9-97; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-455. Side yard.

In the M-1 Industrial District on the side of a lot adjoining a residential district or a dwelling, there shall be a side yard of not less than 15 feet. There shall be a side yard setback from an intersecting street of not less than 15 feet. In all other cases, the side yard for commercial buildings shall not be required.

(Code 1988, § 9-98; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-456. Rear yard.

No rear yard is required in the M-1 Industrial District, except on the rear of a lot adjoining either a residential district or a dwelling and then a minimum of 15 feet.

(Code 1988, § 9-99; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-457. Height regulations.

In the M-1 Industrial District, buildings shall not exceed three stories or 45 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height.

(Code 1988, § 9-100; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-458. Maximum lot coverage.

The total lot coverage including main and accessory buildings in the M-1 Industrial District shall not exceed 85 percent of the lot area.

(Code 1988, § 9-101; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-459. Off-street parking.

Off-street parking in the M-1 Industrial District is regulated as provided in article VIII of this chapter.

(Code 1988, § 9-102; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-460. Signs.

Signs in the M-1 Industrial District are regulated as provided in article IX of this chapter.

(Code 1988, § 9-103; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-461—30-488. Reserved.

DIVISION 8. A-1 AGRICULTURAL DISTRICT

Sec. 30-489. Legislative intent.

This classification is intended to allow agriculture and closely related activities.

(Code 1988, § 9-128.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-490. Uses permitted as a matter of right.

Uses permitted as a matter of fact in the A-1 Agricultural district include:

(1) Agriculture; general farm use (including the current employment of land and buildings supporting accepted farming practice) for the purpose of raising, harvesting and selling crops or for the feeding, breeding, management and sale of, or the produce of, livestock, fur-bearing animals or honeybees or

for dairying and the sale of dairy products or any other agricultural use of animal husbandry or horticultural use or any combination thereof. Farm use shall include the preparation and storage of the products raised on such land for man's use and animal use. Nothing in this section, however, shall authorize poultry houses or hog farms.

(2) The growing and harvesting of timber and the maintenance of structures needed for the execution of those activities. This shall not include either uses or structures related to the production, manufacture or storage of wood products.

(3) Public and private conservation areas and structures for the retention of water, soil, open space, forest or wildlife resources.

(4) Public and private parks, playgrounds, recreational grounds and grounds for games and sports, except those the chief activity of which is carried on, or is customarily carried on as a business.

(5) Single-family dwellings if incidental to the above listed uses.

(6) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(7) Water treatment facilities.

(8) Sewage treatment facilities.

(9) Neighborhood public utilities.

(10) Level one home occupations, as defined in section 30-9.

(11) Short-term rentals, owner-occupied.

(12) Short-term rentals, non-owner-occupied.

(13) Bed and breakfasts.

(Code 1988, § 9-128.2; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-491. Uses permitted with special use permit.

The following uses may be permitted in accordance with provisions contained in division 4 of article II of this chapter:

(1) Any use permitted by the county's A-1 or A-2 zoning classification by right or as a special use. The primary intent of this subsection is to reduce any hardship on farmers occurring as a result of annexation, by giving them the right to petition the council and be heard, should the county zoning code allow uses not permitted herein.

(2) Wide-area public utilities.

(3) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(4) Level two home occupations, as defined in section 30-9, upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood; provided, however, that any special use permit issued for a level two home occupation shall be personal to proprietor to whom the permit is issued and shall not inure to the benefit of his successors in interest.

(Code 1988, § 9-128.3; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-492. Application of area regulations.

Notwithstanding any other provision of this chapter:

(1) The area and dimensional regulations in this division apply to dwellings only;

(2) Area and dimensional regulations for farm uses shall be established by the board of zoning appeals upon application of the landowner; and

(3) Other uses shall be controlled by the area and dimensional regulations of the least restrictive zoning classification which allows the use and provides area and dimensional regulations.

(Code 1988, § 9-128.4; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-493. Minimum lot area.

Minimum lot area shall be 20,000 square feet. There shall be no more than one single-family dwelling unit on each lot.

(Code 1988, § 9-128.5; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-494. Front yards.

The minimum depth of the front yard shall be 35 feet from the street right-of-way if the street is 50 feet or greater in width; and if the street is less than 50 feet in width, then the minimum front yard shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

(Code 1988, § 9-128.6; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-495. Frontage.

The minimum lot width at setback line shall be 100 feet. Lots must abut on a public street, not an alley, for a distance of not less than 30 feet.

(Code 1988, § 9-128.7; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-496. Minimum depth.

The minimum depth of each lot shall be 150 feet.

(Code 1988, § 9-128.8; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-497. Side yard.

For a single-story dwelling the side yard shall be not less than ten feet in width; however, the sum of the two side yards shall be not less than 25 feet. For a dwelling of more than one story there shall be side yards of not less than 15 feet each. For unattached buildings of accessory use, there shall be a side yard of not less than ten feet, provided that unattached single-story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory buildings are located more than ten feet behind the main building.

(Code 1988, § 9-128.9; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-498. Rear yard.

For dwellings, there shall be a rear yard of not less than 35 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Code 1988, § 9-128.10; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-499. Height regulations.

No dwelling shall exceed 2½ stories or 35 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height.

(Code 1988, § 9-128.11; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-500. Maximum lot coverage.

Dwellings and accessory buildings shall cover not more than 40 percent of the lot area.

(Code 1988, § 9-128.12; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-501. Off-street parking.

Off-street parking in the A-1 Agricultural District shall be as regulated in article VIII of this chapter.

(Code 1988, § 9-128.13; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-502. Signs.

Signs parking in the A-1 Agricultural District shall be as provided in article IX of this chapter.

(Code 1988, § 9-128.14; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Secs. 30-503—30-527. Reserved.

DIVISION 9. A-2 AGRICULTURAL DISTRICT

Sec. 30-528. Legislative intent.

The A-2 Agricultural District is designed primarily to accommodate farming and kindred rural activities, permitting the development of other uses by special use permit.

(Code 1988, § 9-128.15; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-529. Uses permitted as a matter of right.

The following uses are permitted in the A-2 Agricultural District:

(1) Agriculture, general farming, including dairying.

(2) Orchards.

(3) Nurseries.

(4) Churches or similar places of worship, with accessory structures.

(5) Golf courses, miniature golf courses and golf driving tees.

(6) Public parks, playgrounds, and playfields.

(7) Swimming pools and tennis courts.

(8) Grain storage bins as a primary use.

(9) Greenhouses.

(10) Tree farms.

(11) Wildlife areas, game refuges and forest preserves.

(12) Single-family dwellings, but not including residential subdivisions.

(13) Accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(14) Agencies and offices rendering specialized services in the professions, finance, insurance, real estate, chiropractors, optometrists, osteopaths, dental laboratories, architects and engineers; also, service agencies not involving on-premises retail or wholesale trade nor maintenance of a stock of goods for display or sale.

(15) Hospitals, but not an animal hospital.

(16) Neighborhood public utilities.

(17) Level one home occupations, as defined in section 30-9.

(18) Short-term rentals, owner-occupied.

(19) Short-term rentals, non-owner-occupied.

(20) Bed and breakfasts.

(Code 1988, § 9-128.16; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-530. Uses permitted with special use permit.

The following uses may be permitted in the A-2 Agricultural District in accordance with provisions contained in division 4 of article II of this chapter:

(1) Cemeteries and memorial gardens.

(2) Clubs, fraternities, lodges and meeting places of other organizations, not including any use that is customarily conducted as a gainful business.

(3) Family campgrounds.

(4) Home occupations.

(5) Police, fire and rescue squad stations.

(6) Raising fur-bearing animals and pelt processing.

(7) Schools, as defined in section 30-9.

(8) Funeral homes.

(9) Gravel pits and quarries.

(10) Convalescent, nursing and rest homes.

(11) Machine shops with equipment and materials under cover.

(12) Manufacture and sale of feed and other farm supplies.

(13) Radio or television transmitting stations and towers.

(14) Riding academies and stables.

(15) Dumps and sanitary landfill operations.

(16) Shooting range or galleries.

(17) Farm, lawn and garden machinery and equipment sales and service.

(18) Airports.

(19) Roadside stands or markets.

(20) Blacksmith shops.

(21) Wineries.

(22) Water treatment facilities.

(23) Sewage treatment facilities.

(24) Mobile home parks in accordance with division 2 of article VII of this chapter.

(25) Any use permitted the county's A-1 or A-2 zoning classification by right or as a special use. The primary intent of this subsection is to reduce any hardship on farmers occurring as a result of annexation, by giving them the right to petition the council and be heard should the county zoning code allow uses not permitted herein.

(26) Wide-area public utilities.

(27) Telecommunications towers and telecommunications antennas, in accordance with division 6 of article VII of this chapter.

(28) Level two home occupations, as defined in section 30-9, upon a finding by the council that the use would have no adverse effects upon the health, safety, or welfare of the neighborhood; provided, however, that any special use permit issued for a level two home occupation shall be personal to proprietor to whom the permit is issued and shall not inure to the benefit of his successors in interest.

(Code 1988, § 9-128.17; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-531. Application of area regulations.

Notwithstanding any other provision of this chapter:

(1) The area and dimensional regulations in this division apply to dwellings only;

(2) Area and dimensional regulations for farm uses shall be established by the board of zoning appeals upon application of the landowner; and

(3) Other uses shall be controlled by the area and dimensional regulations of the most restrictive zoning classification which allows the use and provides area and dimensional regulations.

(Code 1988, § 9-128.18; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-532. Minimum lot area.

Minimum lot area in the A-2 Agricultural District shall be 20,000 square feet. There shall no more than one single-family dwelling unit on each lot.

(Code 1988, § 9-128.19; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-533. Front yards.

The minimum depth of the front yard in the A-2 Agricultural District shall be 35 feet from the street right-of-way if the street is 50 feet or greater in width; and if the street is less than 50 feet in width, then the minimum front yard shall be 60 feet from the center of the street. In no case shall an accessory building be located or extend into the front yard.

(Code 1988, § 9-128.20; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-534. Frontage.

The minimum lot width at setback line in the A-2 Agricultural District shall be 100 feet. Lots must abut on a public street, not an alley, for a distance of not less than 30 feet.

(Code 1988, § 9-128.21; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-535. Minimum depth.

Minimum depth of each lot in the A-2 Agricultural District shall be 150 feet.

(Code 1988, § 9-128.22; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-536. Side yard.

In the A-2 Agricultural District, the side yard for a single-story dwelling shall be not less than ten feet in width; however, the sum of the two side yards shall be not less than 25 feet. For a dwelling of more than one story, there shall be side yards of not less than 15 feet each. For unattached buildings of accessory use, there shall be a side yard of not less than ten feet, provided that unattached single-story buildings of accessory use shall not be required to set back more than five feet from an interior side lot line when all parts of the accessory building are located more than ten feet behind the main building.

(Code 1988, § 9-128.23; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-537. Rear yard.

For dwellings in the A-2 Agricultural District there shall be a rear yard of not less than 35 feet. Unattached buildings of accessory use shall not be located closer to any rear lot line than five feet.

(Code 1988, § 9-128.24; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-538. Height regulations.

No dwelling in the A-2 Agricultural District shall exceed 2½ stories or 35 feet in height, whichever is less. Accessory buildings shall not exceed 15 feet in height.

(Code 1988, § 9-128.25; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-539. Maximum lot coverage.

Dwellings and accessory buildings in the A-2 Agricultural District shall cover not more than 40 percent of the lot area.

(Code 1988, § 9-128.26; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-540. Off-street parking.

Off-street parking in the A-2 Agricultural District shall be as provided in article VIII of this chapter.

(Code 1988, § 9-128.27; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-541. Signs.

Signage in the A-2 Agricultural District shall be as provided in article IX of this chapter.

(Code 1988, § 9-128.28; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Secs. 30-542—30-560. Reserved.

DIVISION 10. HB-1 BUSINESS DISTRICT

Sec. 30-561. Legislative intent.

The HB-1 Business District is intended to allow a complimentary mix of uses along John Wayland Highway and Mason Street. Low density, low traffic uses are allowed near the highway. Compatible higher density uses are also allowed, provided they are set back from the highway and are organized into developments designed to minimize the burden on the public infrastructure.

(Code 1988, § 9-128.50; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-562. Application.

The provisions of this division shall apply only to property which is within a Commercial Planned Unit Development (CPUD).

(Code 1988, § 9-128.51; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-563. Commercial planned unit development generally.

The Commercial Planned Unit Developments are intended to provide optional methods of land development which encourage imaginative solutions to design problems and minimize the burden on public infrastructure. Developments thus established are to be largely self-contained, with as few entrances onto existing streets and highways as possible.

(Code 1988, § 9-128.52; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-564. Permitted uses.

Within a Commercial Planned Unit Development, the following uses are permitted in accordance with an approved master plan:

(1) Professional, administrative, and clerical offices. This provision, in conjunction with subsection (17) of this section, allows certain goods or equipment to be stored in connection with an administrative office. All goods shall be stored indoors, and all equipment shall be fully screened from view from public highways and other properties. Such screening shall be accomplished through fencing or landscaping.

(2) Retail stores of less than 25,000 square feet in which substantially all stock is kept indoors. This provision allows gasoline stations, provided that the buildings shall be less than 25,000 square feet and substantially all products for sale are stored indoors or underground.

(3) Retail stores of any size, without any limitations as to outdoor stock. This subsection permits, but is not limited to, automobile dealerships, lumber yards, and manufactured housing sellers.

(4) Restaurants.

(5) Banks and similar financial institutions.

(6) Hotels and motels.

(7) General service, automobile repair, other repair shops provided not more than ten persons are employed on the premises in a single shift (not including persons whose principal duties are off-premises) and provided that all storage and activities are conducted within a building. Examples of repair shops other than automobile repair shops are: cleaning and dyeing establishments, laundries, painting, printing and plumbing jobs, dressmaking, millinery and tailoring shops, radio and television repair shops, upholstery and furniture repair shops.

(8) Radio or television broadcasting stations, studios, or offices, but not transmission towers.

(9) Nursing homes and retirement home projects.

(10) Hospitals, but not animal hospitals.

(11) Personal service establishments, including barbershops, beauty parlors, and similar enterprises.

(12) Greenhouses and nurseries.

(13) Recreational uses, including community centers, golf courses, swimming pools, parks, playgrounds or any other public recreational uses.

(14) Community facilities such as churches and other religious institutions.

(15) Child care centers, as defined in section n 30-9, in conformity with the character of the neighborhood.

(16) Bowling alleys.

(17) Accessory uses and buildings incidental to the principal use.

(18) Neighborhood public utilities.

(19) Other neighborhood business uses upon a finding by the town council that such uses are of the same general character as those permitted and which will not be detrimental to other uses within the district or to adjoining land uses.

(Code 1988, § 9-128.53; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-565. Minimum size.

The minimum size of any Commercial Planned Unit Development shall be five acres of contiguous land. There is no minimum size for individual lots within a CPUD.

(Code 1988, § 9-128.54; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-566. Setbacks.

(a) No building within a Commercial Planned Unit Development may be located or maintained within 75 feet of John Wayland Highway or Mason Street.

(b) Additionally, all buildings within a Commercial Planned Unit Development shall be set back from the perimeter of the Commercial Planned Unit Development by at least 50 feet. This 50-foot setback can be reduced to 30 feet, if the area is planted with dense landscaping sufficient to block sightlines, pedestrian traffic, and vehicular traffic within 15 years. This landscaping must be maintained and replanted as necessary for the buffer reduction to remain in force.

(Code 1988, § 9-128.55; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-567. Height restrictions.

In the Commercial Planned Unit Development, no structure shall exceed three stories or 45 feet in height, whichever is less. Accessory structures shall not exceed 15 feet in height.

(Code 1988, § 9-128.56; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-568. Standards for improvements.

The town's standards and policies concerning streets, utilities, drainage, and monuments as expressed in chapter 20 and related addenda shall apply to improvements within Commercial Planned Unit Developments.

(Code 1988, § 9-128.57; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-569. Entrances onto major highways; traffic.

(a) The Commercial Planned Unit Development shall be designed so as to minimize entrances onto John Wayland Highway or Mason Street.

(b) In no event shall a Commercial Planned Unit Development have more than one entrance within any 500 linear foot segment of John Wayland Highway or Mason Street. Entrance standards and procedures are controlled by the state department of transportation.

(c) Streets and parking areas within a Commercial Planned Unit Development shall be designed to allow for smooth and efficient traffic flow.

(Code 1988, § 9-128.58; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-570. Protection of agricultural uses.

All Commercial Planned Unit Developments shall be designed so as to maintain an appropriate separation between the uses within the Commercial Planned Unit Development and any adjoining agricultural uses.

(Code 1988, § 9-128.59; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-571. Off-street parking.

Off-street parking shall be as regulated in article VIII of this chapter, provided that all parking required for any use within a Commercial Planned Unit Development shall be located within the Commercial Planned Unit Development, notwithstanding any provisions to the contrary in article VIII of this chapter.

(Code 1988, § 9-128.60; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-572. Signs.

Signs within a Commercial Planned Unit Development shall be as provided in article IX of this chapter.

(Code 1988, § 9-128.61; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-573. Administrative procedure for a Commercial Planned Unit Development.

(a) With respect to land zoned HB-1, a Commercial Planned Unit Development may be established upon the submission of a master plan, which may consist of one or more sheets, and shall show:

  (1) The boundaries of the proposed Commercial Planned Unit Development.

  (2) The overall scheme of development, including the general location of the various types of uses to which the property will be put, and the provision of this chapter which allows the use. (For example, "Bank: section 30-564(5).")

  (3) The general location of all streets and easements of right-of-way, and the location of and specifications for all proposed entrances onto John Wayland Highway, Mason Street, or other existing public streets.

  (4) The general location of all parking areas, and a notation as to the number of parking spaces in each.

  (5) The proposed general location of all buildings and other improvements.

  (6) Reasonably detailed plans for water, sanitary sewer, storm sewer, and other utilities.

  (7) Proposed agreements, rules, or covenants which will govern the use of any property within the development.

  (8) Proposed building types, height, and approximate floor areas.

  (9) Any landscaping required by law.

(b) The planning commission shall review the master plan and other documents filed and shall issue to the council a recommendation for approval, disapproval, or approval with modification of the layout, scheme of development, deed restrictions, or other matters concerning the development.

(c) In reviewing the application and the planning commission's recommendation, the council will be guided by the standards and intent expressed in this division. If the council approves the application for the Commercial Planned Unit Development, the owner or developer may proceed to develop any section of the project upon the submission and approval of a final plan for that section. The final plan shall comply in all respects with the requirements for final plats set forth in section 20-70. The final plan need be approved only by the planning commission, which shall issue approval if it complies with this section and it is in substantial compliance with the master plan. Such approval shall be contingent upon the guaranty requirement of subsection (d) of this section.

(d) Before a final plan is approved, the installation of all improvements required by chapter 20 or any other provision of law shall be guaranteed, as provided in section 20-142.

(Code 1988, § 9-128.62; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-574. Amendment of plans.

(a) Except as provided in subsection (b) of this section, the procedures governing the issuance of new master plans shall govern amendments to existing plans. A master plan is amended through the approval of a superseding plan.

(b) In an existing Commercial Planned Unit Development, the owner of a portion of the property in the development may apply for the amendment of the master plan as it relates to his property only. Such application will be approved only if the amendment would not materially change the character of the development, all other requirements are met, and the council determines that the amendment is appropriate.

(c) Any amendments to final plans shall be made in accordance with law pertaining to the amendment of subdivision plats. If a final plan amendment does not entail a master plan amendment, no additional procedures need be followed. If the final plan as amended would deviate from the master plan, the master plan must be amended also.

(Code 1988, § 9-128.63; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-575. Abandonment of project.

Upon the abandonment of a project authorized under this section or upon the expiration of two years from the authorization of the Commercial Planned Unit Development which has not by then been commenced, the authorization shall expire, and the land and structures thereon may be used without such approval for any other lawful purpose permissible in the HB-1 Business District.

(Code 1988, § 9-128.64; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-1-1999; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

DIVISION 11. FLOOD PLAIN DISTRICT

Sec. 30-576. Purpose.

The purpose of this division 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 activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

(2) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.

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

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

(Code 1988, § 9-135.1; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-577. Applicability.

These provisions shall apply to all lands within the jurisdiction of the town and identified as being in the 100-year floodplain by the Federal Insurance Administration.

(Code 1988, § 9-135.2; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-578. 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 division and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this division.

(b) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This division does not imply that areas outside the floodplain area, or that land uses permitted within such area will be free from flooding or flood damages.

(c) This division shall not create liability on the part of the town or any officer or employee thereof for any flood damages that result from reliance on this division or any administrative decision thereunder.

(Code 1988, § 9-135.3; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-579. Abrogation and greater restrictions.

This division supersedes any ordinance currently in effect in floodprone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this division.

(Code 1988, § 9-135.4; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-580. Severability.

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

(Code 1988, § 9-135.5; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-581. Definitions.

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

Base flood, 100-year flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the elevation shown on the flood insurance rate map (FIRM) described in section 30-582 that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Basement means any area of a building having its floor subgrade (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 chapter.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, paving, filling, grading, excavation, mining, dredging, drilling operations, or storage of equipment or materials.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (posts and piers).

Encroachment means the advance or infringement of uses, plant growth, fill excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park/subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the initial effective date of the ordinance from which this division is derived.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

Flood or*flooding* means:

(1) A general or temporary condition of partial or complete inundation of normally dry land area from:

   a. The overflow of inland or tidal waters; or

   b. The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsistence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by some similarly unusual and unforeseeable event with results as defined in subsection (1)a of this definition.

Floodplain or *floodprone area* means any land area susceptible to being inundated by water from any source.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. The term "freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and hydrological effect of urbanization in the watershed.

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;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed areas (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation 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 attached to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured home park/subdivision means a parcel (or contiguous parcels) of land divided into two or more 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 the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, the term "new construction" means structures for which 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.

New manufactured home, park/subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the initial effective date of these regulations.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

Shallow flooding area means a special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area means the land in the floodplain subject to one percent or greater chance of being flooded in any given year as determined as determined under section 30-582.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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

Substantial improvement means any reconstruction, rehabilitation, 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. The term "substantial improvement" includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term "substantial improvement" 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 ensure safe living conditions; or

(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as a "historic structure."

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. The term "watercourse" includes specifically designated areas in which substantial flood damage may occur.

(Code 1988, § 9-135.6; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-582. Description of district.

(a) *Basis of district.*

(1) The Flood Plain District shall include areas to one percent or greater chance of being flooded in any given year. The basis for the delineation of the district shall be the 100-year flood elevations or profiles

contained in the flood insurance study for the town, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated February 6, 2008, as amended.

(2) The approximated Flood Plain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the flood insurance rate map dated February 6, 2008. For these areas, the 100-year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific 100-year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Floodprone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the town.

(3) The Special Flood Plain District shall be those areas identified as either an AE zone or A1-30 zone on the maps accompanying the flood insurance study for which 100-year flood elevations have been provided but for which no floodway has been delineated.

(b) *Overlay concept.*

(1) The Flood Plain District described above shall be overlays to the existing underlying area as shown on the official zoning map, and as such, the provisions for the Flood Plain District shall serve as a supplement to the underlying district provisions.

(2) In case of any conflict between the provisions or requirements of the Flood Plain District and those of any underlying district the more restrictive provisions and/or those pertaining to the Flood Plain District shall apply.

(3) In the event any provision concerning a Flood Plain District declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(Code 1988, § 9-135.7; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 2-6-2008)

Sec. 30-583. Official zoning map.

The boundaries of the Flood Plain District are established as shown on the flood insurance rate map which is declared to be a part of this division and which shall be kept on file in the office of the town superintendent.

(Code 1988, § 9-135.8; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-584. District boundary changes.

The delineation of any of the Flood Plain District may be revised by the town council where natural or manmade changes have occurred or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

(Code 1988, § 9-135.9; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-585. Interpretation of district boundaries.

Initial interpretations of the boundaries of the Flood Plain District shall be made by the zoning officer. Should a dispute arise concerning the boundaries of any of the district, the board of zoning appeals shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the board and to submit his own technical evidence if he so desires.

(Code 1988, § 9-135.10; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-586. General provisions concerning Flood Plain District.

(a) *Permit requirement.* All uses, activities, and development occurring within any Flood Plain District shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this division and with all other applicable codes and ordinances, such as the uniform statewide building code and the subdivision regulations in chapter 20. Prior to the issuance of any such permit, the zoning officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstance shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(b) *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction, a permit shall be obtained from the U.S. Army Corps of Engineers, the state marine resources commission, the state water control board (a joint permit application is available from anyone of these organizations). Notification of the proposal shall be given to all adjacent jurisdictions, the division of dam safety and floodplain management (department of conservation and recreation), and the Federal Insurance Administration.

(c) *Site plans and permit applications.* All applications for development in the Flood Plain District and all building permits issued for the floodplain shall incorporate the following information:

    (1) For structures to be elevated, the elevation of the lowest floor (including basement).

    (2) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed.

    (3) The elevation of the 100-year flood.

    (4) Topographic information showing existing and proposed ground elevations.

(d) *Encroachment provisions.*

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

    (2) 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 analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the 100-year flood elevation.

(e) *Manufactured homes.*

(1) Manufactured homes that are placed or substantially improved on sites:

a. Outside of a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision;

d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest referenced elevation of the manufactured home is elevated to a minimum of one foot above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

(2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (e)(1) of this section shall be elevated so that either:

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

b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above-grade and securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(f) *Recreational vehicles.* Recreational vehicles shall either:

(1) Be on the site for fewer than 180 consecutive days;

(2) Be fully licensed and ready for highway use; or

(3) Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes in subsection (e) of this section.

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.

(Code 1988, § 9-135.11; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-587. Design criteria for utilities and facilities.

(a) *Sanitary sewer facilities.* All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into the floodwaters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

(b) *Water facilities.* All new or replacement water facilities shall be designed to minimize or eliminate infiltration of floodwaters into the system and be located and constructed to minimize or eliminate flood damages.

(c) *Drainage facilities.* All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite

waste disposal sites. The town may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(d) *Utilities.* All utilities, such as gas lines, electrical and telephone systems being placed in floodprone areas should be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

(e) *Streets and sidewalks.* Streets and sidewalks should be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(Code 1988, § 9-135.12; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-588. Variances.

(a) In passing upon applications for variances, the board of zoning appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any floodway area that will cause any increase in the 100-year flood elevation.

(2) The danger that materials may be swept onto other lands or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

(5) The importance of the services provided by the proposed facility to the community.

(6) The requirements of the facility for a waterfront location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

(12) The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(13) Such other factors which are relevant to the purposes of this division.

(b) The board of zoning appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in

evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

(c) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety, extraordinary public expense, and will not create nuisances, cause fraud or victimization of the public, or conflict with local laws or ordinances.

(d) Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from exceptional hardship to the applicant.

(e) The board of zoning appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 100-year flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance.

(f) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

(Code 1988, § 9-135.13; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-589. Existing structures in Flood Plain Districts.

The substantial damage or substantial improvement of any structure shall require the entire structure to be brought into full compliance with the provisions of this division.

(Code 1988, § 9-135.14; Ord. of 8-6-1990; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-590—30-611. Reserved.

ARTICLE VI. PLANNED UNIT RESIDENTIAL DEVELOPMENT

Sec. 30-612. General description.

The regulations established in this article are intended to provide optional methods of land development which encourage more imaginative solutions to design problems. Residential areas thus established would be characterized by unified building and site development program, open space for recreation, and the provision for promotional religious, educational and cultural facilities which are integrated with the total project. The planned unit residential development is permitted in an R-3 Residential District and must have a minimum of five acres or more.

(Code 1988, § 9-144; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-613. Permitted principal and accessory uses and structures.

The following uses are permitted:

(1) Single-family detached dwellings.

(2) Two-family dwellings.

(3) Townhouses in accordance with division 4 of article VII of this chapter.

(4) Condominiums, in accordance with division 3 of article VII of this chapter.

(5) Multiple-family dwellings.

(6) Nursing homes and retirement home projects.

(7) Retail stores, convenience shops, personal service type establishments, restaurants, food and drug stores.

(8) General service facilities.

(9) Banks.

(10) Barbershops, beauty parlors, chiropody, or similar personal service shops.

(11) Greenhouses and nurseries.

(12) Recreational uses, including community centers, golf courses, swimming pools, parks, playgrounds or any other public recreational uses.

(13) Community facilities such as churches and other religious institutions.

(14) Physician's offices.

(15) Public utilities, as defined.

(16) Accessory uses and buildings incidental to the principal use.

(Code 1988, § 9-145; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-614. Business and commercial uses.

No more than ten percent of the gross development area may be set aside and used for commercial purposes.

(Code 1988, § 9-146; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-615. Density requirements.

The overall density shall not exceed ten dwelling units per net development acre. Net development acreage is determined by subtracting the area set aside for churches, schools, commercial uses and streets right-of-way from the gross development area. Any land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.

(Code 1988, § 9-147; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-616. Minimum size of planned unit development.

The minimum size of any planned unit development shall be five acres.

(Code 1988, § 9-148; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-617. Area regulations.

There shall be no minimum lot size, no frontage requirements, no minimum depth, front setbacks, side or rear yard requirements nor coverage maximums.

(Code 1988, § 9-149; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-618. Off-street parking.

Off-street parking for any planned unit development shall be as regulated in article VIII of this chapter.

(Code 1988, § 9-150; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-619. Streets.

Lots are not required to front on dedicated streets and private streets may be utilized, provided that each lot shall have vehicular and pedestrian access to a dedicated street through a prescribed easement or common area. Where private streets are used there shall be no responsibility on the part of the town for any maintenance or snow removal.

(Code 1988, § 9-151; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-620. Administrative procedure for a planned unit residential development.

Within the R-3 Residential District, the planned residential development shall not be permitted until the following conditions have been complied with:

(1) Special use permit must be obtained pursuant to the provisions of division 4 of article II of this chapter. When a special use application is applied for it shall be accompanied by a master plan and the master plan must show the overall development scheme including the use or uses, dimensions and locations of proposed sites and other open spaces with such pertinent information as may be necessary to determine the contemplated arrangement or use. The master plan must also be accompanied by the proposed agreements, provisions or covenants governing the use, maintenance and continued protection of the planned development, prescribed easements and any common areas that are not to be dedicated to and accepted by the town. All easements must be recorded with or prior to the first lot conveyance. The proposed master plan shall be prepared by and have the seal of an architect or engineer duly registered to practice in the state.

(2) If all the land and all of the buildings within the planned residential development are to be kept in one ownership and operated by such owner through lease or other arrangements with other persons, then the master plan need not contain the prescribed easements or covenants or agreements for the use, maintenance and continued protection of the development. In the event of transfer of title of any lot or building within the planned residential area, however, prior to delivery of the deed such matters must be filed and approved.

(3) After the application is filed, the planning commission shall review the conformity of the proposed development and may recommend conditions regarding layout, and performance of the development, requiring appropriate deed restrictions, which recommendations shall be made to the town council for action.

(4) The tract or parcel of land involved must either be in one ownership or the subject of an application filed jointly by the owners of all the property included.

(5) The proposed development must be designed to produce an environment of stable and desired character and not out of harmony with its surrounding neighborhood.

(6) If the town council approves the special use permit and the proposed master plan, the owner or developer may then proceed to develop the project but before doing so he shall prepare a final plan of each section of the project before it is developed. The final plan shall be subject to approval by the planning commission only and must conform with the master plan previously field and approved. The final plan shall be in such form as to be recorded, show building lines, common land and street easements and other applicable features. No building permit shall be issued until a final plan of the proposed development, together with protective covenants, restrictions and easements is approved by the planning commission and recorded by the owner-developer. Final plans may be prepared by engineers, architects, or surveyors licensed in the state.

(7) Ownership of the streets and common areas shall be vested in either the owner-developer or in a nonprofit corporation of property owners made up of all of the lot owners within the development and the articles of incorporation and bylaws of such association shall be subject to approval by the planning commission.

(Code 1988, § 9-152; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-621. Abandonment of project.

Upon the abandonment of a project authorized under this article or upon the expiration of two years from the authorization of the planned development which has not by then been commenced, the authorization shall expire and the land and structures thereon may be used without such approval for any other lawful purpose permissible within the use-area district in which the planned development is located.

(Code 1988, § 9-153; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-622—30-645. Reserved.

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Secs. 30-646—30-663. Reserved.

DIVISION 2. MOBILE HOME PARKS[24]

Sec. 30-664. Mobile homes must be in parks.

Notwithstanding any other provision of this chapter, but subject to Code of Virginia, § 15.2-2290 et seq., no mobile home may be placed in the town, except in a mobile home park.

(Code 1988, § 9-161.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-665. Mobile home requirements.

Any mobile home placed in the town after the date of enactment or amendment of the ordinance from which this division is derived shall meet the following requirements:

(1) All mobile homes shall meet the plumbing requirements and the electrical wiring and connection, construction, blocking, and anchoring requirements of the state building code and shall display the seal of a testing laboratory approved by the state.

(2) All mobile homes shall be completely skirted; such that no part of the undercarriage shall be visible to a casual observer, in accordance with methods and materials approved by the zoning administrator.

(3) All mobile homes shall be supplied with public water and wastewater disposal or such individual service evidenced by permits from the health department.

(Code 1988, § 9-162; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-666. Mobile home park and setback requirements.

All mobile home parks shall meet the following minimum area and setback requirements:

(1) All mobile home parks shall have a minimum area of at least five acres. A minimum of ten spaces shall be completed and ready for occupancy before the first occupancy is permitted.

(2) The overall density of any mobile home development shall not exceed seven units per net acre. The density of any particular acre within such park shall not exceed eight units per net acre. For density purposes, the term "net acreage" means all land within the development except land in the 100-year flood plain, land needed for the right-of-way width of 90 feet or more, and land dedicated for other non-street public uses.

(3) No main or accessory building shall be located closer than 25 feet to any property line of a mobile home park.

[24]State law reference(s)—Uniform regulations for manufactured housing, Code of Virginia, § 15.2-2290 et seq.

(Code 1988, § 9-163; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-667. Mobile home park lot requirements.

All mobile home lots shall meet the following requirements:

(1) The area of any mobile home lot shall not be less than 3,400 square feet. Lot coverage, herein defined as the percentage of the mobile home lot area covered by the mobile home stand and any mobile home accessory structure, driveway, and parking area, excluding patios, shall not exceed 35 percent as an average, 40 percent for a given lot; the minimum area of any site devoted to common open space shall be 5,000 square feet.

(2) No mobile home or permanent building shall be closer than 20 feet to any mobile home.

(3) The minimum length of a mobile home lot shall be 85 feet; the minimum width shall be 40 feet. On all lots larger than the minimum, the ratio of length to width shall not exceed 2.2 to 1.0.

(4) Where laundry facilities are not made available, the rear yard of each mobile home lot shall be provided with a clothesline which shall be exempt from setback and other requirements of mobile home accessory structures.

(5) A patio of 200 square feet in area shall be provided adjoining each mobile home stand.

(Code 1988, § 9-164; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-668. Mobile home accessory structures.

All mobile home accessory structures erected or constructed after the date of enactment or amendment of the ordinance from which this division is derived must meet the following requirements:

(1) All mobile home accessory structures must meet the plumbing, electrical connection wiring, construction, and other applicable requirements of the building code.

(2) Except in the case of an awning, ramada, or other shade structure, where a mobile home accessory structure is attached to the mobile home unit, a substantial part of one wall of the accessory structure shall be flush with part of the mobile home unit, or such accessory structure shall be attached to the mobile home unit in a substantial manner of means of a roof. All mobile home accessory structures, whether attached or detached, shall be designed and constructed as freestanding structures. No detached mobile home accessory structure, except ramadas, shall be erected closer than 20 feet to a mobile home.

(3) Mobile home accessory structures, except ramadas, shall not exceed the height of the mobile home.

(4) No mobile home accessory structure shall be erected or constructed on any mobile home lot except as an accessory to a mobile home.

(5) Every room in a cabana, herein defined as any habitable mobile home accessory structure, shall have access to at least one exterior door opening without requiring passage through the mobile home; shall be ventilated either by windows capable of opening to the outside with an area five percent of the floor areas, or by a ventilation system capable of producing a change of air in the room every 30 minutes, with at least 20 percent of the air supply taken from the outside; shall have a total glazed area not less than ten percent of the floor area of the cabana; and in the case of attached structures; shall

not be constructed adjacent to more than one exterior door in the mobile home, nor to more than one side of the mobile home.

(6) Awnings and other shade structures, except ramadas, shall conform to the requirements of applicable sections of the building code.

(7) Where a ramada extends over a mobile home, it shall exceed the height of the mobile home by no more than 36 inches nor less than 18 inches and shall have a clearance of not less than six inches in a horizontal direction from each side of a mobile home. Cross braces, structural ties, or other architectural appurtenances shall not obstruct movement of any mobile home.

(8) A ramada shall be enclosed or partly enclosed on any side, except that one side may be enclosed when the ramada roof is continuous with the roof of the cabana.

(9) A ventilation opening of at least 28 square inches in area shall be provided at the highest point in the ramada roof; all chimneys or vents shall extend through the ramada roof and terminate a safe distance above the ramada.

(10) Porches may be placed adjacent to mobile homes, provided they are constructed in accordance with the provisions of the state building code.

(Code 1988, § 9-165; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-669. Mobile home park application and site plan.

Applicants for mobile home parks shall meet the following special requirements:

(1) Site plans may be on one or more numbered sheets of 18 inches by 24 inches in size, and shall be legibly drawn at a scale consistent with its purpose.

(2) The following information shall be required of site plans:

a. The date of the site plan, the name of the surveyor or engineer preparing it, and the number of sheets comprising the site plan.

b. The scale and the north meridian, designated "true" or "magnetic."

c. The name and signature of the owner, and the name of the proposed park; said name shall not closely approximate that of any existing mobile home park or subdivision in the town.

d. A vicinity map showing the location and area of the proposed park.

e. The boundary lines, area, and dimensions of the proposed park, with the locations of property line monuments shown.

f. The names of all adjoining property owners, the location of each of their common boundaries, and the approximate area of each of their properties.

g. The location and dimensions of all existing streets and street right-of-way, easements, water, sewerage, drainage facilities, and other community facilities and utilities on and adjacent to the proposed park.

h. All existing significant natural and historical features on or adjacent to the proposed park, including, but not limited to, significant vegetation; lakes, streams, swamps, land subject to flooding, and other waterways; views from the property, and views from adjoining properties that might be affected the proposed park; existing structures; and topographic features shown by contour lines.

i. Proposed layout, including interior streets with dimensions and such typical street cross sections and center lines profiles as may be required in evaluating the street layout; water, sewer, drainage, and utility lines, facilities and connections, with dimensions shown; location and types of solid waste collection facilities; interior monuments and lot lines, dimensions, and areas of mobile home lots, common open space and recreation areas, common parking areas, and other common areas; locations and dimensions of mobile home stands and parking spaces, management offices, laundry facilities, recreation buildings, and other permanent structures; location and nature of firefighting facilities, including hydrants, fire extinguishers, and other firefighting equipment; location of fuel storage facilities and structure of high flammability; and location and dimensions of landscaping amenities, including street lights, sidewalks, planted areas, significant natural features to be retained, and fencing and screening.

(3) The site plan shall be accompanied by a narrative statement describing how the standards and requirements set forth herein are to be met; a statement from the health official certifying approval of the proposed site plan; and where appropriate, statements from the town council and the highway engineer certifying approval of the streets and drainage, water and sewer, or utility system layouts by owners.

(Code 1988, § 9-166; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-670. Streets.

An internal street system shall be provided to furnish convenient access to mobile home stands and other facilities in the park, shall be designed such that connection to existing drainage and utility systems is convenient, and shall meet the following requirements, in addition to such other reasonable standards and requirements as may be established by the town council:

(1) All internal streets shall be permanently paved with a durable dust proof, hard surface. Minimum pavement widths shall be 24 feet for streets providing access to 40 or more mobile home stands, and 18 feet for streets providing access to less than 40 mobile home stands. Widths shall be measured from curbface to curbface.

(2) Dead end streets shall be limited in length to 400 feet, shall be provided with cul-de-sacs with turning areas of not less than 40 feet in radius, or with "T" or "Y" turning areas, and shall provide access to no more than 20 mobile home stands.

(3) Streets shall be adapted to the topography, shall follow the contours of the land as nearly as possible, and shall have safe grade and alignments. No grade shall exceed 12 percent, or no curve shall have an outside radius of less than 80 feet.

(4) Driveway entrances to mobile home parks from any public street or road shall conform to the current construction standards of the Virginia Department of Transportation (VDOT).

(Code 1988, § 9-167; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-671. Vehicle parking.

Off-street parking shall be provided for the use of occupants at the minimum ration of 2.0 car spaces (each space containing a minimum of 180 square feet) for each mobile home. Each off-street parking area shall be paved or graveled and have unobstructed access to either a public or private street. Each mobile home lot shall be equipped with at least one paved or graveled parking space; the remainder of the required spaces may be located

not more than 150 feet from the mobile home lot which it serves via the most direct common pedestrian route. However, in the case of a detailed development plan in which it is demonstrated that the purposes of this section and the comprehensive plan will be equally well or better served by clusters or similar groupings utilizing open spaces of unusual topographical conditions, the requirements of parking may be varied so as to eliminate the requirement of having an individual parking space with each mobile home lot; provided, however, that in no case will parking be more than 150 feet from the mobile home lot. On-street parking is prohibited unless the paved street on which the mobile fronts is expanded to accommodate additional parking lanes or parking bays.

(Code 1988, § 9-168; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-672. Lighting.

All streets, walkways, and parking bays within the mobile home development shall be lightened by a system which consists of:

(1) A 175-watt mercury light for every 300 linear feet of roadway; or

(2) A lighting system which supplies at least one-tenth lumen per square foot of roadway, walkway, and parking bay.

(Code 1988, § 9-169; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-673. Utilities.

After a five-year period, all utilities shall be underground, except control instrumentation and substations which must be screened by planted or ornamental walls. After five years, no overhead wires for distribution purposes shall be permitted within the development.

(Code 1988, § 9-170; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-674. Disposition of garbage and rubbish.

It shall be the responsibility of the mobile home park to collect or cause to be collected, and to dispose of garbage and rubbish as frequently as may be necessary. Dumpsters may be used with the approval of the Virginia Department of Health (VDOH), but shall be so located as to not be more than 150 feet from any mobile home.

(Code 1988, § 9-171; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-675. Installation of storage tanks.

Gasoline, liquified petroleum, gas or oil storage tanks shall be so installed as to comply with all town, county, state and federal fire prevention and protection regulations.

(Code 1988, § 9-172; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-676. Individual walks.

Paved common walks of a width of at least three feet shall be provided on at least one side of all streets, and wherever concentrations of pedestrian traffic can be expected, as between recreational facilities; walks may be incorporated into the street curb. Walk grades shall not exceed ten percent; lights shall be provided sufficient to illuminate steps to a level of at least 0.3 footcandles. Paved individual walks of at least two feet in width shall be provided to connect all mobile home stands with parking spaces or driveways and common walks.

(Code 1988, § 9-173; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-677. Open spaces.

Where mobile home lot sizes are relied on primarily to provide for open space, lots and stands shall be so grouped as to maximize the amount of usable space, while meeting the minimum yard requirements set forth in section 30-667.

(Code 1988, § 9-174; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-678. Record of tenants for mobile home parks.

The operator of a mobile home park shall keep an accurate register of all tenants occupying mobile homes located in the park. The register shall show the name and permanent residence address of the owner and occupants of any mobile home located in the park; the make and registration of any mobile home; the time and date of arrival and departure; and such other information as might be necessary to provide information about the occupants of the mobile home. These records shall be open to the law enforcement officers and public health officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three years following the date of departure of the registrant from the park.

(Code 1988, § 9-175; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-679—30-699. Reserved.

DIVISION 3. CONDOMINIUMS[25]

Sec. 30-700. Condominiums subject to state act.

Condominiums shall be governed by the Condominium Act, Code of Virginia, § 55.1-1900 et seq.

(Code 1988, § 9-160; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

[25]State law reference(s)—Virginia Condominium Act, Code of Virginia, § 55.1-1900 et seq.

Sec. 30-701. Conversion of condominiums.

Proposed conversions, condominiums, and the use thereof, which do not conform to this zoning outline must secure a special use permit prior to conversion, pursuant to division 4 of article II of this chapter.

(Code 1988, § 9-161; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-702—30-730. Reserved.

DIVISION 4. TOWNHOUSE REGULATIONS

Sec. 30-731. Townhouses regulated by special zoning.

Townhouses shall be subject to the special zoning regulations in this division.

(Code 1988, tit. 9, ch. 16, intro. ¶; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-732. Zoning districts allowing townhouses.

Townhouses are permitted in residential zoning districts R-2 and R-3 and in B-1 Business District. In the R-2 zone, townhouses must comply with all the provisions set forth in that district as well as the provisions of this chapter. In the R-3 and B-1 zones, clusters of up to ten townhouse units may be constructed.

(Code 1988, § 9-154; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-733. Height regulations.

Town houses may be erected up to 40 feet in height from the average level of the ground adjacent to the front exterior wall.

(Code 1988, § 9-155; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-734. Area regulations.

Minimum lot area for any townhouse project or development shall be calculated at 1,600 square feet per townhouse but individual townhouses within the project or development may have less square footage than this amount if approved by the town council. The maximum number of units per gross acre of the development shall not exceed ten units per acre.

(Code 1988, § 9-156; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-735. Width regulations.

Wherever a structure containing townhouses is constructed in accordance with the regulations of this chapter and the structure as a whole meets the requirements of this chapter, individual units may be sold without regard to the area requirements of the underlying zoning classification. No such sale of individual townhouses shall be deemed a subdivision.

(Code 1988, § 9-157; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-736. Yard regulations.

(a) *Side.* Each townhouse group shall have minimum side yards of 15 feet. In the case of townhouse projects of two or more groups the minimum distance between groups of structures shall be 30 feet.

(b) *Front.* Front setback shall be as established in the various zones where townhouses are permitted.

(c) *Rear.* The rear yard requirements shall be as set forth in the various zones where townhouses are permitted.

(d) *Corner.* Corner lots shall provide a yard equal to the front yard on each street.

(Code 1988, § 9-158; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-737. Special regulations.

(a) *Common areas.* If a townhouse development includes common areas in addition to the townhouse lots, the common areas shall be maintained by and be the sole responsibility of the developer-owner of the townhouse development until such time as the developer-owner conveys such common area to a nonprofit corporate owner whose members shall be all of the owners of the townhouses in the townhouse development. This land shall be conveyed to and be held by said nonprofit corporate owner solely for recreational and parking purposes of the owners of the individual townhouse lots in the development. In the event of such conveyance by the developer-owner to a nonprofit corporate owner, deed restrictions and covenants, shall provide, among other things, that any assessments or charges for cost of maintenance of such common areas shall constitute a pro-rata lien upon the individual townhouse lots. Maintenance of townhouse exteriors, lawns, special lighting and drainage shall be provided in a manner so as to discharge any responsibility of the town.

(b) *Parking.* Required off-street parking spaces of at least two spaces per townhouse shall be provided on the individual lots or within a common area maintained by the nonprofit corporate association, or by the developer, as provided in subsection (a) of this section. Front yard parking areas are prohibited unless waived in writing by the planning commission. Reference is made to article VIII of this chapter for further details as to parking.

(c) *Common wall architectural treatment.* Common walls enclosing attached townhouse units shall be of noncombustible construction or other approved assembly of materials giving a minimum fire resistance as required by the statewide building code or if no such requirement is in such code, then of not less than two hours duration.

(Code 1988, § 9-159; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-738—30-757. Reserved.

DIVISION 5. SHORT TERM RENTALS[26]

Sec. 30-758. General purpose.

The intent of this section is to permit and regulate the operation of short-term rentals, as defined in section 30-9, in appropriate locations throughout the town in an effort to stimulate economic development and tourism. These supplemental regulations are in addition to requirements under the district regulations as to whether a short-term rental must be owner-occupied. The provisions herein relating to short-term rentals shall apply to any dwelling, or portion thereof used as a short-term rental. For the purposes of this division, short-term rentals shall not be considered a home occupation.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-759. Compliance.

Short-term rentals shall be allowed only in compliance with the provisions in this division.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-760. Business license required.

The operator of a short-term rental must acquire an annual business license. Each dwelling unit used as a short-term rental shall constitute a separate definite place of business for the purpose of chapter 22, and operators are therefore required to obtain separate business licenses for each such dwelling unit. Failure to obtain a business license may result in revocation of the zoning permit to operate a short-term rental.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-761. Proof of residency required.

For owner-occupied short-term rentals, proof of residency is required prior to the issuance of a business license and shall be kept on file with the town. Proof of residency may be established by the presentation of a valid state driver's license, valid state identification card, or valid voter registration card with a name and address matching the tax records of the proposed owner-occupied short-term rental. If the property is owned by a business, additional documentation confirming principal ownership of said business may be required at the discretion of the town manager or designee.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

[26]State law reference(s)—Short term rental property, Code of Virginia, § 58.1-3510.4 et seq.

Sec. 30-762. Property representative required for non-owner-occupied short-term rentals.

The operator of a non-owner-occupied short-term rental shall designate a local property representative. The representative shall be available to respond within one hour to complaints regarding the condition, operation, or conduct of occupants of the short-term rental. The name, address, and telephone contact number of the property owner and the local property representative shall be kept on file with the town.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-763. Off-street parking.

Off-street parking shall be provided in accordance with article VIII of this chapter, unless a modification is granted by the zoning administrator in accordance with the provisions of division 1 of article II of this chapter.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-764. Other requirements.

(a) No food shall be prepared for or served to guests, so as to distinguish short-term rentals from bed and breakfast establishments.

(b) A fire extinguisher shall be provided and visible in all kitchen and cooking areas.

(c) Smoke detectors and carbon monoxide detectors shall be installed in all locations as required by the uniform statewide building code.

(d) Emergency information must be conspicuously posted inside the property, including contact information for the local property representative.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-765. Informational packets to be provided to occupants.

The operator shall provide an informational packet available to occupants. The information packet shall include, at a minimum, maximum occupancy, location of off-street parking, references to applicable noise and use restrictions, guidelines for trash storage and removal, evacuation routes in case of fire or emergency, and local property representative information.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-766. Zoning permit needed.

Prior to the operation of a short-term rental in any new or existing structure, the operator shall apply for and obtain a zoning permit. Such application shall be on a form as provided in division 1 of article II of this chapter, shall include a certification that the operator has read and shall comply with the requirements of this division.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-767. Special use permit; compliance with noise ordinance.

Any short-term rental which is allowed only by special use permit shall be conditioned upon compliance with the town's noise ordinance, article II of chapter 10.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Sec. 30-768. Revocation.

Such special use permit may be revoked by the town council, after notice and a public hearing as provided by law, for noncompliance with the terms or conditions of such special use permit, including, without limitation, three violations of the noise ordinance within a 12-month period.

(Code 1988, § 9-233; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020; Ord. of 10-10-2020)

Secs. 30-769—30-789. Reserved.

DIVISION 6. TELECOMMUNICATIONS TOWERS[27]

Sec. 30-790. Purposes.

(a) It is the purpose of this division to:

(1) Facilitate the orderly development of structures which are needed to provide wireless telecommunications services;

(2) Encourage the location of such structures in areas whose character would not be affected by the structures;

(3) Encourage the joint use of new and existing towers and minimize the total number of towers throughout the town; and

(4) Encourage the configuration of such structures in a way that minimizes the burdens created by them.

(b) Furthermore, it is the purpose of this division to treat providers of functionally equivalent services in a reasonably like manner and to provide adequate sites for the provision of telecommunications services throughout the town. In enacting this division, no attempt has been made to address the environmental effects of radio frequency emissions.

(Code 1988, § 9-227; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

[27]State law reference(s)—Telecommunications towers, Code of Virginia, § 15.2-2316.3 et seq.

Sec. 30-791. Definitions.

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

Antenna means a structure or device used to collect or radiate electromagnetic waves.

Height of telecommunications tower or telecommunications antenna means, for purposes of this division, the height of an antenna is the distance between the finished grade of the ground nearest the antenna and the tallest point of the antenna. For purposes of this division, the height of a telecommunications tower is the distance between the finished grade of the ground nearest the telecommunications tower and the tallest point of the telecommunications tower or any antenna mounted on the tower, whichever is higher.

Telecommunications antenna means an antenna used to provide "telecommunications service," as that term is defined in 47 USC 153. The term "telecommunications antenna" does not include any antenna which solely services a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

Telecommunications tower means a structure used primarily for the purpose of supporting one or more telecommunications antennas.

(Code 1988, § 9-228; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-792. Special use permit consideration.

In ruling on special use permits for telecommunications towers or antennas under division 4 of article II of this chapter, the council will not consider the effects of radio frequency emissions, if there be any. The council will consider the character of the neighborhood, conformity with the comprehensive plan, the guidelines of this section, the purposes of this division, the public's need for the facility, and any other issues bearing on the propriety of the application.

(1) *Separation from adjacent properties.*

a. Subject to subsection (1)b of this section, telecommunications antennas should be separated from other parcels zoned R-1, R-2, or R-3 by a distance not less than three times the antenna height, from other parcels zoned B-1 or B-2 by a distance not less than twice the antenna height, and from other parcels carrying any other zoning classification by a distance not less than the antenna height.

b. If the antenna is mounted on a structure other than a telecommunications tower, it need not comply with subsection (1)a of this section if its height is no more than 110 percent of the height of the structure on which it is mounted.

(2) *Co-location.* All telecommunications towers over 75 feet in height should be designed and built to accommodate a minimum of three or more telecommunications antennas. The owner of the tower must certify to the town that the tower is available for use by other telecommunications service providers on a reasonable and nondiscriminatory basis.

(3) *Height.* All telecommunications towers should be designed and built so that they are as short as possible.

(Code 1988, § 9-229; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-793. Signs.

No signs, lettering, symbols, images, or trademarks shall be placed on or affixed to any part of any telecommunications antenna or telecommunications tower, other than as required by FCC regulations or other applicable law.

(Code 1988, § 9-230; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-794. Inventory of existing towers required.

All telecommunications tower applications shall include a complete and accurate inventory and map of the applicant's and other known existing and proposed telecommunications towers and other structures on which a telecommunications antenna could be located or co-located within five miles of the proposed telecommunications tower.

(Code 1988, § 9-231; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Sec. 30-795. Removal of towers.

Any telecommunications antenna or telecommunications tower that is not operated for a continuous period of 24 months shall be considered abandoned, and its owner shall remove it within 60 days' notice from the town, at the owner's expense.

(Code 1988, § 9-232; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008)

Secs. 30-796—30-813. Reserved.

ARTICLE VIII. OFF-STREET PARKING

Sec. 30-814. General requirement.

(a) Subject to subsection (b) of this section, every use of property shall subject the property and its owners and occupants to the parking regulations of this article.

(b) Upon the issuance of a special use permit under division 4 of article II of this chapter, an owner or occupant may use property without meeting some or all of the regulations of this article.

(c) Such special use permits will seldom be granted. In judging applications, the council will consider all factors relevant to the application, including without limitation:

(1) The impact on the neighborhood of allowing the use with relaxed parking standards;

(2) The impact on traffic and parking in the town of allowing the use with relaxed parking standards;

(3) The degree to which the applicant seeks to relax the parking regulations;

(4) Whether full compliance with this division is practicable for the property and use in question; and

(5) The degree to which appropriate conditions in a special use permit could mitigate long-term or short-term difficulties created by the relaxation of standards.

(Code 1988, § 9-184.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 2-5-2001; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-815. Parking classification; spaces required.

(a) *Generally.* The number of parking spaces required by this section shall be determined by the parking classification of the property usage, as established in this section. If the parking classification of a property changes, whether due to transfer, lease, change of use, or otherwise, the property must comply with the parking requirements of the new classification. For example, a furniture store would be within the major goods retail classification described in subsection (d) of this section. The premises could not be converted to the general retail classification unless the parking requirements of subsection (c) of this section are satisfied. In applying these parking classifications, the rules of construction in section 30-816 shall control.

(b) *General residential classification.*

(1) The general residential classification includes residential and accessory uses. Uses within this classification must have two parking spaces per dwelling unit.

(2) Even if the spaces required by subsection (b)(1) of this section are available, all uses within this classification must also maintain sufficient parking to accommodate all residents and guests of the structure without parking on the public streets, except on an occasional basis.

(c) *General retail classification.* The general retail classification includes all retail uses not expressly included elsewhere in this section. Without limitation, this classification includes supermarkets, convenience stores, department stores, hardware stores, agricultural supply stores, jewelry stores, clothing stores, florist shops, pharmacies, and auto parts stores. Uses within this classification must have two parking spaces, plus one space per 200 square feet of floor space.

(d) *Major goods retail classification.* The major goods retail classification includes retail uses specializing in the sale of durable goods which are physically large and of significant cost, except as expressly included elsewhere in this section. This classification includes furniture stores, appliances stores, dealers of farm tractors and implements, large machinery, and automobiles. Uses within this classification must have two parking spaces, plus one space per 300 square feet of floor space.

(e) *Office, business and information service classification.* The office, business and information service classification includes general offices and information service businesses, such as professional establishments, such as doctors', lawyers', and accountants' offices, personal service establishments such as barbers and beauty salons, banks, insurance, and real estate offices, and corporate management offices. Uses within this classification must have two parking spaces, plus one space per 250 square feet of floor space.

(f) *Restaurants.* The restaurants classification includes businesses which supply prepared food or drink to the public. Uses within this classification must have two parking spaces, plus one space per 100 square feet of floor space.

(g) *Automobile repair classification.* The automobile repair classification includes entities which repair motor vehicles, including those which sell and install tires, mufflers, or batteries. Uses within this classification must have two parking spaces, plus one space per 200 square feet of floor space.

(h) *General service classification.* The general service classification includes entities which repair items other than motor vehicles, clean clothing (or allow customers to clean their own clothing), perform services such as house building, cleaning, plumbing, carpentry, landscaping or pest-control, or operate a printing or copying

business. Uses within this classification must have two parking spaces, plus one space per 385 square feet of floor space.

(i) *Industrial classification.* The industrial classification includes those activities which are permitted only within the town's M-1 zoning classification. Uses within this classification must have two parking spaces, plus one space per 160 square feet of floor space.

(j) *Primary and middle school classification.* The primary and middle school classification includes day care facilities (except home care facilities), preschools, elementary schools, and middle schools. Uses within this classification must have two spaces, plus 1.1 parking spaces per classroom.

(k) *Secondary education classification.* The secondary and higher education classification includes high schools, colleges, and vocational schools. Uses within this classification must have six parking spaces per classroom.

(l) *Inpatient care classification.* The inpatient care classification includes hospitals, nursing homes, and homes for adults. Uses within this classification must have two parking spaces, plus one space per three beds.

(m) *Cultural facility classification.* The cultural facility classification includes libraries, art galleries, and museums. Uses within this classification must have two parking spaces, plus one space per 500 square feet of floor space.

(n) *Hotel classification.* The hotel classification includes hotels, motels, and boardinghouses, and bed and breakfasts. Any restaurant affiliated with a hotel, motel, boardinghouse, or bed and breakfast that is open to patrons other than overnight guests shall be treated separately under subsection (e) of this section. Uses within this classification must have two parking spaces, plus one space per guest room.

(o) *Assembly classification.* The assembly classification includes theatres, stadiums, auditoriums, churches and other places of worship. It does not include places of assembly associated with schools, which are treated as part of the schools under subsection (j) or (k) of this section. Uses within this classification must have two parking spaces, plus one space per four seats in the main seating area.

(p) *Civic group classification.* The civic group classification includes fraternities and sororities (not providing living accommodations), civic and service organizations, and country clubs. Uses within this classification must have two parking spaces, plus one space for each five members.

(q) *Bowling alley classification.* The bowling alley classification includes bowling alleys. Uses within this classification must have two parking spaces, plus 3.6 spaces for each lane.

(r) *Amusement classification.* The amusement classification includes businesses which provide amusement or recreational services, such as video arcades, batting cages, miniature golf courses, and billiard parlors. Uses within this classification must have two parking spaces, plus one space per 220 square feet of floor space.

(s) *Wholesalers classification.* The wholesalers classification includes businesses within the definition set forth in section 22-97. Uses within this classification must have two parking spaces, plus one space per 165 square feet of floor space.

(t) *Home occupation classification.* Level one home occupations, as defined in section 30-9, require no parking other than that provided for the dwelling. For level two home occupations, as defined in section 30-9, the dwelling and home occupation together must have two parking spaces, plus one space for each employee not residing in the facility.

(Code 1988, § 9-184.2; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-816. Rules of construction.

(a) For purposes of section 30-815, if a single enterprise engages in property usage falling into multiple parking classifications, the classification providing the greatest parking requirements shall apply. Nevertheless, the business may make application for each classification to be treated separately under the appropriate subsection of section 30-815. If the enterprise can reasonably apportion its business (through the use of gross receipts or otherwise), the administrator shall approve the request.

(b) If multiple enterprises are conducted on the same lot, each shall be treated separately under section 30-815.

(c) Floor space shall mean gross floor area. The term shall also include outdoor space devoted to the activity conducted on the property.

(d) Where fractional space results, the parking spaces required shall be construed to be the next whole number.

(e) For uses not identified in this division, the parking requirements shall be based on the most analogous use listed in section 30-817, as determined by the town superintendent.

(Code 1988, § 9-184.3; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-817. Parking standards.

(a) All parking spaces required by this article shall be located on the same lot with the building or use served, provided that required parking may be located on another lot if the parking spaces are not more than 500 feet from the building served (measured along lines of public access) and the parking spaces are dedicated to the use of the business served through a lease, license, or easement requiring that the town be notified at least 30 days prior to termination. Upon the termination of any lease, license, or easement for required parking spaces, the entity served by the parking must either cease doing business or obtain alternative parking conforming to this article.

(b) Unenclosed parking spaces may be located within the required yard around buildings as herein specified.

(c) Parking spaces must be at least nine feet wide and 18 feet in length. In addition, there shall be sufficient area for maneuvering.

(d) All parking spaces shall be designed to prevent parked vehicles from extending beyond the limits of the parking area and to prevent damaging effects to adjoining or nearby properties from surface drainage from the parking facility. Lighting facilities shall be so arranged that light is reflected away from adjacent properties.

(e) All loading spaces required under section 30-819 must be at least 12 feet wide by 25 feet in length. In addition, there shall be sufficient area for maneuvering.

(Code 1988, § 9-184.4; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 11-11-2013; Ord. of 8-10-2020)

Sec. 30-818. Sharing of parking lots.

(a) Multiple enterprises may share a single parking lot, but, except as provided in subsection (b) of this section, no parking space may be counted toward the requirements of more than one enterprise.

(b) Upon application and approval by the administrator, an assembly use (such as a church or theatre) may assign 50 percent of its parking spaces to another use, so long as there is substantially no overlap in the hours of significant parking demand for the assembly use and the other use.

(Code 1988, § 9-184.5; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-819. Off-street loading and unloading space.

(a) In addition to the parking required by section 30-815, all property used for retail, wholesale, or industrial purposes shall provide space for the loading and unloading of vehicles off the street or public alley. Such space shall have access to a public alley or if there is no alley, to a public street. The space requirements are:

(1) For retail businesses, there shall be one loading space for each 2,000 square feet of floor space.

(2) For wholesale and industrial businesses, there shall be one loading space for each 10,000 square feet of floor space.

(b) The parking standards of section 30-817 shall govern loading spaces required by this section. The rules of construction set forth in section 30-816 shall govern the interpretation of this section.

(Code 1988, § 9-184.6; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Sec. 30-820. Zoning classifications.

(a) Parking for a specific enterprise or structure is a use which is accessory to the enterprise or structure. Therefore, such parking must be on property which would be properly zoned for the enterprise or structure. For example, parking for a B-1 use must be on property zoned B-1 or less restrictively.

(b) Parking for a fee as a separate commercial enterprise is not an accessory use and must be located in a zone which allows it.

(Code 1988, § 9-184.7; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 8-10-2020)

Secs. 30-821—30-848. Reserved.

ARTICLE IX. SIGNS, BILLBOARDS AND OTHER ADVERTISING STRUCTURE

Sec. 30-849. Purpose and interpretation.

The purpose of this article is to regulate the size, illumination, materials, location, height, and condition of all signs placed upon private property for exterior observation within the town to promote the creation of a convenient, attractive and harmonious community, ensure the safety of pedestrians and motorists, and preserve property values. This article is intended to allow adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all signs. This article shall be interpreted in a manner consistent with the First Amendment of the United States Constitution. If any provision of this article is found to be invalid, such finding shall not affect the validity of other provisions of the article that can be given effect without the invalid provision.

(Code 1988, § 9-194.0; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-850. 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:

A-frame sign means a type of portable sign consisting of one or two sign faces that are connected at the top but are separated at the bottom, forming the shape of an "A." This sign is also commonly referred to as a sandwich board sign.

Area means the area of the smallest rectangle which can fully enclose the sign. (Where multiple signs share the same support structure, their combined area is the sum of their individual areas.) The area of a sign designed to be viewed from two directions shall be the area of the largest side. Nevertheless, if the two faces of the sign are more than two feet apart, or neither parallel nor at an angle of less than 45 degrees, the area of the sign shall be the total area of both sides. The area of signs with more than two sides shall be the total area of all sides. A sign's support structure is not considered when calculating the area of a sign.

Electronic message board means a type of illuminated sign that consists of electronically changing text and symbols, including, but not limited to, a sign with a digital display such as an LCD, LED, or plasma display.

Ground sign means any sign which rests directly on the ground or is supported by uprights or braces placed in or upon the ground. Two separate signs built on the same support structure shall be counted as one ground sign.

Height means the vertical distance from the ground to the highest point on the sign or its support structure. A berm built beneath the sign shall not be counted as the ground for the purpose of calculating the height of a sign.

Illuminated sign means any sign, the features of which include artificial lighting. The term "illuminated sign" includes, but is not limited to, neon signs, glow-in-the dark signs, signs which are made up in whole or in part by lighting, and signs which are illuminated by one or more spotlights.

Incidental signs means signs allowed under section 30-851(a). They shall not be treated as ground signs, wall signs, or roof signs.

Location means the broadest of the following: a lot, or multiple lots, if spanned by a single entity, organization, or enterprise.

Lot means a parcel of land occupied or to be occupied by a main structure or group of main structures, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

Minor sign means a sign not exceeding one square foot in area and four feet in height.

Nonconforming sign means a sign lawfully erected and maintained prior to the adopting of this article that does not conform with the requirements of this article.

Off-premises sign means a sign erected on one location for the use or benefit of a different location, including, but not limited to, a billboard.

Relate means a sign that relates to a location if it directs attention to a business, product, service, or activity conducted, sold, or offered at that location, or if it describes certain characteristics or qualities of that location.

Roof sign means any sign located upon the roof of any building or other structure.

Setback means the minimum distance between any portion of the sign and any public or private street.

Sign means any object, device, display, or structure, or part thereof, visible from a public place, a public right-of-way, any parking area or right-of-way open to use by the general public, or any body of water which is designed and used to attract attention to an institution, organization, business, product, service, event, or location by any means involving words, letters, figures, designs, symbols, fixtures, logos, colors, illumination, or projected images. For the purpose of clarification, example of items which do not satisfy the necessary elements of the term "sign" include, but are not limited to, pavement markings, architectural elements incorporated into the style or function of a building, and the display of merchandise for sale on the site of the display which are inside a structure and visible externally only through windows.

Temporary signs means either of the following:

(1) Any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, plastic, or other light materials with or without frames, intended to be displayed for a short period of time; or

(2) Any sign which, through the use of wheels or otherwise, is designed to be transported from place to place.

The category of temporary signs is not mutually exclusive with other categories. For example, a temporary sign may also be a ground sign. Therefore, a temporary sign must meet the requirements for temporary signs as well as other requirements which apply to the type of sign involved.

Wall sign means any sign which is attached to the front, rear or side of any building or other structure.

(Code 1988, § 9-194.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-851. Incidental signs.

(a) In addition to signs permitted by other sections of this article and subject to the other limitations of this chapter, including the limitations of section 30-857, the following incidental signs are allowed in all zoning classifications:

(1) One temporary sign of not more than four feet in height and nine square feet in area on any lot which is for sale or rent, or which a portion thereof is for sale or rent.

(2) One temporary sign of not more than four feet in height and nine square feet in area on any property with an active building permit.

(3) Signs not more than two square feet in area that are written into stone, masonry, or bronze.

(4) For subdivisions, one ground sign no more than five feet in height and 40 square feet in area.

(5) Signs affixed to gasoline pumps or protective structures adjacent to such pumps, provided the sign is not larger than the pump itself.

(6) Two minor signs on any lot.

(7) Flags up to 16 feet in square area.

(8) Signs erected by a governmental body or required by law.

(9) Temporary signs posted or displayed by or under the direction of a public official or court officer in the performance of their official duties.

(10) One ground sign or wall sign on any cemetery plot, mausoleum, or aboveground burial vault.

(11) One A-frame sign on a business lot is allowed to be displayed during the normal operating business hours of the business at which it is located. The sign shall be placed so as not to impede any pedestrian or vehicular right-of-way.

(b) Incidental signs in any zone need only have a setback of ten feet. All incidental signs must be located on the same location to which they relate.

(c) The incidental signs allowed in this section do not count against the zoning-specific allowances set forth in section 30-852.

(Code 1988, § 9-194.2; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-852. Allowed signs.

Subject to all other limitations of this chapter, the following signs are allowed:

(1) In R-1, R-2 and R-3 zones, the following signs shall be allowed:

a. One wall sign no larger than four square feet.

b. As an alternative to the sign permitted under subsection (1)a of this section, one ground sign no larger than three square feet in area and no more than four feet in height.

(2) In all other zoning classifications, any combination of ground, wall, or roof signs are permitted, provided:

a. On any lot, ground signs within 25 feet of the street must be placed at least 100 feet apart; and

b. The total area of wall signs located on a lot shall not exceed 1½ square feet of sign area for each linear foot of main building/business frontage and such signs may be located on the main building or other structure on the lot. On a corner lot, the permitted sign area shall apply to each street frontage. The total areal of signs on any lot shall not exceed 100 square feet in a B-1 zone; 150 square feet in a HB-1, B-2, A-1, or A-2 zone; or 200 square feet in an M-1 zone.

(Code 1988, § 9-194.3; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-853. Location of signs.

(a) Signs greater than 100 square feet in area must have a setback of at least 25 feet.

(b) With the exception of signs allowed pursuant to section 30-851(8) and (9), all signs must be placed at the location to which they relate.

(Code 1988, § 9-194.4; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-854. Drop down regulations.

Wherever the principal structure or use of a lot complies with a more restrictive zoning classification than the lot is actually zoned, the sign regulations for the more restrictive classification shall govern. However, if there are multiple uses of a principal structure or lot, the sign regulations for the actual zoning classification of the lot shall apply.

(Code 1988, § 9-194.5; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-855. Special use permits.

Upon proper application, and after following the process described in division 4 of article II of this chapter, the council may grant a special use permit authorizing a sign which would otherwise be prohibited by this chapter. The permit may contain such conditions as the council deems proper.

(Code 1988, § 9-194.6; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-856. General provisions.

(a) Notwithstanding any other provision of this article, no sign shall be erected or maintained at any location whereby reason of its location, size, shape, illumination, or other characteristic, there is a reasonable possibility that it will obstruct drivers' or pedestrians' view of a road, sidewalk, or traffic control device (or otherwise create a traffic hazard) such that the sign presents an imminent or immediate threat to life or property. The town superintendent shall have the authority to order the removal or relocation of any sign he finds to be in violation of this section.

(b) No sign shall contain or make use of any word, phrase, symbol, shape, form, or character so as to interfere with, mislead, or confuse traffic.

(c) No sign having flashing, intermittent, or animated illumination shall be permitted. However, this prohibition does not extend to electronic message boards in which the flashing, intermittent, or illumination itself conveys information.

(d) No illuminated sign shall be permitted within 50 feet of any residential district unless the illumination is so designed that it does not shine or reflect light onto residential lots within the residential district.

(e) Where a lot has insufficient front yard to reasonably accommodate a sign, the town superintendent may, but shall not be required to, authorize the location of a sign on or above public land. Such authorization shall be revocable and shall not import the approval of any other governmental agencies which might be interested. The town superintendent may condition such authorization on the applicant first obtaining any and all other required approvals.

(f) No sign shall exceed the maximum height for structures in the relevant zoning classification.

(g) All signs shall be neatly lettered and maintained in good repair.

(Code 1988, § 9-194.7; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-857. Temporary signs.

Temporary signs must meet the requirements of this section in addition to all other applicable requirements of this article.

(1) Temporary signs are allowed for the following periods:

   a. For signs authorized by section 30-851(a)(1), the time a lot is for sale or rent, or which a portion thereof is for sale or rent, only until the lot or the portion thereof is sold or rented.

   b. For signs authorized by section 30-851, the time a lot has an active building permit, only while the permit is active (up to a maximum of 24 months).

   c. For other temporary signs, 60 days.

(2) Temporary signs may be placed on town property only with written permission of the town manager.

(3) When a temporary sign is removed, it may not be replaced by the same or another temporary sign for 30 days.

(Code 1988, § 9-194.8; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-858. Off-premises signs.

Off-premises signs may be allowed for certain civic organizations. They generally must have approval from the property owner and the town's zoning administrator.

(Code 1988, § 9-194.8.1; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-859. Nonconforming signs.

(a) *Alterations.* Any sign existing prior to May 1, 1995, which does not meet the requirements of this article is declared a legal nonconforming sign and may remain. Normal maintenance of a legal nonconforming sign, including changing of copy or sign face, nonstructural repairs, and incidental alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted. However, no structural alteration, enlargement, or extension shall be made to a legal nonconforming sign unless the alteration, enlargement, or extension will result in elimination or reduction of the nonconforming features of the sign.

(b) *Additional signs.* Real properties with nonconforming signs are not permitted any additional signs, except that each business located in a shopping center shall be allowed one attached sign.

(Code 1988, § 9-194.8.2; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-860. Erection, maintenance and removal of certain signs.

(a) All temporary signs are to be removed by the owner no later than three days following cessation of activity for which the signs are intended. If such removal is not accomplished, the zoning administrator shall cause the removal and charge the cost to the owner on whose property the sign is located or take such other action as is permitted.

(b) Every sign, including those exempt from the permit and fee requirements of this article, shall be maintained in good structural condition at all times. All signs shall be kept neatly painted, including all metal parts and supports that are not galvanized or of a rust-resistant material. The administrator or his representative shall inspect and possess the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(c) All signs are to be removed by the owner of any business that has ceased to operate for a period of 60 days. If such removal is not accomplished, the zoning administrator shall cause the removal and charge the cost to the owner on whose property the sign is located or take such other action as is permitted.

(Code 1988, § 9-194.8.3; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Sec. 30-861. Application.

Except for temporary signs and incidental signs, no sign shall be installed until a zoning permit is issued in accordance with section 30-108. The application for such a zoning permit to install a sign must be in the form prescribed by section 30-109 and must include a sketch of the proposed sign, along with its support structure. The application shall specify the area and height of the sign. The zoning administrator shall either approve, reject, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this article, this chapter, the building code, and other applicable laws, regulations, and ordinances shall be approved. If an application is rejected, the zoning administrator shall provide a list of the reasons for the rejection in writing.

(Code 1988, § 9-194.9; Ord. of 5-1-1995; Ord. of 7-13-1998; Ord. of 11-9-1999; Ord. of 2-7-2000; Ord. of 11-6-2000; Ord. of 12-10-2007; Ord. of 1-28-2008; Ord. of 4-8-2019; Ord. of 10-13-2020)

Appendix A SCHEDULE OF FEES, RATES AND CHARGES

Code Section	Description	Fee Amount
Chapter 2. Administration		
2-170	Nonsufficient funds (check return)	$25.00
Chapter 8. Businesses and Business Regulations		
8-19	Dance hall permit	$0.00
Chapter 10. Environment		
10-22	Emergency construction permit fee	$0.00
Chapter 14. Miscellaneous Offenses		
14-271(a)	Fireworks sales permit fee	$0.00
14-271(b)	Fireworks exhibitions permit fee	$0.00
Chapter 16. Solid Waste		
16-3	Collection of commercial refuse fee	$16.00
16-4	Collection of construction/demolition refuse fee	$0.00
16-11	Collection of residential refuse fee	$16.00
	Refuse late penalty	$5.00
Chapter 18. Streets, Sidewalks and Other Public Places		
18-45	Permit for sidewalk paving	$0.00
Chapter 20. Subdivisions		
20-1	Review of plats and plans fee	$0.00
Chapter 22. Taxation		
22-19	Ad Valorem Tax (Real Estate Tax)	$0.08/$100.00
	plus 5% late penalty; after a bill is delinquent 30 days, 10% interest will be added monthly	
22-63	Meals tax	5%
22-68	Plus 10% late penalty	

22-98	Event fees	
	Autumn Celebration	$165.00 or $265.00/double
	Redbud Festival	$75.00 or $125.00/double
	(Non-profit ½ price)	
22-105	Annual fee for issuance of business license: professional and occupational	
	Retail sales	$0.15/$100.00 of gross receipts but not less than $20.00 total for past calendar year
	Contractors	$0.12/$100.00 of gross receipts but not less than $20.00 total for past calendar year
	Financial, real estate and professional services	$0.30/$100.00 of gross receipts but not less than $20.00 total for past calendar year
	Repair & other services	$0.20/$100.00 of gross receipts but not less than $20.00 total for past calendar year
22-152	Motor vehicle license fee	
	Motorcycle/camper/trailer	$10.00
	Passenger vehicle/motor home	$30.00
22-160	Penalty fee for failure to timely pay motor vehicle license fees	$10.00 per vehicle
Chapter 24. Traffic and Vehicles		
24-77	Permit fee for parades, processions and sound trucks	$0.00
24-251	Vehicle license fee; golf carts and utility vehicles	$0.00
Chapter 26. Utilities		
26-21	Water and sewer rates	
	Water	
	0—2,000 gals.	$6.90
	2,001—350,000 gals.	$3.40 per 1,000 gals.
	350,001 and up	$2.55 per 1,000 gals.
	Sewer	

	0—2,000 gals.	$9.80
	2,001—350,000 gals.	$4.85 per 1,000 gals.
	350,001 and up	$4.25 per 1,000 gals.
	Minimum charge water/sewer $16.70 per month; Residential refuse, $16.00 per month	
26-22	Water deposit (for rentals)	$75.00
26-23	Water/sewer, penalty for late payment	$2.50 or 10%, whichever is greater (per each service)
	Reconnection fee	$25.00
26-87	Connection to public water system fee	
	Residential	
	¾-inch single-family	$3,500.00
	¾-inch multifamily	
	First four units (each unit to be metered)	$3,000.00
	Next 20 units (each unit to be metered)	$2,500.00
	25 units and up (each unit to be metered)	$2,000.00
	1 inch service meter	$4,000.00
	Commercial and industrial	
	¾-inch service meter	$3,500.00
	1 inch service meter	$4,500.00
	1½-inch service meter	$8,000.00
	2 inch service meter	$12,000.00
	3 inch service meter	$24,000.00
	4 inch service meter	$40,000.00
	6 inch service meter	$80,000.00
	8 inch service meter	$135,000.00
	Time and material fee for commercial hook-ups with service meter exceeding one inch shall be charged actual time and material fees. An estimate will be given prior to work being done.	
	Note: All connections must be inspected and approved by the public works department before the completion of backfill excavation. Additional fee: There will be a $30.00 per foot charge for all connections that require crossing a roadway. ATTENTION: Connections outside the town limits are 150% of the charges above.	

26-218	Treatment cost recovery fees	$0.00
26-221	Wastewater discharge permit fee	$0.00
26-288	Private sewage disposal permit and inspection fee	$0.00
26-321(a)(1)	Building sewer permit fee, residential and commercial services fees	$0.00
26-321(a)(2)	Building sewer permit fee, significant industrial user fee	$0.00
26-396	Connection to public sewage system fee	
	Residential	
	¾-inch single-family	$4,000.00
	¾-inch multifamily	
	First four units (each unit to be metered)	$3,400.00
	Next 20 units (each unit to be metered)	$3,000.00
	25 units and up (each unit to be metered)	$2,000.00
	Commercial and industrial	
	¾-inch service meter	$4,000.00
	1 inch service meter	$7,000.00
	1½-inch service meter	$12,000.00
	2 inch service meter	$20,000.00
	3 inch service meter	$40,000.00
	4 inch service meter	$68,000.00
	6 inch service meter	$135,000.00
	8 inch service meter	$210,000.00
	Time and material fee for commercial hook-ups with service meter exceeding one inch shall be charged actual time and material fees. An estimate will be given prior to work being done.	
	Note: All connections must be inspected and approved by the public works department before the completion of backfill excavation. Additional fee: There will be a $30.00 per foot charge for all connections that require crossing a roadway. Note: Type of waste shall be governed by the Town of Dayton and the HRRSA regulations, which could affect sewer connection fees. ATTENTION: Connections outside the town limits are 150% of the charges above.	
Chapter 30. Zoning		

30-81	Filing fee for appeals to the board of zoning appeals	$350.00, plus $50.00/acre
30-108	Zoning permit fee	
	For new construction or remodel	$25.00 minimum or $2.00/100 sq. ft., whichever is greater
	For accessory buildings	$20.00 flat fee
30-135	Special use permit fee	$350.00, plus $50.00/acre
30-701	Special use permit fee, conversion of condominiums	$350.00, plus $50.00/acre
30-766	Zoning permit fee, operation of short-term rental	$0.00
30-792	Special use permit fee, telecommunications towers or antennas	$350.00, plus $50.00/acre
30-855	Special use permit fee, signs	$350.00, plus $50.00/acre
30-861	Signs permit fee, except temporary and incidental	$20.00 flat fee

CODE COMPARATIVE TABLE
1988 CODE

This table gives the location within this Code of those sections of the 1988 Code, as supplemented through October 23, 2020, which are included herein. Sections of the 1988 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances and other legislation adopted subsequent thereto, see the table immediately following this table.

1988 Code Section	Section this Code
1-1	2-19
1-3	1-14
1-4	1-15
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