

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDINGS AND BUILDING REGULATIONS

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§ 150.01 DEPARTMENT OF BUILDING INSPECTION; BUILDING/CODE OFFICIAL.

The Department of Building Inspection is hereby created, and the executive official in charge of the department shall be known as the Building/Code Official.

(1998 Code, § 10-1) (Ord. O-2004-13, passed 4-13-2004)

§ 150.02 DEPUTY.

The Town Council may appoint a deputy who shall perform such duties as assigned and exercise all the powers of the Building/Code Official during the temporary absence or disability of the Building/Code Official.

(1998 Code, § 10-2) (Ord. O-2004-13, passed 4-13-2004)

§ 150.03 INSPECTIONS.

The Building/Code Official shall make all of the required inspections, or the Building/Code Official shall accept reports of inspection by approved agencies or individuals in accordance with § 113.2.1 of the State Uniform Statewide Building Code, being 13 VAC 5-63. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Building/Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the Mayor.

(1998 Code, § 10-3)

§ 150.04 ADOPTION OF STATE UNIFORM STATEWIDE BUILDING CODE.

(A) Pursuant to authority granted in VA Code § 36-105, as amended, it is hereby expressly provided that the Building Official for the town shall enforce the State Uniform Statewide Building Code (VUSBC), being 13 VAC 5-63, including the State Maintenance Code dealing with property maintenance, as it may be amended from time to time by the State Board of Housing and Community Development (VBHCD). To the extent provided by law, the Building Official for the town may inspect existing buildings and structures, permanent or temporary, whether occupied or not, and their associated equipment after completion of construction to ensure that the buildings and structures are maintained in accordance with those provisions of the VUSBC regulations.

(B) Nothing in this section shall be held to preclude compliance with any zoning, health, safety, sanitation, or other provisions of this code heretofore or hereafter adopted.

(1998 Code, § 10-4) (Ord. O-2008-04, passed 11-12-2008)

§ 150.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Also, whenever the following words or terms are used in the Building Code adopted in this chapter, they shall have the meanings ascribed to them in this section.

BUILDING/CODE OFFICIAL. The Building/Code Official for the Town of Occoquan, Virginia.

GAS FITTER. A person who holds himself or herself out to the public to do gas fitting work and accepts compensation for his or her services in doing such work.

LEGAL COUNSEL. The Town Attorney for the Town of Occoquan, Virginia.

MUNICIPALITY. The Town of Occoquan, Virginia.

PLUMBER. A person who holds himself or herself out to the public to do plumbing work and accepts compensation for his or her services in doing such work.
(1998 Code, § 10-5)

§ 150.06 WHEN PERMIT IS REQUIRED.

(A) Except as provided in § 107.1 of the State Uniform Statewide Building Code, being 13 VAC 5-63, written application shall be made to the Building/Code Official when a construction permit is required.

(B) A permit shall be issued by the Building/Code Official before any of the following actions subject to the State Uniform Statewide Building Code, being 13 VAC 5-63 may be commenced:

(1) Constructing, enlarging, altering, repairing, or demolishing a building or structure;

(2) Changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities, ventilation, or sanitary provisions;

(3) Installing or altering any equipment which is regulated by the Building Code;
and

(4) Removing or disturbing any asbestos-containing materials during demolition, alteration, renovation of, or additions to buildings or structures.
(1998 Code, § 10-6) Penalty, see § 150.99

§ 150.07 APPLICANT FOR PERMIT DEFINED.

As used in this chapter, the term **APPLICANT** shall include any person who shall be the owner of record of any real property upon which is contemplated or undertaken any erection, alteration, demolition, or repair of or any addition to any building or other structure of any nature or kind, and shall further include any person who undertakes to perform or performs on behalf of the owner of record such erection, alteration, demolition, repair, or addition.
(1998 Code, § 10-7)

§ 150.08 APPLICATION FOR PERMIT.

No permit shall be issued by the Building/Code Official for the erection, alteration, demolition, or repair of or for the addition to any structure until the following conditions shall have first been satisfied.

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(A) The applicant shall have executed, under oath, and on a form provided by the Building/Code Official or by the Town Clerk an application for a building permit, which application shall fully disclose the estimated cost of such erection, alteration, demolition, repair, or addition, and shall state explicitly the location, purpose, dimensions, distance from street lines, character and composition of walls, coverings, and other information relative to such erection, alteration, demolition, repair, or addition as the Building/Code Official shall require including, but not limited to: scale drawings; lists or bills of materials; textual information; and the like.

(B) The applicant shall have supplied to the Building/Code Official, or to the Town Clerk, three copies of a correct site drainage or grading plan, which shall bear the name and authority of the firm or individual who shall have prepared the plan; this site drainage or grading plan requirement may be waived at the discretion of the Building/Code Official except that no such waiver may be granted when an application has been made for erection of or substantial addition to any commercial structure.

(C) The applicant shall have provided to the Building/Code Official written authorization from the County Health Department for the installation of a well and septic system, or in lieu of such authorization, a permit from the County Service Authority allowing connection by applicant to water and sewer systems.

(D) The applicant shall have provided a certificate signed by the Chairperson of the Planning Commission that the applicant has complied with the land use or zoning provisions of this code.

(E) The applicant shall provide to the Building/Code Official evidence which, in the discretion of the Building/Code Official, establishes that in any construction or development by the applicant, satisfactory water runoff control measures shall be taken by the applicant to ensure that the amount of water running off the site will not exceed the level of water running from the site prior to the construction or development. The applicant shall have paid to the Town Clerk all fees required by § 150.10.

(1998 Code, § 10-8) Penalty, see § 150.99

§ 150.09 RULES AND REGULATIONS ESTABLISHED BY BUILDING/CODE OFFICIAL.

Whenever necessary to the just and efficient administration of the provisions of this chapter, and unless inconsistent with the provisions of this chapter, the Building/Code Official may promulgate rules and regulations relating to the subject matter of this chapter; and such rules and regulations shall be available from the Town Clerk as official public records of the town.

(1998 Code, § 10-9)

§ 150.10 FEES.

Fees required under this chapter shall be as provided in a fee schedule adopted pursuant to § 112.0 of the State Uniform Statewide Building Code, being 13 VAC 5-63.

(1998 Code, § 10-10)

§ 150.11 APPEALS.

Pursuant to an agreement between the town and county, appeals from decisions of the Building/Code Official may be made to the County Board of Building Code Appeals upon the payment by the appellant of a fee of \$300 for each application.
(1998 Code, § 10-11) (Ord. O-2002-08, passed 4-9-2002)

§ 150.12 REPORT TO COUNCIL.

At each regular meeting of the Town Council, the Building/Code Official shall report to the Council the number of applications for permits that have been received by him or her since the last regular meeting of the Council, the number of permits that have been issued, and the number of applications that have been denied.
(1998 Code, § 10-12)

§ 150.99 PENALTY.

Any person violating a provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$2,500. Each day during which erection, alteration, repair, or demolition shall occur in violation of the provisions of this chapter shall constitute a separate offense.
(1998 Code, § 10-13)

Statutory reference:

Authority for above section, see VA Code § 36-106

CHAPTER 151: FLOODS

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Statutory reference:

Flood Damage Reduction Act, see VA Code §§ 10.1-600 et seq.

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FLOODPLAIN MANAGEMENT

§ 151.01 AUTHORITY AND PURPOSE.

(A) This chapter is adopted pursuant to VA Code §§ 10.1-600 et seq.

(B) The purpose of this chapter is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

(1) Regulating uses, activities, and development that, 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 flood-prone areas to be protected and/or flood proofed against flooding and flood damage; and

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

(1998 Code, § 26-31) (Ord. O-2016-01, passed 2-2-2016)

§ 151.02 APPLICABILITY.

This chapter shall apply to all privately and publicly owned lands within the jurisdiction of the town and identified as special flood hazard areas by the Federal Emergency Management Agency.

(1998 Code, § 26-32) (Ord. O-2016-01, passed 2-2-2016)

§ 151.03 COMPLIANCE AND LIABILITY.

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

(B) The degree of flood protection sought by the provisions of this chapter 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 human-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the

floodplain districts, or that land uses permitted within such districts, will be free from flooding or flood damages.

(C) This chapter shall not create liability on the part of the town or any officer or employee of the town for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under this chapter.

(1998 Code, § 26-33) (Ord. O-2016-01, passed 2-2-2016) Penalty, see § 151.99

§ 151.04 ABROGATION AND GREATER RESTRICTIONS.

This chapter supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this chapter.

(1998 Code, § 26-34) (Ord. O-2016-01, passed 2-2-2016)

§ 151.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BASE FLOOD. A flood that has a 1% chance of being equaled or exceeded in any given year. Also referred to as the **100-YEAR FLOOD**.

BASE FLOOD ELEVATION (BFE). The water surface elevation of the base flood in relation to the datum specified on the flood insurance study and flood insurance rate map.

BASEMENT. Any area of a building having its floor subgrade (below ground level) on all sides.

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

ELEVATION CERTIFICATE. A FEMA approved form which documents the elevation of a structure.

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

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). A report by the Federal Emergency Management Agency that examines, evaluates, and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudflow and/or flood-related erosion hazards.

FLOOD PROOFING. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents, as provided in the State Uniform Statewide Building Code, being 13 VAC 5-63.

FLOODPLAIN.

(1) A relatively flat or low land area adjoining a river, stream, or watercourse that is subject to partial or complete inundation; and/or

(2) An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN ADMINISTRATOR (FA). The Town Manager, or in the Town Manager's absence another person appointed by Town Council to perform the Town Manager's duties, or any deputy or assistant appointed by the Town Manager to administer this chapter.

FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the town.

HISTORIC STRUCTURE. Any structure that is:

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

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or

(4) Individually listed in § 157.177 of this code.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage

in an area is not considered a building's **LOWEST FLOOR** provided such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term **MANUFACTURED HOME** also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. For floodplain management purposes, structures for which the start of construction commenced on or after November 1, 1994, and includes any subsequent improvements to such structures.

RECREATIONAL VEHICLE. A vehicle that is: built on a single chassis; no more than 400 square feet when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in § 151.06.

START OF CONSTRUCTION. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permit date. The actual **START** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF THE CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. 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% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

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

(2) Any alteration of a historic structure, provided the alteration will not preclude the structure's continued designation as a historic structure as determined by the town's Architectural Review Board as defined in § 157.175 of this code.

VIOLATION. The failure of a structure or other development to be fully compliant with the town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in ***VIOLATION*** until such time as that documentation is provided to the Floodplain Administrator. (1998 Code, § 26-35) (Ord. passed 5-13-1997; Ord. O-2016-01, passed 2-2-2016)

§ 151.06 DESCRIPTION OF DISTRICTS.

(A) The various floodplain districts shall include the special flood hazard area (SFHA). The basis for the delineation of these districts shall be the flood insurance study (FIS) and Panel 51153C0217 D of flood insurance rate map (FIRM) prepared by the Federal Emergency Management Agency for Prince William County, Virginia and Incorporated Areas, dated August 3, 2015 and January 5, 1995, respectively as amended or revised.

(B) The floodway district is delineated, for purposes of this chapter, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any one point. The areas included in this district are specifically defined in the flood insurance study and shown on the accompanying FIRM.

(C) The flood fringe district shall be that area of the 1% annual chance floodplain not included in the floodway district. The basis for the outermost boundary of this district shall be the base flood elevations contained in the flood profiles of the flood insurance study and as shown on the accompanying flood insurance rate map.

(D) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where the SFHA floodplain boundary has been approximated. Such areas are shown as zone A on the maps accompanying the flood insurance study. For these areas, the BFE and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific BFE cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey

Flood-Prone Floodplain Information Reports, and U.S. Geological Survey Flood-Prone Quadrangles, 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, and similar data or reports shall be submitted in sufficient detail to allow a thorough review by the town.

(1998 Code, § 26-36) (Ord. O-2016-01, passed 2-2-2016)

§ 151.07 OFFICIAL FLOODPLAIN MAP.

The boundaries of the floodplain districts are established as shown on the FIRM, which is declared to be a part of this chapter and which shall be kept on file at the town offices.

(1998 Code, § 26-37) (Ord. O-2016-01, passed 2-2-2016)

§ 151.08 DISTRICT BOUNDARY CHANGES.

The delineation of any of the floodplain districts may be revised by the Town Council where natural or human-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency, or an individual documents the need for possibility for such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A final letter of map revision (LOMR) from FEMA is a record of this approval.

(1998 Code, § 26-38) (Ord. O-2016-01, passed 2-2-2016)

§ 151.09 INTERPRETATION OF DISTRICT BOUNDARIES.

Initial interpretations of the boundaries of the floodplain districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the districts, the Town Council 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 or her case to the Council and to submit his or her own technical evidence if he or she so desires.

(1998 Code, § 26-39) (Ord. O-2016-01, passed 2-2-2016)

§ 151.10 DISTRICT PROVISIONS.

(A) All uses, activities, and development occurring within any floodplain district, including the placement of manufactured homes, shall be undertaken only upon the issuance of a special exception in accordance with § 151.14. Such development shall be undertaken only in strict compliance with the provisions of this chapter and with all other applicable codes and ordinances, such as the State Uniform Statewide Building Code, being 13 VAC 5-63. Prior to the issuance of any such permit, the Floodplain

Administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways or any watercourse, drainage ditch, or any other drainage facility or system.

(B) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, and the like, within this jurisdiction, a permit from the U.S. Army Corps of Engineers or the State Marine Resources Commission or the certification from the State Water Control Board may be necessary (a joint permit application is available from any one of these organizations). Further notification of the proposal shall be given to all affected adjacent jurisdictions, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Emergency Management Agency.

(C) All applications for the development in the floodplain district and all special exceptions issued for the floodplain shall incorporate the following information:

- (1) For structures that have been elevated, the elevation of the lowest floor (including basement);
 - (2) For structures that have been flood proofed (nonresidential only), the elevations to which the structure has been flood proofed;
 - (3) The elevation of the 100-year flood; and
 - (4) Topographic information showing the existing and proposed ground elevations.
- (1998 Code, § 26-40) (Ord. O-2016-01, passed 2-2-2016) Penalty, see § 151.99

§ 151.11 FLOODWAY DISTRICT.

(A) In the floodway district, no development, including fill or substantial improvements, shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements that shall have demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed development will not result in any increase in the base flood elevation.

(B) If the above is satisfied, all new construction and substantial improvements shall comply with the State Uniform Statewide Building Code, being 13 VAC 5-63 and all applicable provisions of the general standards subchapter of this chapter (§§ 151.30 through 151.40), and the elevation and construction standards section (§ 151.31) and subdivision standards section (§ 151.32) in this chapter.

(C) The placement of manufactured homes is prohibited, except when replacing an existing manufactured home in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

(1998 Code, § 26-41) (Ord. O-2016-01, passed 2-2-2016) Penalty, see § 151.99

§ 151.12 FLOOD FRINGE AND APPROXIMATED FLOODPLAIN DISTRICTS.

(A) In Zone AE, as designated and defined on the FIRM, until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the town.

(B) In the flood fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of this chapter provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood proofing and related provisions contained in the State Uniform Statewide Building Code, being 13 VAC 5-63, the general standards subchapter in this chapter (§§ 151.30 through 151.40) and the elevation and construction standards section (§ 151.31) and subdivision standards section (§ 151.32) in this chapter, and all other applicable codes and ordinances.

(C) Within the approximated floodplain areas, the applicant shall also delineate a floodway area based on the requirement that all existing and future development not increase the 100-year flood elevation more than one foot at any one point. The engineering principle—equal reduction of conveyance shall be used to make the determination of increased flood heights.

(D) Within the floodway area delineated by the applicant, the provisions of § 151.11 shall also apply.

(1998 Code, § 26-42) (Ord. O-2016-01, passed 2-2-2016) Penalty, see § 151.99

§ 151.13 DESIGN CRITERIA FOR UTILITIES AND FACILITIES.

(A) *Sanitary sewerage facilities.* All new or replaced sanitary sewerage 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 shall 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. Systems shall ensure drainage away from buildings and on-site waste disposal sites. The Town Council may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

(D) *Utilities.* All utilities, such as gas lines, electrical, and telephone systems, being placed in flood-prone areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

(E) *Streets and sidewalks.* Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.

(1998 Code, § 26-43) (Ord. O-2016-01, passed 2-2-2016) Penalty, see § 151.99

§ 151.14 VARIANCES; FACTORS TO BE CONSIDERED.

(A) (1) Whenever any person is aggrieved by a decision of the Floodplain Administrator with respect to the provisions of this chapter, it is the right of that person to appeal to Town Council. Such appeal must be filed, in writing, within 30 days after the determination by the permit officer.

(2) Upon receipt of such an appeal, the Town Council shall set a time and place for the purpose of hearing the appeal, which shall be not less than ten nor more than 30 days from the date of the receipt of the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they may appear and be heard. The determination by the Town Council shall be final in all cases.

(3) In ruling upon an appeal, the Town Council shall consider the criteria listed in division (C) below.

(B) (1) The special exception provisions of this chapter fulfill the regulatory mandate of 44 C.F.R. § 60.6.

(2) In passing upon applications for a special exception, the Town Council shall satisfy all relevant factors and procedures specified in other sections of this chapter and consider the factors listed in division (C) below.

(C) In considering an appeal or a request for a special exception, the Town Council shall consider the following factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exception or appeal shall be granted for any proposed use, development, or activity within the floodway district that will cause any increase in flood levels during the base flood;

(2) The danger that materials may be swept on to other lands or downstream to the injury of others;

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - (5) The importance of the services provided by the proposed facility to the town;
 - (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 historic nature of a structure. Special exceptions for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the special exception is the minimum necessary to preserve the historic character and design of the structure; and
 - (13) Such other factors relevant to the purposes of this chapter.
- (D) The Town Council may refer any application and accompanying documentation pertaining to any request for a special exception or appeal to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood height and velocities, and the adequacy of the plans for the flood protection, and other related matters.
- (E) Special exceptions shall be issued and appeals granted only upon: a showing of good and sufficient cause; after the Town Council has determined that failure to grant the special exception or appeal would result in exceptional hardship to the applicant; and after the Town Council has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights, additional threats to public safety or extraordinary public expense, and will not create a nuisance, cause fraud or victimization of the public, or conflict with local laws or ordinances.
- (F) While the granting of special exceptions generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a special exception increases. Special exceptions may be issued by the Town Council for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

(G) Special exceptions may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(H) Special exceptions shall be issued only after the Town Council has determined that the special exception will be the minimum required to provide relief from any hardship to the applicant.

(I) The Town Council shall notify the applicant for a special exception, in writing, that the issuance of a special exception 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.

(J) A record of the notification required by division (G) above, as well as all special exception actions, including justification for their issuance, shall be maintained; and any special exceptions shall be noted in the annual or biennial report submitted to the Federal Emergency Management Agency. (1998 Code, § 26-44) (Ord. O-2016-01, passed 2-2-2016)

§ 151.15 EXISTING STRUCTURES IN FLOODPLAIN DISTRICTS.

A structure or use of a structure or premises which lawfully existed before November 1994, but which is not in conformity with this chapter, may be continued subject to the following conditions.

(A) Existing structures and/or uses located in the floodway district shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

(B) Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain district to an extent or amount of less than 50% of its market value shall conform to the State Uniform Statewide Building Code, being 13 VAC 5-63 and the appropriate provisions of this chapter.

(C) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of 50% or more of its market value shall be undertaken only in full compliance with this chapter, and the entire structure shall conform to the provisions of this chapter and the State Uniform Statewide Building Code, being 13 VAC 5-63.

(D) Uses or their adjuncts that are or become nuisances shall not be permitted to continue.

(E) No building or structure shall be occupied/reoccupied after a natural disaster such as fire or flood without an inspection and approval for structural stability and livability by the Town Building Official.

(1998 Code, § 26-45) (Ord. passed 5-13-1997; Ord. O-2016-01, passed 2-2-2016)

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GENERAL STANDARDS

§ 151.30 GENERAL STANDARDS.

The following provisions shall apply to all permits.

(A) New construction and substantial improvements shall be built according to this chapter and the State Uniform Statewide Building Code, being 13 VAC 5-63, and anchored to prevent flotation, collapse, or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) In addition to provisions in divisions (A) through (H) above, in all special flood hazard areas, the flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

(1998 Code, § 26-46) Penalty, see § 151.99

§ 151.31 ELEVATION AND CONSTRUCTION STANDARDS.

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with § 151.06(C), the following provisions shall apply.

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(A) *Residential construction.* New construction or substantial improvement of any residential structure (including manufactured homes) in Zones AE and A (as defined on the FIRM) with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus 18 inches.

(B) *Nonresidential construction.*

(1) New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level, plus 18 inches.

(2) Nonresidential buildings located in all AE zones (as defined on the FIRM) may be flood proofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus two feet are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this division (B) are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood proofed, shall be maintained by the Floodplain Administrator.

(C) *Space below the lowest floor.* In zones A and AE (as defined on the FIRM), fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

(1) Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation; and

(2) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:

(a) Provide a minimum of two openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required openings shall be no higher than one foot above the adjacent grade;

(e) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(D) Standards for manufactured homes and recreational vehicles.

(1) In zones A and AE (as defined on the FIRM), all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in the general standards section, and the elevation and construction standards section of this chapter.

(2) All recreational vehicles placed on sites must either:

(a) Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(b) Meet all the standards for manufactured homes in this chapter.
(1998 Code, § 26-47) Penalty, see § 151.99

§ 151.32 SUBDIVISION STANDARDS.

Subdivision standards are set forth in § 156.067 of this code.
(1998 Code, § 26-48)

§ 151.33 RECORDS.

Records of actions associated with administering this chapter shall be kept on file and maintained by or under the direction of the Floodplain Administrator.
(1998 Code, § 26-51)

§ 151.34 ADMINISTRATION; DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

(A) The Town Manager is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

(B) The Floodplain Administrator may:

(1) Cause work to be performed as necessary to comply with the terms of this chapter;

(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; and/or

(3) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in 44 C.F.R. § 59.22. (1998 Code, § 26-52)

§ 151.35 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(A) Review applications for permits to determine whether proposed activities will be located in the special flood hazard area;

(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information;

(C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations;

(D) Review applications to determine whether all necessary permits have been obtained from the federal, state, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross-section of a stream or body of water, including any change to the BFE and SFHA of free-flowing nontidal waters of the state;

(E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA;

(F) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met;

(G) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed;

(H) Review elevation certificates and require incomplete or deficient certificates to be corrected. Obtain the elevation of the lowest floor, including the basement, of all new and substantially improved structures; and, if the structure has been flood proofed in accordance with the requirements of this chapter, the elevation to which the structure has been flood proofed;

(I) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the town, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations;

(J) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

(1) Flood insurance studies, flood insurance rate maps (including historic studies and maps and current effective studies and maps) and letters of map revision; and

(2) Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood proofed, inspection records, other required design certifications, special exceptions, and records of enforcement actions taken to correct violations of these regulations.

(K) Enforce the provisions of these regulations, investigate violations, issue notices of violations, request the Building Official to issue stop work orders, and require permit holders to take corrective action;

(L) Advise the Town Council regarding the intent of these regulations and, for each application for a special exception, prepare a staff report and recommendation;

(M) Administer the requirements related to proposed work on existing buildings:

(1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged; and

(2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the noncompliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(N) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include, but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged

structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for increased cost of compliance coverage under NFIP flood insurance policies;

(O) Notify the Federal Emergency Management Agency when the corporate boundaries of the town have been modified and:

(1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(P) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of special exceptions issued for development in the SFHA; and

(Q) It is the duty of the Floodplain Administrator to take into account flood, mudslide, and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the town, whether or not those hazards have been specifically delineated geographically (e.g., via mapping or surveying).
(1998 Code, § 26-53)

§ 151.36 USE AND INTERPRETATION OF FIRMS.

(A) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries.

(B) The following shall apply to the use and interpretation of FIRMs and data:

(1) Where field surveyed topography indicates that adjacent ground elevations:

(a) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

(b) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a letter of map change that removes the area from the SFHA.

(2) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used;

(3) Base flood elevations and designated floodway boundaries on FIRMs and in FISs shall take precedence over base flood elevations and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower base flood elevations;

(4) Other sources of data shall be reasonably used if such sources show increased base flood elevations and/or larger floodway areas than are shown on FIRMs and in FISs; and

(5) If a preliminary flood insurance rate map and/or a preliminary flood insurance study has been provided by FEMA:

(a) Upon the issuance of a letter of final determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations;

(b) Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to § 151.06(C) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM; and

(c) Prior to issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.
(1998 Code, § 26-54)

§ 151.37 JURISDICTIONAL BOUNDARY CHANGES.

(A) Before the town boundary with Prince William or Fairfax County changes, the Town Council shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards. If the FIRM for any added area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the Floodplain Administrator shall prepare amendments to this chapter to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of boundary change and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

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(B) In accordance with 44 C.F.R. § 59.22(a)(9)(v), the town will notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the town have been modified or the town has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

(C) In order that all flood insurance rate maps accurately represent the town's boundaries, a copy of a map of the town suitable for reproduction, clearly delineating the new corporate limits or new area for which the town has assumed or relinquished floodplain management regulatory authority shall be included with the notification.

(1998 Code, § 26-55)

§ 151.38 SUBMITTING MODEL BACKED TECHNICAL DATA.

The town's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the town shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The town may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates, and floodplain management requirements will be based upon current data.

(1998 Code, § 26-56)

§ 151.39 LETTERS OF MAP REVISION.

(A) When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a conditional letter of map revision and then a letter of map revision.

(B) Example cases include: any development that causes a rise in the base flood elevations within the floodway; any development occurring in Zones A1-30 and AE (as defined on the FIRM) without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; and/or alteration or relocation of a stream (including, but not limited to, installing culverts and bridges) 44 C.F.R. §§ 65.3 and 65.6(a)(12).

(1998 Code, § 26-57)

§ 151.99 PENALTY.

(A) Any person who fails to comply with any of the requirements or provisions of this chapter or directions of the Floodplain Administrator or any authorized employee of the town shall be guilty of a class 1 misdemeanor and subject to the penalties thereof.

(B) The State Uniform Statewide Building Code, being 13 VAC 5-63 addresses Building Code violations and the associated penalties in §§ 104 and 115.

(C) In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time.

(D) Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this chapter may be declared by the town to be a public nuisance and abatable as such.
(1998 Code, § 26-50)

CHAPTER 152: EROSION AND SEDIMENT CONTROL

Section

- 152.01 Purpose
- 152.02 Authorization
- 152.03 Definitions
- 152.04 Local erosion and sediment control program
- 152.05 Regulated land disturbing activities
- 152.06 Action on erosion and sediment control plans
- 152.07 Submission of plan by owner
- 152.08 Issuance of land disturbing permit; fees
- 152.09 Approved plan required for issuance of permits; certification; bonding of performance
- 152.10 Monitoring, reports, and inspections
- 152.11 Administrative appeal; judicial review

- 152.99 Penalty

§ 152.01 PURPOSE.

(A) The purpose of this chapter is to conserve the land, water, and other natural resources of the town and promote the public health and welfare of the people residing in the town by establishing requirements for the control of erosion and sediment, and by establishing procedures whereby these requirements shall be administered and enforced.

(B) This chapter complements §§ 157.150 through 157.163.
(1998 Code, § 18-31)

§ 152.02 AUTHORIZATION.

(A) This chapter is authorized by VA Code §§ 62.1-44.15:54 et seq., known as the “Erosion and Sediment Control Law”.

(B) This chapter provides for a comprehensive statewide program, with standards and guidelines to control soil erosion and sedimentation, which is implemented on the local level.
(1998 Code, § 18-32)

§ 152.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. The Town Engineer and/or Building/Code Official of the town, who has been appointed to serve as the agent of the Town Council in administering this chapter.

AGREEMENT IN LIEU OF A PLAN. A contract between the plan-approving authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

APPLICANT. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.

BOARD or STATE SOIL AND WATER CONSERVATION BOARD. The agency continued in VA Code § 10.1-502.

CLEARING. Any activity that removes the vegetative ground cover including, but not limited to, root mat removal and/or topsoil removal.

CONSERVATION PLAN, EROSION, AND SEDIMENT CONTROL PLAN or PLAN. A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The **PLAN** shall contain all major conservation decisions to assure that the entire unit of land will be so treated to achieve the conservation objectives.

CONSERVATION STANDARDS or STANDARDS. The guidelines, techniques, and methods for the control of erosion and sediment.

DISTRICT or SOIL AND WATER CONSERVATION DISTRICT. The Prince William Soil and Water Conservation District.

EROSION AND SEDIMENT CONTROL PERMIT. A permit issued by the town for installation of erosion and sediment control devices or measures, including only the minimum degree of clearing and grading necessary to install such devices or measures.

EROSION IMPACT AREA. An area of land not associated with current land disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

EXCAVATING. Any digging, scooping, or other method of removing earth materials.

FILLING. Any depositing or stockpiling of earth materials.

GRADING. Any excavating or filling of earth materials, or any combination of materials, including the land in its excavated or filled condition.

LAND DISTURBING ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state including, but not limited to, clearing, grading, excavating, transporting and filling of land; except that the term shall not include:

- (1) Minor **LAND DISTURBING ACTIVITIES** such as home gardens and individual home landscaping, repairs, and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street, or sidewalk provided the **LAND DISTURBING ACTIVITY** is confined to the area of the road, street, or sidewalk which is hard surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for **LAND DISTURBING ACTIVITY** relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations, including engineering operations as follows: construction of terraces; terrace outlets; check dams; desilting basins; dikes; ponds; ditches; strip cropping; lister furrowing; contour cultivating; contour furrowing; land drainage; and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of VA Code §§ 10.1-1100 et seq., or is converted to bona fide agricultural or improved pasture use as described in VA Code § 10.1-1163(B);
- (8) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;
- (9) Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (VA Code §§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;
- (10) Disturbed land areas less than 2,500 square feet in size;

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(11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(12) Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the State Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this chapter;

(13) Emergency work to protect life, limb, or property, and emergency repairs; however, if the **LAND DISTURBING ACTIVITY** would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan approving authority; and

(14) Activities specifically exempted by VA Code §§ 62.1-44.15:54 et seq.

LAND DISTURBING PERMIT. A permit issued by the town for clearing, filling, excavating, grading, or transporting, or any combination of such activities, on all lands, except privately owned occupied or operated, agricultural, horticultural, or forestry land.

LOCAL EROSION AND SEDIMENT CONTROL PROGRAM or **LOCAL CONTROL PROGRAM.** An outline of the various methods employed by a program authority to regulate land disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

OWNER. The owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person in control of a property.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the state, any interstate body, or any other legal entity.

PLAN APPROVING AUTHORITY. The Town Council.

PROGRAM AUTHORITY. The Town of Occoquan.

STATE EROSION AND SEDIMENT CONTROL PROGRAM or **STATE PROGRAM.** The program administered by the Board pursuant to this chapter, including regulations designed to minimize erosion and sedimentation.

STATE WATERS. All waters on the surface and under the ground wholly or partially within or bordering the state or within its jurisdiction.

SUBDIVISION. As defined in Chapter 156 of this code.

TRANSPORTING. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such **TRANSPORTING** occurs. (1998 Code, § 18-33) (Ord. O-2006-10, passed 11-14-2006; Ord. O-2012-03, passed 10-2-2012)

§ 152.04 LOCAL EROSION AND SEDIMENT CONTROL PROGRAM.

(A) This chapter, the *State Erosion and Sediment Control Handbook*, and all locally adopted guidelines, procedures, and standards shall comprise and be integral parts of the town erosion and sediment control program.

(B) The guidelines, procedures, and other elements of the local control program shall be developed consistent with the state program and guidelines.

(C) To carry out the local control program, conservation standards are established. Such standards shall include criteria, guidelines, techniques, and methods for the control of erosion and sedimentation. (See § 152.05(A).) The conservation standards shall be included in part III of the *State Erosion and Sediment Control Handbook*.

(D) The standards and specifications of the *State Erosion Control Handbook* shall be modified within the town as follows.

(1) Temporary gravel construction entrances (minimum standard #17) shall have a minimum length of 70 feet and minimum width of 12 feet. Wash racks with appropriate water sources shall also be provided for washing mud off the tires of construction vehicles before entering the public road. Wash water shall be directed to a settling area for sediment removal.

(2) Straw bale barriers (standard and specification #3.04) shall be used only for sheet flow application and not as perimeter controls or in any channel or drainageway.

(3) Brush barriers (standard and specification #3.06) shall not be acceptable for use in the town.

(4) Storm drain inlet protection (standard and specification #3.07) shall consist of VDOT #3, #357 or #5 stone wrapped in wire mesh and supported by concrete blocks, or standard block and gravel devices as illustrated in the *State Erosion and Sediment Control Handbook*. Inlet protection devices will not be considered sufficient protection for drainage areas of one acre or more.

(5) Temporary sediment traps (standard and specification #3.13) shall be cleaned of sediment after every storm or shall be sized to provide storage volume of 134 cubic yards per acre of drainage area and be cleared out when half the storage volume is displaced by trapped sediment. Stone outlets for sediment traps shall be constructed with VDOT #3, #357, or #5 course aggregate and faced on the upstream side with a one-foot-thick layer of VDOT class 1 stone.

(6) Temporary sediment basins (standard and specification #3.14) shall be provided for any disturbed area exceeding three acres.

(7) Temporary seeding (standard and specification #3.31) with mulching is required for all denuded areas where no land disturbing construction activities take place for a period exceeding 14 days.

(E) Stream restoration and relocation projects that incorporate natural channel design concepts are not human-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or human-made channels as defined in any regulations promulgated pursuant to VA Code §§ 62.1-44.15:54 et seq.. Any land disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or human-made channels shall satisfy the flow rate capacity and velocity requirements for natural or human-made channels if the practices are designed to: detain the water quality volume and to release it over 48 hours; detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and reduce the allowable peak flow rate resulting from the 1.5-, 2-, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or human-made channels as defined in any regulations promulgated pursuant to VA Code §§ 10.1-562 or 10.1-570. (1998 Code, § 18-34) (Ord. O-2009-02, passed 7-14-2009)

§ 152.05 REGULATED LAND DISTURBING ACTIVITIES.

(A) Except as provided in this section, no person shall engage in any land disturbing activity until an erosion and sediment control plan for such activity has been submitted to and approved by the town. For the purposes of this section, when land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner. The plan shall indicate phases of construction, as appropriate, and a detailed narrative shall be submitted to indicate in detail the timing and method of implementing each phase. This phased plan shall be designed to ensure adequate erosion and sediment control protection from the beginning of a project until its completion. Where storm sewers or paved areas are to be constructed, there shall be a minimum of two phases indicated on all erosion and sediment control plans. Plans shall clearly state when any proposed stormwater management facility is to be constructed.

(B) Any person who owns, occupies, or operates private agricultural, horticultural, or forest lands shall not be deemed to be in violation of this chapter for land disturbing activities that result from the tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or products of engineering operations.

(C) Where land disturbing activities involve lands under the jurisdiction of more than one local control program, an erosion and sediment control plan may, at the option of the applicant, be submitted to the Board for review and approval rather than to each jurisdiction concerned.

(D) (1) Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:

(a) Construction, installation, or maintenance of electric, natural gas, and telephone utility lines, and pipelines; and

(b) Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

(2) Individual approval of separate projects within divisions (D)(1)(a) and (D)(1)(b) above is not necessary when Board approved specifications are followed, however, projects included in divisions (D)(1)(a) and (D)(1)(b) above must comply with Board approved specifications. Projects not included in divisions (D)(1)(a) and (D)(1)(b) above shall comply with the requirements of the town erosion and sediment control program.

(E) State agency projects are exempt from the provisions of this chapter except as provided for in VA Code § 62.1-44.15:56.

(F) Where the land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan approving authority.

(1998 Code, § 18-35) (Ord. O-2006-10, passed 11-14-2006) Penalty, see § 152.99

§ 152.06 ACTION ON EROSION AND SEDIMENT CONTROL PLANS.

(A) The town, through the Town Engineer, shall, within 45 days, approve any erosion and sediment control plan submitted or specify, in writing, to the applicant, such modifications, terms, and conditions that will permit approval of the plan. The person responsible for carrying out the plan shall certify that he or she will properly perform the conservation measures included in the plan and will conform to the provisions of this chapter. In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by VA Code § 10.1-561, of the State Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this chapter. If no action is taken by the plan approving authority within the time specified in this section, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. However, any plan approving authority may waive the certificate of competence

requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by VA Code § 10.1-561.

(B) The town shall immediately transmit, for review, the plan to the district, which will return comments within 30 days.

(C) The approved plan may be changed by the town which has approved the plan, in the following cases:

(1) Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of the plan, appropriate modifications to correct the deficiencies of the plan may be directed by the town; and

(2) Where the person responsible for carrying out the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the town and the person responsible for carrying out the plan.

(D) Any person engaging, in more than one jurisdiction, in the creation and operation of wetland mitigation or stream restoration banks, which have been approved and have been operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetlands mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation or stream restoration banks annually with the Board for review and approval consistent with guidelines established by the Board. Projects not included in this division (D) shall comply with this chapter. Approval of general erosion and sediment control specifications by the Board does not relieve the owner or operator from compliance with any other local ordinances and regulations including requirements to submit plans and obtain permits as may be required by such ordinances and regulations.

(1998 Code, § 18-36) (Ord. O-2006-10, passed 11-14-2006; Ord. O-2009-02, passed 7-14-2009)
Penalty, see § 152.99

§ 152.07 SUBMISSION OF PLAN BY OWNER.

For the purposes of §§ 152.05 and 152.06, when land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(1998 Code, § 18-37) Penalty, see § 152.99

Statutory reference:

Similar provisions, see VA Code § 62.1-44.15:55

§ 152.08 ISSUANCE OF LAND DISTURBING PERMIT; FEES.

(A) No person subject to the provisions of this chapter shall engage in any land disturbing activity until a sediment and erosion control permit for the property shall have been obtained from the town. The initial phase of the approved erosion and sediment control plan shall be installed and approved by the town prior to issuance of any further permits or commencement of any other land disturbing activities on the site.

(B) Where an erosion and sediment control plan is approved as part of a site plan, grading plan, or other plan, separate cost estimates shall be prepared for all sediment and erosion control measures; and cash escrow, letter of credit, or other approved surety shall be provided for such measures separate and apart from any other required bonds or surety.

(C) Persons conducting grading, excavating, or filling operations on private agricultural, horticultural, or forest lands shall not be required to obtain a permit for erosion and sediment control measures, but shall submit and receive approval of an erosion and sediment control plan prior to commencing any land disturbance.

(D) A plan review and inspection fee shall be paid to the town at the time of filing the erosion and sediment control plan, in accordance with the town's adopted fee schedule.
(1998 Code, § 18-38) Penalty, see § 152.99

§ 152.09 APPROVED PLAN REQUIRED FOR ISSUANCE OF PERMITS; CERTIFICATION; BONDING OF PERFORMANCE.

(A) The town shall not issue any grading, land disturbing, building, or other permits for activities that involve land disturbing activities unless the applicant submits, with his or her application, the approved erosion and sediment control plan or certification of such approved plan from the town and certification that such plan will be followed. Permits for permanent construction shall not be issued until the initial erosion and sediment control measures have been inspected and approved by the Town Engineer.

(B) The town, prior to the issuance of any grading, land disturbing, building, or other permit, may require from any applicant a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement as is acceptable to the town, to ensure that emergency measures could be taken by the town, at the applicant's expense, should he or she fail, within the time specified, to initiate appropriate conservation action, which may be required of him or her as a result of his or her land disturbing activity. This bond, cash escrow, letter of credit, or other acceptable legal arrangement will provide for a right of entry by representatives of the town for the purpose of inspection, reinstallation, maintenance, or any other conservation practice that may be necessary. Within 60 days of the achievement of adequate stabilization of the land disturbing activity in any project or section of such activity, the bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion of such arrangement, shall be refunded to the applicant or terminated

based upon the percentage of stabilization accomplished in the project or section of the project. The town may collect stabilization costs in excess of the security held.

(C) The requirements of this section are in addition to all other provisions of the law that relate to the issuance of such permits. The Building/Code Official shall issue no building or other permit until the erosion and sediment control measures have been inspected and approved by the town. (1998 Code, § 18-39)

§ 152.10 MONITORING, REPORTS, AND INSPECTIONS.

(A) The town, through the Town Engineer or other agent, shall periodically inspect the land disturbing activity to ensure compliance with the approved plan, and to determine whether the measures required in that plan are effective in controlling erosion and sediment resulting from the land disturbing activity. For purposes of this section, the word **PERIODICALLY** means during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds. The right of entry to conduct such inspections shall be expressly reserved in the permit. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the town, through the Town Engineer, finds that the permit holder has failed to comply with the plan, the town shall immediately serve a notice to comply upon the permit holder by registered or certified mail, at the address to be specified by the permit holder in his or her permit application. Such notice shall set forth specifically the measures necessary to comply with such plan. If no action is taken within the time specified in the letter, the town shall prepare a letter of intent to use the escrow account to correct the deficiency. This letter will be cleared by the Town Attorney and sent by registered mail to the owner, builder, or developer, with a copy to the escrow agent. The town will undertake the work, and the applicable account shall then be reimbursed from the escrow account. The owner, builder, or developer shall then be obligated to replenish the escrow account within ten days of the expenditure. Failure to do so will constitute a violation of this chapter. In addition, if the owner, builder, or developer fails to act within the specified time, the permit may be revoked; furthermore, the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter; and, upon conviction, shall be subject to the penalties provided by this chapter. Upon issuance of the letter of intent, the town and the Building/Code Official shall withhold all future permits until such violation is corrected.

(B) With respect to approved plans for erosion and sediment control in connection with all regulated land disturbing activities that require no permit, the town may require of the person responsible for carrying out the plan such monitoring and reports, and may make such on-site inspections, after notice to that person, as are deemed necessary to determine whether the soil erosion and sediment control has been performed, and whether such measures are effective in controlling soil erosion and sediment resulting from the land disturbing activity. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If it is determined that there is a failure to comply with the approved plan, the town shall serve notice of such failure upon the person who is responsible for carrying out the plan, at the address specified by him or her in his or her certification, at the time of obtaining his or her approved plan. Such notice shall set forth the measures necessary for compliance

and the time within which such measures shall be completed. Upon failure of such person to comply within the specified period, he or she will be deemed to be in violation of this chapter and, upon conviction, shall be subject to the penalties provided for by this chapter.

(C) After land clearing operations have begun, no area shall be denuded for more than 30 days unless authorized by the town. All trenches for storm sewer, electric power, telephone, water, and gas lines are to be back-filled, compacted, seeded, and mulched within seven days after installation.

(D) For projects involving more than two acres of land disturbance, permit holders will be required to file periodic reports to document monitoring and compliance with the approved plan. Such reports shall be in a form approved by the Town Engineer and shall be certified by a registered professional engineer.

(E) (1) Upon determination of a violation of this chapter, the Mayor or Town Engineer may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all or part of the land disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

(2) If land disturbing activities have commenced without an approved plan, the Mayor or Town Engineer may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all of the land disturbing activities be stopped until an approved plan or any required permits are obtained.

(3) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the state, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this chapter. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court.

(4) If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the Mayor or Town Engineer may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the town.

(5) The owner may appeal the issuance of an order to the Circuit Court.

(6) Any person violating or failing, neglecting, or refusing to obey an order issued by the Mayor or Town Engineer may be compelled in a proceeding instituted in the Circuit Court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Upon completion and

approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

(7) Nothing in this section shall prevent the Mayor or Town Engineer from taking any other action authorized by this chapter.

(1998 Code, § 18-40) (Ord. O-2006-10, passed 11-14-2006) Penalty, see § 152.99

§ 152.11 ADMINISTRATIVE APPEAL; JUDICIAL REVIEW.

Final decisions of the Town Engineer under this chapter shall be subject to review by the Town Council, provided an appeal is filed within 30 days from the date of any written decision by the Town Engineer that adversely affects the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities.

(1998 Code, § 18-41)

§ 152.99 PENALTY.

(A) A violation of this chapter shall be deemed a class 1 misdemeanor. Violators shall be denied all future permits, until violations of this chapter are corrected. The decision of the Town Council shall be final unless, within 30 days of such decision, the appellant shall file an appeal in proper legal form with the Circuit Court of the county.

(B) Violations of any regulation or order of the Board, any provision of its program, any condition of a permit, or any provision of VA Code §§ 62.1-44.15:54 et seq., shall be subject to a civil penalty. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land disturbing activities without an approved plan as provided in VA Code § 62.1-44.15:55, shall be \$1,000. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties that exceed a total of \$3,000, except that a series of violations arising from the commencement of land disturbing activities without an approved plan for any site shall not result in civil penalties that exceed a total of \$10,000. This division (B) shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under VA Code § 62.1-44.15:63.

(C) Any person who violates any regulation or order of the Board, any condition of a permit, any provision of its program, or any provision of VA Code §§ 62.1-44.15:54 et seq., shall, upon a finding of an appropriate general district court, be assessed a civil penalty in accordance with division (B) above. The Erosion and Sediment Control Administrator, his or her deputy or a certified inspector for the town may issue a summons for collection of the civil penalty; and the action may be prosecuted by the town. In any trial for a scheduled violation, it shall be the burden of the town to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalties assessed by a court shall be paid into the treasury of the town; except that where the violator is the town itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(D) The Town Attorney may apply to the Circuit Court of the county for injunctive relief to enjoin a violation or threatened violation of this chapter.

(E) Without limiting the remedies that may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the town. Any civil penalties assessed by a court shall be paid into the treasury of the town; except that where the violator is the town itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(F) The Town Attorney shall take legal action to enforce the provisions of this chapter.

(G) Compliance with the provisions of this chapter shall be prima facie evidence, in any legal or equitable proceeding for damages caused by erosion or sedimentation, that all requirements of law have been met and that the complaining party must show negligence in order to recover damages.

(1998 Code, § 18-42)

CHAPTER 153: STATE STORMWATER MANAGEMENT PROGRAM

Section

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§ 153.01 PURPOSE AND AUTHORITY.

(A) Pursuant to the authority and mandates of the State Stormwater Management Act, VA Code §§ 62.1-44.15:24 et seq., and the State Stormwater Management Program (VSMP) permit regulations (9 VAC §§ 25-870 et seq.), this chapter is adopted as part of an initiative to integrate the town stormwater management requirements with Chapter 152 of this code, Chapter 151 of this code, and §§ 157.150 through 157.163 into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the town and those responsible for compliance with these ordinances.

(B) The purpose of this chapter is to ensure the general health, safety, and welfare of the citizens of the town and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of

properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.

(C) All references to the VA Code, acts of the General Assembly, and State Administrative Code herein are expressly intended to include future amendments to the provisions of the Code, acts of the General Assembly, or state regulations, pursuant to the authorization of VA Code § 1-220. (1998 Code, § 18-51)

§ 153.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Also, in addition to the definitions set forth in 9 VAC § 25-870-10 of the state stormwater management regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

ADMINISTRATOR. The VSMP authority including the town staff person or department responsible for administering the VSMP on behalf of the locality. The Town Manager shall act as Administrator. Town Council may appoint one or more deputy or assistant administrators who shall have the full authority of the Administrator. The senior deputy or assistant administrator shall, without further action of the Town Council, serve as Acting Administrator in the event of any vacancy in the office of Administrator. The Administrator will be responsible for accepting complete registration statements, completing plan review, plan approval, inspection and maintenance compliance, and enforcement and may assign those tasks as the Administrator deems appropriate.

AGREEMENT IN LIEU OF A STORMWATER MANAGEMENT PLAN. A contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

APPLICANT. Any person submitting an application for a permit or requesting issuance of a permit under this chapter.

BEST MANAGEMENT PRACTICE or **BMP.** Schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land disturbing activities.

CHESAPEAKE BAY PRESERVATION ACT LAND DISTURBING ACTIVITY. A land disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, VA Code §§ 62.1-44.15:67 et seq.

COMMON PLAN OF DEVELOPMENT OR SALE. A contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

CONTROL MEASURE. Any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

CLEAN WATER ACT or **CWA.** The Federal Clean Water Act (33 U.S.C §§ 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Pub. Law No. 92-500, as amended by Pub. Law No. 95-217, Pub. Law No. 95-576, Pub. Law No. 96-483, and Pub. Law No. 97-117, or any subsequent revisions thereto.

DEPARTMENT. The Department of Environmental Quality.

DEVELOPMENT. Land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for nonagricultural or non-silvicultural purposes.

GENERAL PERMIT. The state permit titled “GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES” found in Part XIV (9 VAC §§ 25-870-1100 et seq.) of the regulations authorizing a category of discharges under the CWA and the act within a geographical area of the state.

LAND DISTURBANCE or **LAND DISTURBING ACTIVITY.** A human-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in § 153.03(C).

LAYOUT. A conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

MINOR MODIFICATION. An amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A **MINOR GENERAL PERMIT MODIFICATION OR AMENDMENT** does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

OPERATOR. The owner or operator of any facility or activity subject to regulation under this chapter.

PERMIT or **VSMP AUTHORITY PERMIT.** An approval to conduct a land disturbing activity issued by the Administrator for the initiation of a land disturbing activity, in accordance with this chapter, and which may only be issued after evidence of general permit coverage has been provided by the Department.

PERMITTEE. The person to whom the VSMP authority permit is issued.

PERSON. Any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.

REGULATIONS. The State Stormwater Management Program (VSMP) permit regulations, 4 VAC § 50-60, as amended.

SITE. The land or water area where any facility or land disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land disturbing activity. Areas channel-ward of mean low water in tidal Virginia shall not be considered part of a **SITE**.

STATE. The Commonwealth of Virginia.

STATE BOARD. The Virginia State Water Control Board.

STATE PERMIT. An approval to conduct a land disturbing activity issued by the State Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the State Board for stormwater discharges from an MS4. Under these state permits, the state imposes and enforces requirements pursuant to the Federal Clean Water Act and regulations, the State Stormwater Management Act and the regulations.

STATE STORMWATER BMP CLEARINGHOUSE WEBSITE. A website that contains detailed design standards and specifications for control measures that may be used in the state to comply with the requirements of the State Stormwater Management Act and associated regulations.

STATE STORMWATER MANAGEMENT ACT or **ACT.** VA Code §§ 62.1-44.15:24 et seq.

STATE STORMWATER MANAGEMENT PROGRAM AUTHORITY or **VSMP AUTHORITY.** An authority approved by the State Board after September 13, 2011, to operate a State Stormwater Management Program.

STATE WATER CONTROL LAW. VA Code §§ 62.1-44.2 et seq.

STATE WATERS. All water, on the surface and under the ground, wholly or partially within or bordering the state or within its jurisdiction, including wetlands.

STORMWATER. Precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

STORMWATER MANAGEMENT PLAN. A document(s) containing material describing methods for complying with the requirements of § 153.06.

STORMWATER POLLUTION PREVENTION PLAN or **SWPPP**. A document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this chapter. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to, the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

SUBDIVISION. The same as defined in § 156.001 of this code.

TOTAL MAXIMUM DAILY LOAD or **TMDL**. The sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading, and a margin of safety **TMDLS** can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The **TMDL** process provides for point versus nonpoint source trade-offs.

VIRGINIA STORMWATER MANAGEMENT PROGRAM or **VSMP**. A program approved by the State Board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards, and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this chapter, and evaluation consistent with the requirements of this chapter and associated regulations. (1998 Code, § 18-52)

§ 153.03 STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

(A) Except as provided herein, no person may engage in any land disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this chapter.

(B) A Chesapeake Bay Preservation Act land disturbing activity shall be subject to an erosion and sediment control plan consistent with the requirements of the Chapter 152 of this code, a stormwater management plan as outlined under § 153.06, the technical criteria and administrative requirements for land disturbing activities outlined in § 153.09, and the requirements for control measures long-term maintenance outlined under § 153.10.

(C) Notwithstanding any other provisions of this chapter, the following activities are exempt, unless otherwise required by federal law:

(1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of VA Code Title 45.1;

(2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip

cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of VA Code Title 10.1, Chapter 11 (§§ 10.1-1170 et seq.) or is converted to bona fide agricultural or improved pasture use as described in VA Code Title 10.1, Chapter 11, Article 9, §§ 10.1-1170 et seq.;

(3) Single-family residences separately built and disturbing less than 2,500 square feet and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;

(4) Land disturbing activities that disturb less than 2,500 square feet of land area, or activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;

(5) Discharges to a sanitary sewer or a combined sewer system;

(6) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

(7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this division (C)(7); and

(8) Conducting land disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land disturbing activity and compliance with the administrative requirements of division (A) above is required within 30 days of commencing the land disturbing activity.

(D) When land disturbing activity results from the construction of a single-family residence, an agreement in lieu of a stormwater management plan may be substituted for a stormwater management plan if approved by the Program Administrator. Failure to comply with the terms of an agreement in lieu of a stormwater management plan shall constitute a violation of this chapter which may be enforced pursuant to § 153.14 herein.

(1998 Code, § 18-53) Penalty, see § 153.99

§ 153.04 STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.

(A) Pursuant to VA Code §§ 62.1-44.15:24 et seq., the town hereby establishes a State Stormwater Management Program for land disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in § 153.01. The Town Council hereby designates the Town Manager as the Administrator of the State Stormwater Management Program.

(B) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:

- (1) A permit application that includes a general permit registration statement, if such statement is required;
- (2) An erosion and sediment control plan approved in accordance with the Chapter 152 of this code; and
- (3) An approved stormwater management plan that meets the requirements of § 153.06.

(C) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained. A registration statement is not required for detached single-family home construction within or outside a common plan of development or sale, but such projects must adhere to the requirements of the general permit.

(D) No VSMP authority permit shall be issued until the fees required to be paid pursuant to the uncodified ordinance are received, and a reasonable performance bond required pursuant to § 153.15 has been submitted.

(E) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development, and drainage will be done according to the approved permit.

(F) No grading, building, or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

(G) A stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners.

(1998 Code, § 18-54) Penalty, see § 153.99

§ 153.05 STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

(A) The stormwater pollution prevention plan (SWPPP) shall include the content specified by 9 VAC § 25-870-54 and must also comply with the requirements and general information set forth in 9 VAC § 25-880-70, § II (stormwater pollution prevention plan) of the general permit.

(B) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.

(C) The SWPPP must be maintained by the operator at a central location on-site. If an on-site location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the

construction site. Operators shall make the SWPPP available for public review in accordance with § II of the general permit, either electronically or in hard copy.
(1998 Code, § 18-55) Penalty, see § 153.99

§ 153.06 STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

(A) The stormwater management plan, required in § 153.04, shall apply the stormwater management technical criteria set forth in § 153.09 to the entire land disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:

- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post-development drainage areas;
- (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
- (3) A narrative that includes a description of current site conditions and final site conditions;
- (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
- (5) Information on the proposed stormwater management facilities, including:
 - (a) The type of facilities;
 - (b) Location, including geographic coordinates;
 - (c) Acres treated; and
 - (d) The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of 9 VAC §§ 25-870-62 through 25-870-92 of the regulations; and
- (8) A map or maps of the site that depicts the topography of the site and includes:
 - (a) All contributing drainage areas;
 - (b) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

(c) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

(d) Current land use including existing structures, roads, and locations of known utilities and easements;

(e) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

(f) The limits of clearing and grading, and the proposed drainage patterns on the site;

(g) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

(h) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses including, but not limited to, planned locations of utilities, roads, and easements.

(B) A stormwater management plan for a land disturbing activity shall apply the stormwater management technical criteria set forth in this part to the entire land disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land disturbing activities.

(C) If an operator intends to meet the water quality and/or quantity requirements set forth in § 153.09 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land disturbing activity except as otherwise allowed by the VA Code.

(D) Elements of the stormwater management plans that include activities regulated under VA Code §§ 54.1-400 et seq. shall be appropriately sealed and signed by a professional registered in the state pursuant to VA Code §§ 54.1-400 et seq.

(E) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the state, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. An Administrator may elect not to require construction record drawings for stormwater management facilities for which maintenance agreements are not required pursuant to § 153.10(B).

(1998 Code, § 18-56) Penalty, see § 153.99

§ 153.07 POLLUTION PREVENTION PLAN; CONTENTS OF PLANS.

(A) Pollution prevention plan, required by 9 VAC § 25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of

effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

(1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;

(2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and

(3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

(B) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

(1) Wastewater from washout of concrete, unless managed by an appropriate control;

(2) Wastewater from washout and clean out of stucco, paint, form release oils, curing compounds, and other construction materials;

(3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and

(4) Soaps or solvents used in vehicle and equipment washing.

(C) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.
(1998 Code, § 18-57) Penalty, see § 153.99

§ 153.08 REVIEW OF STORMWATER MANAGEMENT PLAN.

(A) The Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following.

(1) The Administrator shall determine the completeness of a plan in accordance with § 153.06, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.

(2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not

made within the time prescribed in division (A)(1) above, then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.

(3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.

(4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land disturbing activity or his or her designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter.

(5) If a plan meeting all requirements of this chapter is submitted and no action is taken within the time provided above in divisions (A)(2) above, the plan shall be deemed approved.

(B) Approved stormwater plans may be modified as follows.

(1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.

(2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.

(C) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to § 153.10(B).

(1998 Code, § 18-58) Penalty, see § 153.99

§ 153.09 TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

(A) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land disturbing activities, the town hereby adopts the technical criteria for regulated land disturbing activities set forth in Part II B of the regulations, as amended, expressly to include: 9 VAC § 25-870-62 (applicability); 9 VAC § 25-870-63 (water quality design criteria requirements); 9 VAC § 25-870-65 (water quality compliance); 9 VAC § 25-870-66 (water quantity); 9 VAC § 25-870-69 (off-site compliance options); 4 VAC § 50-60-72 (design storms and hydrologic methods); 9 VAC § 25-870-74 (stormwater harvesting); 9 VAC § 25-870-76 (linear development project); 9 VAC § 25-870-85 (stormwater management impoundment structures or facilities); and 9 VAC § 25-870-92 (comprehensive stormwater management plans), which shall apply to all land disturbing activities regulated pursuant to this chapter, except as expressly set forth in division (B) below.

Occoquan - Land Usage

(B) Any land disturbing activity shall be considered grandfathered and shall be subject to the Part II C technical criteria of the VSMP regulation provided:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto: was approved by the locality prior to July 1, 2012; provided a layout as defined in 9 VAC § 25-870-10; will comply with the Part II C technical criteria of the VSMP regulation, expressly to include 9 VAC § 25-870-93 (definitions); 9 VAC § 25-870-94 (applicability); 9 VAC § 25-870-95 (general); 9 VAC § 25-870-96 (water quality); 9 VAC § 25-870-97 (stream channel erosion); 9 VAC § 25-870-98 (stream channel erosion); 9 VAC § 25-870-99 (regional (watershed-wide) stormwater management plans); and has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(C) Local, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP regulation provided:

(1) There has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;

(2) A state permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

(D) Land disturbing activities grandfathered under divisions (A) and (B) above shall remain subject to the Part II C technical criteria of the VSMP regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the State Board.

(E) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

(F) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the regulations, provided that: the exception is the minimum necessary to afford relief; reasonable and appropriate conditions are imposed so that the intent of the act, the regulations, and this chapter are preserved; granting the exception will not confer any special privileges that are denied in other similar circumstances; and exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.

(1) Exceptions to the requirement that the land disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the State Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.

(2) Exceptions to requirements for phosphorus reductions shall not be allowed unless off-site options otherwise permitted pursuant to 9 VAC § 25-870-69 have been considered and found not available.

(G) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his or her discretion.

(1998 Code, § 18-59) Penalty, see § 153.99

§ 153.10 LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES.

(A) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the Administrator and shall at a minimum:

(1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;

(2) Be stated to run with the land;

(3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;

(4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and

(5) Be enforceable by all appropriate governmental parties.

(B) At the discretion of the Administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator. If the Administrator exercises the discretion granted by this division (B), he or she will document that decision and the nature of the enforceable mechanism in the applicable record, which will thereafter be retained for as long as the enforceable mechanism remains in effect, and for one year thereafter.

(C) If a recorded instrument is not required pursuant to division (B) above, the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat

stormwater runoff primarily from an individual residential lot. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities may not be subject to the requirement for an inspection to be conducted by the Administrator.

(1998 Code, § 18-60) Penalty, see § 153.99

§ 153.11 MONITORING AND INSPECTION.

(A) The Administrator shall inspect the land disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control plan;
- (2) Compliance with the approved stormwater management plan;
- (3) Development, updating, and implementation of a pollution prevention plan; and
- (4) Development and implementation of any additional control measures necessary to address a TMDL.

(B) The Administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this chapter.

(C) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(D) Pursuant to VA Code § 62.1-44.15:40, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this chapter, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his or her discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this chapter.

(E) Post-construction inspections of stormwater management facilities required by the provisions of this chapter shall be conducted by the Administrator pursuant to the locality's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five years except as may otherwise be provided for in § 153.10.

(F) The Administrator shall keep records in accordance with the following.

(1) Project records, including approved stormwater management plans, shall be kept for three years after state permit termination or project completion.

(2) Stormwater management facility inspection records shall be documented and retained for at least five years from the date of inspection.

(3) Construction record drawings shall be maintained in perpetuity or until a stormwater management facility is removed.

(4) All registration statements submitted in accordance with 9 VAC § 25-870-59 shall be documented and retained for at least three years from the date of project completion or state permit termination.

(1998 Code, § 18-61) Penalty, see § 153.99

§ 153.12 HEARINGS.

(A) Any permit applicant or permittee, or person subject to this chapter's requirements, aggrieved by any action of the town taken without a formal hearing, or by inaction of the town, may demand in writing a formal hearing by the Town Council. A petition requesting a hearing based on town action must be filed with the Administrator within 30 days after notice of such action is given by the Administrator. A petition based on town inaction must be filed within 30 days after the town's deadline for action, if there is one, or if there is no deadline then within 30 days of the date the petitioner had actual or constructive notice that the town should have acted.

(B) The hearings held under this section shall be conducted by the Town Council at a regular or special meeting of the Town Council, or by at least one member of the Town Council designated by the Town Council to conduct such hearings on behalf of the Town Council at any other time and place authorized by the Town Council. The town shall give at least 15 days' notice of the date, time, and location of the hearing to the party filing the appeal and to the property owner or record. In reviewing the Administrator's actions, the Town Council or its designee(s) shall consider evidence and opinions presented by the aggrieved applicant and the Administrator. After considering the evidence and opinions, the Town Council or its designee(s) may affirm, reverse, or modify the action. Such decision shall be final, subject only to appeal under § 153.13.

(C) A verbatim record of the proceedings of such hearings shall be taken and filed with the Town Council. Depositions may be taken and read as in actions at law.

(D) The Town Council or its designated member(s), as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the Town Council, or its designated member(s), whose action may include the procurement of an order of enforcement from the Circuit Court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

(1998 Code, § 18-62)

§ 153.13 APPEALS.

(A) Final decisions of the town under this chapter shall be subject to appeal to the County Circuit Court, provided that an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities.

(B) The burden shall be upon the party complaining of town action to designate and demonstrate an error subject to review by the court. Allegations of error may be based upon: accordance with constitutional right, power, privilege, or immunity; compliance with statutory authority, jurisdiction limitations, or right as provided in the Act, the stated objectives for which regulations may be made, and the factual showing respecting violations or entitlement in connection with case decisions; observance of required procedure where any failure therein is not mere harmless error; and the substantiality of the evidentiary support for findings of fact. The determination of the substantiality of the evidence shall be made upon the whole evidentiary record provided by the town and the court shall determine whether there was substantial evidence in the town's record to support its decision.

(C) The court shall take due account of the presumption of official regularity, the experience and specialized competence of the town, and the purposes of the Act.

(D) The court may dismiss the appeal, order the town to take any nondiscretionary action that the town has withheld, or remand the matter to the town for further proceedings as the court may permit or direct in accordance with law. The court shall not itself undertake to supply town action committed by the Act to the town.

(1998 Code, § 18-63)

§ 153.14 ENFORCEMENT.

(A) If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions or an agreement in lieu of a stormwater management plan or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports; notices of corrective action; consent special orders; and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with division (B) below or the permit may be revoked by the Administrator.

(2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land disturbing activities without an

approved plan or required permit to cease all land disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

(3) Such orders shall be issued in accordance with local procedures, if adopted. In the absence of local procedures, such orders shall provide sufficient information for the recipient(s) to understand and comply with the order. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his or her address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the state or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with division (C) below.

(B) In addition to any other remedy provided by this chapter, if the Administrator or his or her designee determines that there is a failure to comply with the provisions of this chapter, he or she may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with the public interest.

(C) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in County Circuit Court by the locality to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy.

(1998 Code, § 18-64) Penalty, see § 153.99

§ 153.15 PERFORMANCE BOND.

Prior to issuance of any permit, the Administrator may require a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the local government attorney, to ensure that measures could be taken by the town at the applicant's expense should he or she fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him or her by the permit conditions as a result of his or her land disturbing activity. If the town takes such action upon such failure by the applicant, the locality may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

(1998 Code, § 18-65)

§ 153.16 FEES.

All incomplete payments will be deemed as nonpayments. The town shall provide notification to the state applicant of any incomplete payments.

(1998 Code, § 18-66) (Ord. O-2015-01, passed 1-6-2015)

§ 153.99 PENALTY.

(A) Any person who violates any provision of this chapter or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(1) Violations for which a penalty may be imposed under this division (A)(1) shall include but not be limited to the following:

- (a) No state permit registration;
- (b) No SWPPP;
- (c) Incomplete SWPPP;
- (d) SWPPP not available for review;
- (e) No approved erosion and sediment control plan;
- (f) Failure to install stormwater BMPs or erosion and sediment controls;
- (g) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (h) Operational deficiencies;
- (i) Failure to conduct required inspections;
- (j) Incomplete, improper, or missed inspections; and
- (k) Discharges not in compliance with the requirements of 4 VAC § 50-60-1170 of the general permit.

(2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(3) In imposing a civil penalty pursuant to this division (A), the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.

(4) Any civil penalties assessed by a court as a result of a summons issued by the locality shall be paid into the treasury of the town to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

(B) Notwithstanding any other civil or equitable remedy provided by this section or by law, any person who willfully or negligently violates any provision of this chapter, any order of the Administrator, any condition of a permit, or any order of a court shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

(1998 Code, § 18-64)

CHAPTER 154: NOVA ARTS AND CULTURAL DISTRICT

Section

- 154.01 Creation of the NOVA Arts and Cultural District
- 154.02 Authority
- 154.03 Purpose of the District
- 154.04 General provisions and powers
- 154.05 Map of the NOVA Arts and Cultural District
- 154.06 Map of the town segment of the NOVA Arts and Cultural District

§ 154.01 CREATION OF THE NOVA ARTS AND CULTURAL DISTRICT.

(A) The Town Council hereby creates an arts and cultural district encompassing real property within the town and Fairfax County, which shall be known as the “NOVA Arts and Cultural District” (the “District”), which will be fully established by passage of a substantially similar ordinance by the Board of Supervisors of Fairfax County, Virginia.

(B) The district shall include the area shown on the attached map, which is incorporated in and made part of this chapter.

(1998 Code, § 8-1) (Ord. O-2017-02, passed 7-18-2017)

§ 154.02 AUTHORITY.

This chapter to establish the NOVA Arts and Cultural District is enacted pursuant to VA Code § 15.2-1129.1, as amended.

(1998 Code, § 8-2) (Ord. O-2017-02, passed 7-18-2017)

§ 154.03 PURPOSE OF THE DISTRICT.

The District is created for the purpose of increasing awareness and support for the arts and culture in the locality.

(1998 Code, § 8-3) (Ord. O-2017-02, passed 7-18-2017)

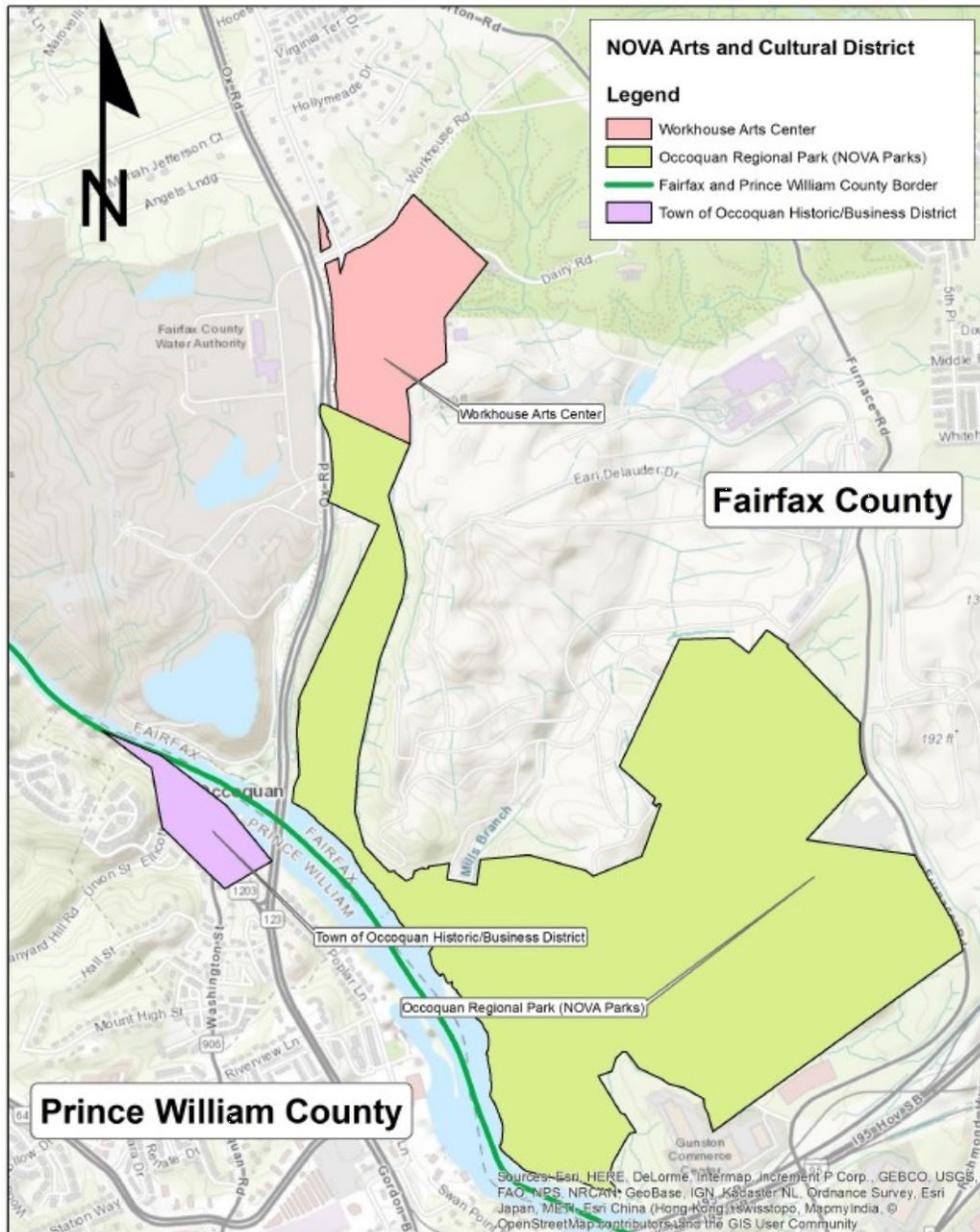
§ 154.04 GENERAL PROVISIONS AND POWERS.

With respect to that portion of the District lying within the town, the Town Council may exercise any of the powers and duties as to arts and cultural districts permitted under VA Code § 15.2-1129.1, as amended.

(1998 Code, § 8-4) (Ord. O-2017-02, passed 7-18-2017)

§ 154.05 THE ARTS

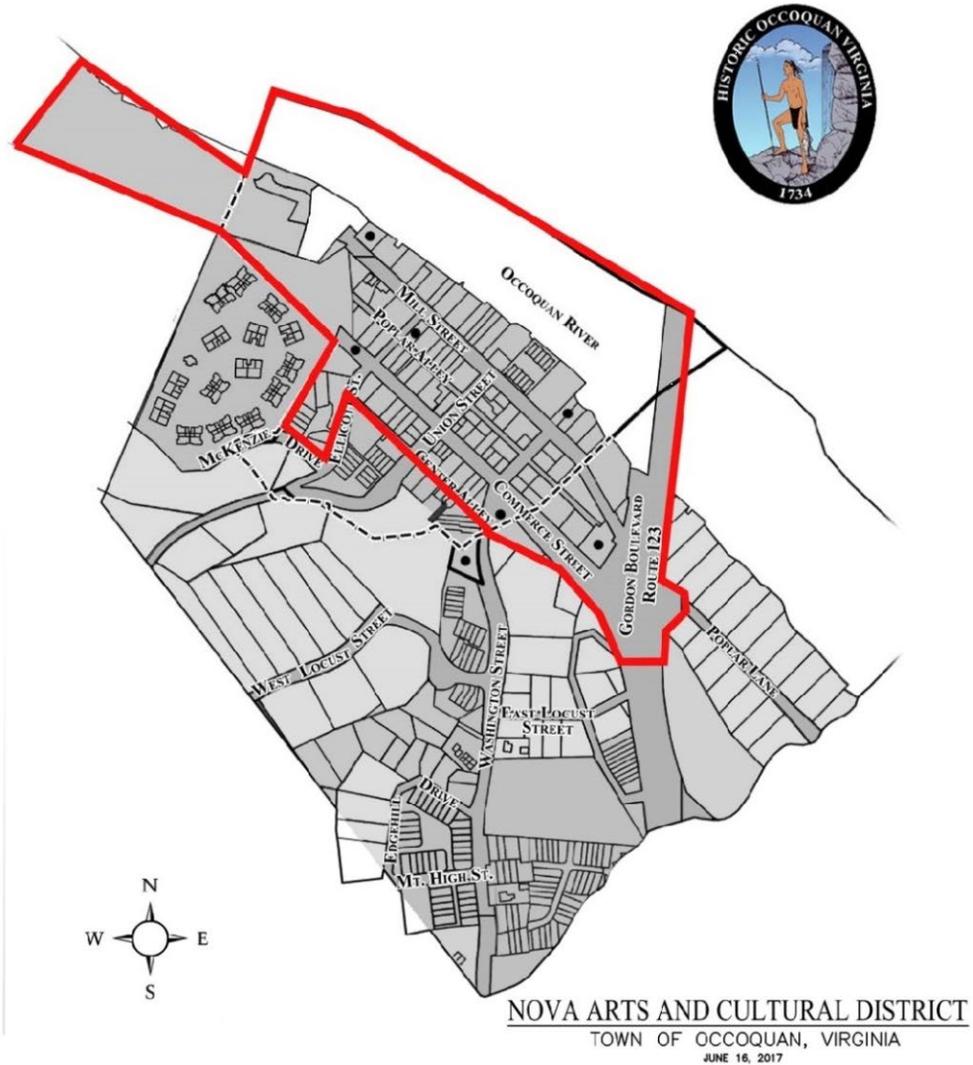
MAP OF NOVA AND



CULTURAL DISTRICT.

(1998 Code, § 8-5)

§ 154.06 MAP OF THE TOWN SEGMENT OF THE NOVA ARTS AND CULTURAL



DISTRICT.

(1998 Code, § 8-6)

CHAPTER 155: SITE PLAN

Section

General Provisions

- 155.001 Definitions
- 155.002 Construction of reference to sanitary sewer systems
- 155.003 Development of land use requiring site plan
- 155.004 Construction in accordance with site plan
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Statutory reference:

Planning, subdivision of land and zoning, see VA Code §§ 15.2-2200 et seq.

GENERAL PROVISIONS

§ 155.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROVING AUTHORITY. Those persons delegated the responsibility of approving any portion or part of the requirements of this chapter.

ARCHITECT. An individual who is recognized by the state, and who is registered with the State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects as an ***ARCHITECT.***

BUILDING. Any structure built for the support, shelter, housing, or enclosure of persons, animals, or property of any kind.

CHESAPEAKE BAY PRESERVATION AREA or ***CBPA.*** See definition in § 157.152 of this code.

CONSTRUCTION STANDARDS. The design and construction standards of the Building/Code Official of the town, as approved by the Town Council.

DRIVEWAY. The space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

DWELLING UNIT. A group of one or more rooms designed for or intended for occupancy by a single family.

EASEMENT. A grant by a property owner of the use of his or her land by any person for a specific purpose.

ENGINEER. An individual who is recognized by the state, and who is registered with the State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects as a professional **ENGINEER**.

FINAL SITE PLAN. A plan delineating the overall scheme of development of a tract of land including, but not limited to, grading, engineering design, construction details, and survey data for existing and proposed improvements.

OFF-SITE. Any area that does not fall within the boundary of the land to be developed.

OFF-STREET PARKING. Any space specifically allotted to the parking of motor vehicles, which space shall not be in dedicated right-of-way.

ON-SITE. The area within the boundary of the land to be developed.

OWNER. The person having legal title to the land involved, or holding a lease for a term not less than 30 years.

PRELIMINARY SITE PLAN. A plan showing the proposed general layout, the general location of the various types of land use, the proposed densities of population in residential areas, a major thoroughfare plan, a public utility plan, a storm drainage plan, and a plan showing the location of recreation spaces, parks, schools, and other public or community uses.

RESOURCE PROTECTION AREA or **RPA.** See definition in § 157.152 of this code.

SINGLE-FAMILY DWELLING. A detached building designed for or intended to be occupied by one family.

STRUCTURE. Anything built or constructed, an assembly of materials, or any piece or work artificially built up or composed of parts joined together in some definite manner.

SURVEYOR. An individual who is recognized by the state, and who is registered with the State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects as a registered land ***SURVEYOR.***

TRAVEL LANE. The space specifically designated and reserved, on the site, for the movement of vehicular traffic.

TWO-FAMILY DWELLING. A building designed for or intended to be occupied by two families, living independently of each other, including both duplex (one dwelling unit above another) and semidetached (two dwelling units having a common vertical party wall).
(1998 Code, § 46-1) (Ord. O-2012-03, passed 10-2-2012)

§ 155.002 CONSTRUCTION OF REFERENCE TO SANITARY SEWER SYSTEMS.

Reference in this chapter to sanitary sewer systems, water mains, gas, power, and telephone lines is intended to apply to main distribution systems and not to individual services on private property.
(1998 Code, § 46-2)

§ 155.003 DEVELOPMENT OF LAND USE REQUIRING SITE PLAN.

A site plan is required and shall be submitted for approval of:

(A) Any use or development in the B-1 District;

(B) Any land use or development in the R-2 District, in any residential planned community division, or the R-1 District;

(C) Churches, schools, hospitals, and nursing homes;

(D) Any exterior addition or change in any existing residential use or development when changing the residential use to commercial, industrial, or institutional use; and

(E) Any land use or development for which a special use permit is required, except single trailers and signs.

(1998 Code, § 46-3) (Ord. O-2004-08, passed 2-10-2004) Penalty, see § 155.999

§ 155.004 CONSTRUCTION IN ACCORDANCE WITH SITE PLAN.

It shall be unlawful for any person to construct, erect, or alter any building or structure, or develop or improve any land, for which a site plan is required except in accordance with the approved site plan.
(1998 Code, § 46-4) Penalty, see § 155.999

§ 155.005 SITE PLAN PREREQUISITE TO ISSUANCE OF PERMIT.

No building permit shall be issued to construct, erect, or alter any building or structure, or develop or improve any land, that is subject to the provisions of this chapter until a site plan has been submitted and approved.

(1998 Code, § 46-5)

PREPARATION**§ 155.020 PERSONS AUTHORIZED TO PREPARE SITE PLANS.**

Site plans involving engineering, architecture, or land surveying shall be prepared and certified, respectively, by an engineer, architect, or land surveyor duly registered by the state to practice as such.

(1998 Code, § 46-41)

§ 155.021 CONTENTS OF PRELIMINARY SITE PLAN.

Every preliminary site plan submitted in accordance with this chapter shall show the location of the following land uses that involve:

- (A) Residential uses;
- (B) Commercial uses;
- (C) Industrial uses;
- (D) Governmental uses;
- (E) Institutional uses;
- (F) School sites;
- (G) Parks;
- (H) Playgrounds;
- (I) Recreation areas;
- (J) Parking areas;
- (K) Other open spaces; and

(L) Resource protection areas (RPAs).
(1998 Code, § 46-42) (Ord. O-2012-03, passed 10-2-2012)

§ 155.022 CONTENTS OF FINAL SITE PLAN GENERALLY.

Every final site plan submitted in accordance with the requirements of this chapter shall show the following:

- (A) Name and address of the development;
- (B) Boundary of the entire tract by courses and distances;
- (C) Area and present zoning of tract;
- (D) Name and address of the owner of record of the tract and name and address of the applicant;
- (E) Owner and present use of all contiguous or abutting property;
- (F) Date, scale, north point, and number of sheets:

- (1) Scale shall be one inch equals 50 feet, or larger; and

- (2) When more than one sheet is required to cover the entire project, a common sheet, general in nature, shall be provided, which shall show all the individual sheets of an application in proper relations to one another.

- (G) Courses and distances of centerlines of all streets or roads adjoining or abutting the tract;

- (H) All building restriction lines, highway setback lines, easements, covenants, reservations, and rights-of-way;

- (I) Existing topography, with a maximum of two-foot contour intervals within 100 feet of all buildings, and a maximum of ten-foot contour intervals on the remainder of the tract;

- (J) Name, address, signature, and registration number of the professionals preparing the plan;

- (K) A blank space, three inches wide and five inches high, for the use of the approving authority; and

- (L) All CBPA information required by §§ 157.150 through 157.163, Chesapeake Bay Preservation Overlay District, as applicable.

(1998 Code, § 46-43) (Ord. O-2012-03, passed 10-2-2012)

§ 155.023 EXISTING IMPROVEMENTS TO BE SHOWN.

In addition to the information required in § 155.022, the final site plan shall show, when existing, the location, dimension, size, and heights of the following:

- (A) Sidewalks, streets, alleys, and easements;
- (B) Buildings and structures;
- (C) Driveways, entrances, exits, parking areas, and loading spaces;
- (D) Sanitary sewer systems;
- (E) Water mains and fire hydrants;
- (F) Gas, power, and telephone lines;
- (G) Recreation areas;
- (H) Storm drainage systems, to include natural and artificial watercourses; and

(I) Limits of floodplains, as established by the Federal Emergency Management Agency and the United States Department of Housing and Urban Development.
(1998 Code, § 46-44)

§ 155.024 PROPOSED IMPROVEMENTS TO BE SHOWN.

In addition to the information required by §§ 155.022 and 155.023, the final site plan shall show, when proposed, the location, dimensions, size, and height of the following:

- (A) Sidewalks, streets, alleys, and easements;

(B) Buildings and structures, to include: distance between buildings; number of stories; area in square feet of each floor; number of dwelling units or guestrooms; and structures above the building height limit;

(C) Driveways, entrances, exits, parking areas, and loading spaces, to include number of parking spaces and number of loading spaces;

- (D) Sanitary sewer systems;
- (E) Water mains and fire hydrants;
- (F) Gas, power, and telephone lines;

(G) Slopes, terraces, retaining walls, fencing, and screening;

(H) Recreation areas and open green spaces;

(I) Plans for collecting and depositing stormwater, in accordance with the requirements of the drainage section of the public watercourses, including a delineation of proposed development; and

(J) Finished grading, with a maximum of two-foot contour intervals, within 100 feet of all buildings, and a maximum of ten-foot contour intervals on the remainder of the property.
(1998 Code, § 46-45)

§ 155.025 NUMBER AND SIZE OF SHEETS; NUMBER OF COPIES.

(A) A site plan may be prepared in one or more sheets to show clearly the information required by this chapter and to facilitate review and approval of the plan. If prepared in more than one sheet, match lines shall clearly indicate where the several sheets join.

(B) The sheets to be used shall be 24 inches by 36 inches, or any multiple thereof.

(C) Clearly legible blue or black line copies (four administrative, plus Planning Commission members) of a site plan, prepared in accordance with the requirements of this chapter, are required to be submitted for approval, as provided in this chapter.
(1998 Code, § 46-46)

REVIEW; APPROVAL

§ 155.040 SUBMISSION OF SITE PLAN.

The required number of copies of the site plan, preliminary or final, shall be filed with the Planning Commission. The filing of the plan, signed by the applicant or his or her agent, shall constitute the application for approval. The plan shall be accompanied by a receipt from the Town Treasurer evidencing the payment of all site plan fees, as prescribed by the Town Council for the examination and approval of site plans.
(1998 Code, § 46-81)

§ 155.041 RESPONSIBILITY OF THE PLANNING COMMISSION GENERALLY.

The Planning Commission is responsible for checking the site plan for general completeness and compliance with the adopted plans or such administrative requirements as may be established prior to routing copies to reviewing agencies or officials. It shall see that all examination and review of the site

plan are completed by the approving authorities. The Planning Commission shall recommend approval or disapproval of the site plan to the Town Council, in accordance with reviewing authorities' recommendations. It shall then return to the applicant two copies of the site plan, together with modifications, noting any changes that will be required. Such return to the applicant shall be made not later than 45 days from the date of submission, except under abnormal circumstances.
(1998 Code, § 46-82)

§ 155.042 REVIEW OF SITE PLAN BY APPROVING AUTHORITIES.

All subdivision plans and site plans properly submitted as provided in this chapter shall be reviewed and recommended for approval or disapproval by:

(A) The Zoning Administrator or his or her agents relative to:

(1) Compliance with the requirements of this chapter, including setbacks, side yards and rear yards, heights of buildings, lot area and lot coverage, fencing, and screening; and

(2) Location and adequacy of automobile parking, as to number of spaces, square footage per space, including movement lanes, and total area.

(B) The Planning Commission or its agents, relative to:

(1) Location and design of vehicular entrances and exits, in relation to streets giving access to the site, and in relation to pedestrian traffic;

(2) Location and design of all parking areas;

(3) Concurrence of the State Department of Transportation for the location and design of the vehicular entrances and exits to and from state-maintained streets and highways;

(4) Adequate provision for traffic circulation and control within the site, and provision of access to adjoining property;

(5) Adequacy of drainage, water supply, fire protection, and sanitary sewage facilities; and

(6) Compliance with applicable established design criteria, construction standards, and specifications for all required public improvements.

(C) The county service authority or its agents, relative to sewage disposal; and

(D) Soil support report shall be provided by a certified soil scientist in appropriate case as determined by Town Council.

(1998 Code, § 46-83) (Ord. O-2002-06, passed 3-12-2002)

§ 155.043 PERIOD OF VALIDITY OF APPROVED SITE PLAN.

An approved preliminary site plan shall become null and void if the final site plan is not submitted to the Planning Commission within six months from the date of approval of the preliminary plan. An approved final site plan shall be valid for a period of five years from the date of approval thereof. A site plan shall be deemed final once it has been reviewed and approved by the Council if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. Construction or development may begin upon approval by Council of the final site plan upon payment of site plan fees and acquisition of construction permits. The Planning Commission may grant a single one-time, six-month extension, upon written request of the applicant, made at least 30 days before the expiration of the approved site plan.

(1998 Code, § 46-84) (Ord. O-2002-03, passed 2-12-2002)

§ 155.044 MINOR ADJUSTMENTS OF APPROVED SITE PLAN; EFFECT OF DEVIATIONS FROM APPROVED SITE PLAN.

After a site plan has been approved by the Town Council, minor adjustments of the site plan, which comply with the spirit of this section and other provisions of this subchapter, with the intent of the approving bodies in their approval of site plans, and with the general purpose of the master plan for development of the area, may be approved by the Planning Commission, with concurrence of the reviewing authorities concerned. Deviation from an approved site plan without the written approval of the Planning Commission shall void the plan, and the Planning Commission shall require the applicant to submit a new site plan for consideration.

(1998 Code, § 46-85)

§ 155.045 MAJOR REVISIONS OF APPROVED SITE PLAN; WAIVER OF REQUIREMENTS OF SUBCHAPTER.

Application for approval of any major revision of an approved site plan may be made in the same manner as for approval of an original site plan; and any requirement of this subchapter may be waived by the Town Council in specific cases where such requirement is found to be unreasonable and where such waiver will not be adverse to the purposes of this subchapter.

(1998 Code, § 46-86)

§ 155.046 EXTENSION OF SITE PLAN APPROVALS TO ADDRESS HOUSING CRISIS.

(A) Any valid final site plan outstanding as of January 1, 2009, shall remain valid until July 1, 2014, or such later date provided for by the terms of the town's approval, local ordinance, resolution, or regulation, or for a longer period as agreed to by the Town Council by express action and recorded roll call vote. Any other plan or permit associated with such site plan extended by this section shall likewise be extended for the same time period.

(B) The extension of validity provided in division (A) above shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.
(1998 Code, § 46-87) (Ord. O-2009-06, passed - -)

REQUIRED IMPROVEMENTS

§ 155.060 GENERALLY.

In order to assure public safety, general welfare, and convenience, the agencies and officials charged with the responsibility for review and recommendation of approval of site plans shall require such of the following improvements as fall within their respective assignments:

(A) Designation of pedestrian walkways, so that persons may walk on them from store or building to building within the site and to adjacent sites;

(B) Construction of vehicular travel lanes or driveways not less than 22 feet in width, which will permit vehicular travel on-site and to and from adjacent parking areas and adjacent property;

(C) Connection, wherever possible, of all walkways, travel lanes, and driveways with similar facilities in adjacent developments;

(D) Screening, fences, walls, curb, and gutter, as required by the provisions of this code and other ordinances of the town, or by the regulations of the State Department of Transportation;

(E) Easements or rights-of-way for all facilities to be publicly maintained; however, each easement shall be clearly defined for the purpose intended;

(F) Extension or construction of service road and access to such service roads on-site bordering on a state primary highway; and

(G) Dedication or reservation of land for streets and service roads and the construction on such streets and roads.
(1998 Code, § 46-121)

§ 155.061 CONSTRUCTION REQUIREMENTS.

The construction standards for off-site improvements and on-site improvements, required by this chapter, shall conform to the design and construction standards of the town. The Planning Commission

or its agents shall approve the plans and specifications for all required improvements, and shall inspect the installation of such improvements to assure conformity to the plan.

(1998 Code, § 46-122) Penalty, see § 155.999

§ 155.062 AGREEMENT AS TO CONSTRUCTION.

Prior to approval of the final site plan, the applicant shall execute an agreement to construct such required improvements as are located within public rights-of-way or easements or such as are connected to any public facility, and shall file a performance bond with surety acceptable to the town in the amount of the estimated costs of the required improvements, as determined by the Planning Commission.

(1998 Code, § 46-123) Penalty, see § 155.999

§ 155.063 INSPECTION AND SUPERVISION DURING INSTALLATION; CERTIFICATE OF APPROVAL.

(A) Inspections during the installation of the off-site improvements and required on-site improvements shall be made by the agency responsible for such improvements, as required to certify compliance with the approved site plan and applicable town standards. The owner or developer shall notify the Building/Code Official three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan. The owner or developer shall provide adequate supervision on-site during the installation of all required improvements and have a responsible superintendent or foreman, together with one set of approved plans, profiles, and specifications, available at the site at all times work is being performed.

(B) Upon satisfactory completion of the installation of the requirement improvements, the owner or developer shall receive a certificate of approval from the Planning Commission, upon the application for such certificate. The certificate of approval will not authorize the release of any bond that may have been furnished to guarantee the satisfactory installation of such improvements but shall serve as a letter of recommendation to the Town Council, suggesting release of such bonds.

(1998 Code, § 46-124) Penalty, see § 155.999

LANDSCAPE PLAN

§ 155.075 PURPOSE AND INTENT.

(A) The purpose of this subchapter is to establish minimum standards for the design, installation, and maintenance of landscaped areas that require the use of appropriate native vegetation and to promote the preservation of indigenous plant communities on-site. The town recognizes the significant benefits of establishing and protecting appropriate native vegetation and, therefore, the necessity to maximize the use of appropriate native vegetation in all public and private landscaped areas within the town.

(B) It is the intent of this chapter that these minimum landscape requirements be incorporated in order to promote the public health, safety, and welfare by:

- (1) Protecting and promoting appropriate native vegetation;
 - (2) Promoting microhabitats in urban areas for the conservation of wildlife by establishing new wildlife habitat and maintaining existing wildlife habitat;
 - (3) Creating larger, more connected plant habitats, helping ensure the future of native plant species by increasing their ability to respond to changes in climate;
 - (4) Conserving scarce water resources by promoting water-efficient landscaping through the use of appropriate native plants which, once established, typically require much less water than other species;
 - (5) Reducing the use of chemical fertilizers and pesticides to maintain landscaping;
 - (6) Reducing the negative impacts of landscape maintenance on local air quality;
 - (7) Reducing the negative impacts on the land from the use of inappropriate vegetation and poorly planned landscaping;
 - (8) Reducing the financial costs of landscape maintenance; and
 - (9) Encouraging creative landscaping designs that further the above stated goals.
- (1998 Code, § 46-130) (Ord. O-2009-04, passed 8-11-2009)

§ 155.076 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPROPRIATE NATIVE VEGETATION and ***APPROPRIATE NATIVE TREE***. Those species of plants and trees identified and listed in publicly available sources as native plants for conservation, restoration, and landscaping by the State Department of Conservation and Recreation, for the Coastal Plain and Piedmont areas of the state, and suited to the soil, topography, and hydrology risk of a particular site.

APPROPRIATE NON-NATIVE VEGETATION and ***APPROPRIATE NON-NATIVE TREE***. Those species of plants and trees not identified among native plants for conservation, restoration, and landscaping by the State Department of Conservation and Recreation, for the Coastal Plain and Piedmont areas of the state, but nevertheless suited to the soil, topography, and hydrology risk of a particular site, and not an invasion alien plant.

CALIPER. A measurement of the size of a tree equal to the diameter of the trunk six inches from the root ball.

COMMUNITY GARDEN. A public or community use area intended for the purposes of gardening.

COMMUNITY PLAY AREA. Public use areas, including school and athletic fields, composed of predominantly turfgrass intended for use for recreational purposes.

ENDANGERED PLANT. Any plant contained on the rare vascular plant list or rare nonvascular plant list maintained by the Division of Natural Heritage of the State Department of Conservation and Recreation or its successor.

INVASIVE ALIEN PLANT. A plant reproducing outside its native range and outside cultivation that disrupts naturally occurring native plant communities by altering structure, composition, natural processes, or habitat quality. **INVASIVE ALIEN PLANTS** are those plants recognized and listed in publicly available sources as invasive alien plant species of the state by the State Department of Conservation and Recreation. The Zoning Administrator shall maintain a list of such plants.

LANDSCAPED AREA. The entire parcel less the building footprint, driveway, nonirrigated portions of parking lots, hardscapes such as decks and patios, and other nonporous areas. Water features are included in the calculation of **LANDSCAPED AREAS**.

LANDSCAPING. Any combination of living plants and nonliving landscape material (such as rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials).

NATIVE PLANT. Those species of plants identified and listed in publicly available sources as native plants for conservation, restoration, and landscaping by the State Department of Conservation and Recreation, for the Coastal Plain and Piedmont areas of the state. The Zoning Administrator shall maintain a list of such plants.

NATURAL AREA. An area on a site that contains natural vegetation and that will be undisturbed during development and will remain undisturbed when the property is fully developed.

NATURAL COMMUNITY. A distinct and recurring assemblage of populations of plants, animals, fungi, and microorganisms naturally associated with each other and their physical environment.

RARE PLANT. A plant species that has been designated with a legally protected status such as “threatened” or “endangered”, or that is contained on the rare vascular plant list or rare nonvascular plant list maintained by the Division of Natural Heritage of the State Department of Conservation and Recreation or its successor.

REMOVE. To transport a native plant from the premises on which it has been growing.

THREATENED PLANT. Any plant species that is contained on the vascular plant watch list maintained by the Division of Natural Heritage of the State Department of Conservation and Recreation or its successor.

TREE. A self-supporting woody plant having a single trunk or a multi-trunk of lower branches, growing to a mature height of at least 12 feet.

TURFGRASS. Continuous plant coverage consisting of a grass species that is mowed to maintain an established height.
(1998 Code, § 46-131) (Ord. O-2009-04, passed 8-11-2009)

§ 155.077 APPLICABILITY.

This subchapter applies to every site plan and site disturbance permit application submitted to the town. In addition, it applies whenever the cumulative change to a previously approved site plan amounts to 50% or more of the landscaped area provided in that site plan. It also applies to the removal of any tree four-caliper inches or larger on any property not otherwise exempted in this subchapter.
(1998 Code, § 46-132) (Ord. O-2009-04, passed 8-11-2009; Ord. O-2011-03, passed 6-14-2011)

§ 155.078 EXEMPTIONS.

(A) The following areas are exempt from this chapter:

- (1) Community gardens;
- (2) Community play areas;
- (3) Noninvasive food plants on residential properties;
- (4) Turfgrass in stormwater management areas;
- (5) Turfgrass in public rights-of-way; and

(6) Scientific and educational purposes, if approved in advance by the Zoning Administrator for a period not to exceed two years, with renewals of up to two years.

(B) The town shall, however, encourage the protection and promotion of native vegetation in these areas to the maximum extent practicable.

(1998 Code, § 46-133) (Ord. O-2009-04, passed 8-11-2009)

§ 155.079 MINIMUM NATIVE VEGETATION REQUIRED.

(A) *Public property.* Only native vegetation may be used in any newly developed, publicly owned landscaped areas within the town limits. Native vegetation shall be used to the greatest extent practicable in all existing landscaped areas. The town will strive to use appropriate native vegetation that is well suited to the soil, topography, and hydrology risk of the particular site.

(B) *Private property.* The minimum coverage of native vegetation in all newly landscaped private areas shall not be less than 50% of all permeable surfaces covered by the landscaping plan. Landowners of private property are encouraged to use appropriate native vegetation that is well suited to the soil, topography, and hydrology risk of the particular site. Additional minimum coverage standards may be set forth elsewhere in this chapter.

(1998 Code, § 46-134) (Ord. O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.080 UNAVAILABILITY OF NATIVE VEGETATION.

If native vegetation is not available at the time of installation, the landowner may, with the advance written consent of the Zoning Administrator, substitute nonnative vegetation. The Zoning Administrator may, in the alternative, authorize a delay in completion of the landscaping plan to obtain native vegetation. If nonnative vegetation is used, the landowner is encouraged to select vegetation suited to the soil, topography, and hydrology risk of the site.

(1998 Code, § 46-135) (Ord O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.081 PROTECTION OF RARE, THREATENED, AND ENDANGERED PLANTS.

Landowners submitting a landscape plan pursuant to § 155.082 are encouraged to provide protection and maintain in perpetuity all or a percentage of existing rare, threatened, and endangered plants at the site.

(1998 Code, § 46-136) (Ord O-2009-04, passed 8-11-2009)

§ 155.082 LANDSCAPE PLAN REQUIREMENT AND APPROVAL.

(A) *Generally.* Prior to or simultaneous with the submission of the final site plan, or the issuance of a site disturbance permit, a landowner or his or her representative shall submit a landscape plan to the appropriate local government staff. The landscape plan must be prepared by a licensed design professional, unless the site plan or site disturbance permit covers only one single-family dwelling. At a minimum, except as otherwise specifically provided, the landscape plan shall show the name and address of the development, the boundaries of each parcel covered by the plan, the areas of landscaping, the area and present zoning of each parcel, the name and address of the owner of record and of the applicant, the date, the scale (which shall be 50 feet to the inch or larger), the north point, the number of sheets (with a common sheet showing the entire development if more than one sheet is required), the location of all stormwater management and drainage easements and facilities, and the topography with

a maximum two-foot contour intervals within all landscaped areas. The staff shall review and either approve or deny the landscape plan.

(B) *Single-family residence landscape plan requirements.*

(1) The developer or owner of a single-family residence subject to this subchapter shall submit a landscape plan that includes a drawing of the proposed landscaped area, a list of each species of native plant to be installed, and the quantities of each species of plant to be installed in each landscape category listed in § 155.083(A).

(2) However, a landscape plan submitted solely in relation to the removal of native trees under § 155.088 may instead provide a photograph of the existing tree and a sketch showing the location of any replacements.

(C) *Multifamily, business, or municipal landscape plan requirements.* An applicant for development or modification of a multifamily, business, or municipal site shall submit a landscape plan. The landscape plan shall include: the name, address, and phone number of the landscape designer; graphic symbols for all new and existing vegetation, labeled by name; a legend that indicates sizes, quantity, and spacing of all vegetation; and a graphic representation of the irrigation system, if any.

(1998 Code, § 46-137) (Ord O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.083 LANDSCAPING REQUIREMENTS.

(A) *Single-family residential.* The minimum landscaping requirements for single-family residential properties shall be fulfilled by native trees, shrubs, and ground covers, as specified: buffer and perimeter planting; interior planting; foundation planting; tree planting requirements; and preservation of existing native vegetation.

(B) *Multifamily residential.* The minimum landscaping requirements for multifamily residential properties shall be fulfilled by native trees, shrubs, and ground covers, as specified: buffer and perimeter planting; interior planting; foundation planting; parking lot and street trees; tree planting requirements; and preservation of existing native vegetation.

(C) *Business.* The minimum landscaping requirements for business properties shall be fulfilled by native trees, shrubs, and ground covers, as specified: buffer and perimeter planting; interior planting; foundation planting; parking lot and street trees; tree planting requirements; and preservation of existing native vegetation.

(D) *Municipal.* The minimum landscaping requirements for municipal properties shall be fulfilled by native trees, shrubs, and ground covers, as specified: buffer and perimeter planting; interior planting; foundation planting; parking lot and street trees; tree planting requirements; and preservation of existing native vegetation.

(E) *Native use encouraged.* In divisions (A) through (D) above, the landowner is encouraged to use native trees, shrubs, and ground covers suited for the soil, topography, and hydrology risk of the particular site, and to preserve existing native vegetation, in particular existing rare, threatened, and endangered plants.

(1998 Code, § 46-138) (Ord O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.084 TURFGRASS.

Nonnative turfgrass shall be considered within the percentage of nonnative vegetation permitted. The landowner shall use a low-water use turfgrass appropriate for the area.

(1998 Code, § 46-139) (Ord O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.085 LANDSCAPE PLAN REVIEW CRITERIA.

When reviewing a landscape plan, the town shall approve a landscape plan if it satisfies the landscaping requirements of §§ 155.082 and 155.083 at the site.

(1998 Code, § 46-140) (Ord O-2009-04, passed 8-11-2009)

§ 155.086 LANDSCAPE MAINTENANCE.

A landowner is responsible for ensuring that all landscape material that is part of an approved landscape plan regulated by this chapter is maintained in a healthy condition. Within the first year after the date that the landscape plan has been completely installed, if any native plant that is part of the requirements of this chapter dies or is substantially damaged, the landowner shall replace the plant with the same landscape material or other native vegetation as approved by appropriate local government staff.

(1998 Code, § 46-141) (Ord O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.087 LAND CLEARING.

No construction shall begin nor land cleared until a landscape plan for the site has been approved, if required by the provisions of this chapter.

(1998 Code, § 46-142) (Ord O-2009-04, passed 8-11-2009) Penalty, see § 155.999

§ 155.088 TREE PROTECTION.

It shall be unlawful for any person to remove, destroy, or permanently damage any existing native tree that is four-caliper inches or larger without an approved landscape plan or permit, except in an emergency threatening human life or to comply with a valid order of a government authority. The Town Manager may issue a permit permitting the removal, destruction, or damage of an existing native tree

covered by this subchapter, provided an applicant submits an application or letter identifying the tree at issue, detailing the reason for the action, identifying appropriate native vegetation and/or an appropriate native tree that will replaced the tree removed, destroyed, or damaged, and the date by which the replacement vegetation and/or tree will be planted. If these conditions are not met, the Town Manager may not issue a permit, and the applicant will need to file a landscape plan in accordance with this subchapter. All existing native trees designated as remaining in their original placement as a part of the landscape plan shall be protected during construction and land clearing from permanent damage to any part of the tree by silt fencing at their drip lines.

(1998 Code, § 46-143) (Ord O-2009-04, passed 8-11-2009; Ord. O-2011-03, passed 6-14-2011)
Penalty, see § 155.999

§ 155.089 FEES.

The Town Council may charge an applicant reasonable fees for any permits and applications required by this chapter. Such fees may from time to time be amended by the Town Council by uncodified ordinance.

(1998 Code, § 46-144) (Ord O-2009-04, passed 8-11-2009)

§ 155.999 PENALTY.

Any person violating the provisions of this chapter shall be guilty of a class 4 misdemeanor. Violators of the provisions of this chapter may also be restrained, prohibited, or enjoined by injunction, mandamus, or any other appropriate judicial proceedings.

(1998 Code, § 46-6)

CHAPTER 156: SUBDIVISIONS

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GENERAL PROVISIONS

§ 156.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Unless otherwise specified, all distances shall be measured horizontally and at right angles to the line in relation to which the distance is specified.

AGENT. The representative of the Planning Commission who has been appointed to serve the Commission in the processing, reviewing, and approving of preliminary subdivision plats.

ALLEY. A permanent service right-of-way providing a secondary means of access to abutting properties, which shall be construed to include, but not be limited to, rights-of-way known as Poplar Alley, Center Lane, and Cooper's Alley.

AUTHORIZED REPRESENTATIVE. The individual appointed by the Town Council for the day-to-day enforcement and inspection of this chapter.

BASE FLOOD. A flood that has a 1% chance of being equaled or exceeded in any given year. Also referred to as the **100-YEAR FLOOD**.

BASE FLOOD ELEVATION (BFE). The water surface elevation of the base flood in relation to the datum specified on the flood insurance study and flood insurance rate map.

BUILDING. Any enclosed or open structure other than a tent or mobile home having a roof supported by columns or walls designed to support, shelter, house, or enclose persons, animals, or property of any kind. The word **BUILDING** includes the word **STRUCTURE**.

BUILDING/CODE OFFICIAL. The person appointed by the Town Council who issues the building permits for the structural design, construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or part of any building. It includes a Deputy Building/Code Official.

BUILDING PERMIT. An approval statement signed by the Zoning Administrator and the Building/Code Official authorizing the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building.

BUILDING SETBACK. The minimum distance by which any structure must be separated from the property line of a lot.

CHESAPEAKE BAY PRESERVATION AREA (CBPA). See § 157.152 of this code.

CLERK. The Clerk of the Circuit Court of Prince William County.

COMMISSION. The Planning Commission of the town.

CUL-DE-SAC. A street with one outlet and an appropriate turnaround for safe and convenient reverse traffic movement.

EASEMENT. A grant or reservation by a property owner to another person for the use of a specified portion, or all, of said property for a specific purpose, without including title to the property.

ENGINEER. An individual who is qualified to engage in the practice of engineering or land surveying as attested by the issuance to such person of a currently valid license as a professional engineer by the State Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects.

FLOODPLAIN. An area flooded by a flood of specific frequency or magnitude and delineated as a regulated area by federal, state, or local government order through the use of maps, flood elevations, flood profiles, or other techniques.

FRONTAGE. The distance measured from side lot line to side lot line, parallel to the street line.

HEALTH OFFICIAL. The Health Director or Sanitarian serving the town.

HIGHWAY ENGINEER. The resident engineer employed by the Virginia Department of Transportation (VDOT) and serving the town.

JURISDICTION. The area or territory subject to the legislative control of the Town Council.

LAND USE and **USE OF LAND**. Also includes **BUILDING USE** and **USE OF BUILDING**.

LOT. A parcel of land created by a metes and bounds description or plat of subdivision meeting minimum zoning requirements for area, coverage, setbacks, and other spaces as required at time of recordation. The word **LOT** includes the words **PLOT** and **PARCEL**.

LOT, CORNER. A lot abutting upon two or more streets, at their intersection; the shortest side, fronting upon a street, shall be considered the front of the lot, and the longest side, fronting upon a street, shall be considered the side of the lot.

LOT, DEPTH OF. The mean horizontal distance between the front and rear lot lines.

LOT, DOUBLE-FRONTAGE. An interior lot having frontage on two streets.

LOT, INTERIOR. A lot other than a corner lot.

LOT OF RECORD. A lot which has been legally recorded in the Clerk of the Court's office.

LOT, WIDTH OF. The mean horizontal distance between the side lot lines, measured at the building setback.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to the land sought to be subdivided under this chapter.

PEDESTRIAN WAY or **CROSSWALK**. A right-of-way across, along, or within a block, for use by pedestrian traffic, whether designated as a **PEDESTRIAN WAY**, **CROSSWALK**, or otherwise designated, which may include utilities.

PLANNED UNIT DEVELOPMENT. Parcels set aside for specialized purposes where tracts suitable in location, area, and character for the uses and structures proposed are to be planned and developed on a unified basis.

PLAT, FINAL. The map or plan of a subdivision of land that meets all the requirements of this chapter, including any accompanying material that may be required.

PLAT, PRELIMINARY. The plan or map of a property drawn to scale, submitted with all tentative plans showing the relationship of the proposed subdivision to existing railroads, lakes, rivers, off-site drainage areas, creeks, public and semipublic facilities.

RESOURCE PROTECTION AREA (RPA). See § 157.152 of this code.

RE-SUBDIVISION. An authorized change in property lines of a recorded subdivision.

RIGHT-OF-WAY. A strip of land dedicated or reserved for a street, crosswalk, railroad, road, water main, sanitary or storm sewer main, public utility, or other special uses. For land platting

purposes, the term ***RIGHT-OF-WAY*** shall mean that every ***RIGHT-OF-WAY***, established after November 1, 1981, and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such ***RIGHT-OF-WAY*** and is not included within the dimensions or areas of such lots or parcels. A ***RIGHT-OF-WAY*** intended for a street, crosswalk, water main, sanitary sewer storm drain, or any other use, involving maintenance by a public agency, shall be dedicated to public use.

SECRETARY. The Secretary of the Planning Commission of the town.

STREET. A strip of land, including the entire right-of-way intended to be dedicated for use as a means of vehicular and pedestrian circulation by the public at large. The term ***STREET*** includes avenues, boulevards, highways, roads, bridges, and the approaches thereto and all other public thoroughfares, but not alleys.

STREET, ARTERIAL. Any existing or future street, identified in any adopted plan, carrying traffic, or anticipated traffic, of more than 3,000 vehicles per day.

STREET, MAJOR. Any existing or future street, identified in an adopted plan, carrying traffic, or anticipated traffic, of 500 to 3,000 vehicles per day.

STREET, MINOR. Any existing or future street that is primarily used as a means of public access to abutting properties, with anticipated traffic of less than 500 vehicles per day.

STREET, SERVICE. A public street, generally parallel and contiguous to major streets, primarily designed to promote safety by properly spacing points of access to major streets.

STREET WIDTH. The total right-of-way width of the strip of land dedicated or reserved for public travel, including roadway, curb, gutter, sidewalk, and planting strip.

SUBDIVIDER. A person owning any tract, lot, or parcel of land to be subdivided, or a group of two or more persons owning any tract, lot, or parcel of land to be subdivided, or a person given power of attorney to act on the owner's behalf in the subdivision of land.

SUBDIVISION. The division of a parcel of land into two or more lots or parcels each for the purpose of transfer of ownership or building development; or, if a new street is involved in such division, any division of a parcel of land. The word ***SUBDIVISION***, or any derivative thereof, shall have reference to the term ***SUBDIVIDER***.

SURVEYOR. A land surveyor certified by the Commonwealth of Virginia.

TOWN ENGINEER. The licensed engineer designated by the Town Council to furnish engineering assistance for the administration of this chapter.
(1998 Code, § 54-1) (Ord. passed 9-5-2017)

§ 156.002 PURPOSE.

(A) The purpose of this chapter is to establish certain subdivision standards and procedures for the town as provided for by VA Code §§ 15.2-2240 through 15.2-2279. These regulations are part of a long-range plan to guide and facilitate the orderly, beneficial growth of the community, and to promote the public health, safety, convenience, comfort, prosperity, and general welfare. More specifically, the purposes of these standards and procedures are to provide a guide for the change that occurs when land is developed for residential, business, or industrial purposes; assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate, and efficient manner.

(B) Subdivided land eventually becomes a public responsibility because roads and streets must be maintained, and numerous public services customary to urban areas must be provided. This chapter assists the community in meeting these responsibilities.
(1998 Code, § 54-2) (Ord. passed 9-5-2017)

§ 156.003 EXCEPTION.

(A) Where the subdivider can show that a provision of these standards would cause unnecessary hardship if strictly adhered to, and where, because of topographical or other conditions peculiar to the site, and where, in the opinion of the agent, an exception may be made without destroying the intent of such provisions, the agent, with approval of the Council, may authorize an exception.

(B) (1) Any exception to be authorized shall be stated, in writing, by the agent, with the reasoning upon which the exception is justified.

(2) No exception to this chapter may be granted if it is opposed, in writing, by the highway engineer or health official.
(1998 Code, § 54-3) (Ord. passed 9-5-2017)

§ 156.004 AMENDMENTS.

(A) This chapter may be amended, in whole or in part, by the Council, provided that any such amendment shall either originate with or be submitted to the Planning Commission for its recommendation; and further provided that no such amendment be adopted without a public hearing held by the Town Council.

(B) Notice of the time and place of the hearing shall have been given in accordance with the provisions of VA Code § 15.2-2204.
(1998 Code, § 54-4) (Ord. passed 9-5-2017)

Subdivisions95

AGENT

§ 156.015 APPOINTED.

The agent appointed by the Town Council is delegated the responsibility and authority to oversee administration of this chapter and shall have the responsibility of approving or denying the preliminary plat.

(1998 Code, § 54-56) (Ord. passed 9-5-2017)

§ 156.016 DUTIES.

The agent and authorized representatives shall perform their duties regarding subdivisions and subdividing in accordance with this chapter and the Land Subdivision and Development Act, VA Code §§ 15.2-2240 et seq.

(1998 Code, § 54-57) (Ord. passed 9-5-2017)

§ 156.017 CONSULTATION.

In the performance of their duties, the agent and authorized representatives may call for opinions or decisions, either oral or written, from other departments in considering details of any submitted plat. This authority of the agent shall have particular reference to the resident highway engineer, health official, sanitary district, Fire Marshal, and Planning Commission.

(1998 Code, § 54-58) (Ord. passed 9-5-2017)

§ 156.018 ADDITIONAL AUTHORITY.

In addition to the regulations contained in this chapter for the platting of subdivisions, the agent or authorized representatives may, from time to time, establish any reasonable additional administrative procedures deemed necessary for the administration of this chapter.

(1998 Code, § 54-59) (Ord. passed 9-5-2017)

COMPLIANCE WITH CHAPTER

§ 156.030 PLATTING REQUIRED.

Any owner or developer of any tract of land situated within the town who subdivides a parcel of land shall prepare a plat of such subdivision, in accordance with the provisions of this chapter, and shall record the plat in the office of the Clerk of the Court. No such subdivision plat shall be recorded unless

it has been submitted to the agent, approved, and certified by the Planning Commission in accordance with the regulations set forth in this chapter.

(1998 Code, § 54-91) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.031 RECORDATION REQUIRED.

No lot shall be sold in any proposed subdivision, nor shall any building permit be granted, until a final plat for the subdivision is approved and recorded.

(1998 Code, § 54-92) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.032 APPEALS.

If a final plat of a subdivision is denied by Planning Commission, the subdivider may appeal the decision of the Planning Commission to the Circuit Court of the county. If a preliminary plat has been denied by the agent, the subdivider may appeal the decision of the agent to the Planning Commission. (1998 Code, § 54-93) (Ord. passed 9-5-2017)

PREPARATION AND RECORDATION OF SUBDIVISION PLATS

§ 156.045 DRAW AND CERTIFY.

(A) Every subdivision plat intended for recordation shall be prepared by a surveyor or engineer, who shall endorse upon each plat a certificate, signed by him or her, setting forth the source of the title of the land subdivided and the place of record of the last instrument in the chain of title.

(B) When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon such plats, within an inset block, or by means of a dotted line upon the plat.

(1998 Code, § 54-126) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.046 OWNER'S STATEMENT.

(A) Every subdivision plat intended for recording or deed of dedication to which the plat is attached shall contain, in addition to the surveyor's or engineer's certificate, the following statement: "The platting or dedication of the following described land (insert a correct description of the land being subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees."

(B) The above statement shall be signed by the owners, proprietors, and trustees, if any, and shall be duly notarized and, when executed and approved, shall be filed and recorded in the office of the Clerk of the Court.

(1998 Code, § 54-127) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.047 NO PERSON EXEMPT.

No person shall subdivide any tract of land that is located within the town except in conformance with the provisions of this chapter.

(1998 Code, § 54-128) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.048 PRIVATE CONTRACTS.

This chapter bears no relation to any private easement, covenant, agreement, or restriction, nor is the responsibility of enforcing such private easement, covenant, agreement, or restriction implied in this chapter to any public official. When this chapter calls for more restrictive standards than required by a private contract, the provisions of this chapter shall prevail.

(1998 Code, § 54-129) (Ord. passed 9-5-2017)

§ 156.049 CHANGES.

No change, erasure, or revision shall be made on any subdivision plat intended for recording, nor on accompanying data sheets, after the written approval of the Planning Commission on the plat or sheets, unless written authorization for such change has been granted by the Planning Commission.

(1998 Code, § 54-130) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.050 FEES.

There shall be a charge for the examination of every plat reviewed. At the time of filing the plat, the subdivider shall deposit with the town checks payable to the town in amounts specified by the adopted schedule of fees.

(1998 Code, § 54-131) (Ord. passed 9-5-2017)

§ 156.051 TRANSFER OF AREAS FOR PUBLIC USE.

The recording of a plat shall serve to transfer, in fee simple, to the town all portions of the area platted that are set apart for streets, alleys, easements, or other public use, and to create a public right-of-passage over them. No such areas dedicated to public use shall be encumbered by easements retained by the subdivider or granted to utility companies or other corporate or natural persons.

Nothing

contained herein, however, shall prevent the subdivider from constructing and maintaining improvements required by this chapter.

(1998 Code, § 54-132) (Ord. passed 9-5-2017)

GENERAL REGULATIONS

§ 156.065 MUTUAL RESPONSIBILITY.

There is a mutual responsibility between the subdivider and the town to divide the land so as to improve the general use pattern of the land being subdivided.

(1998 Code, § 54-166) (Ord. passed 9-5-2017)

§ 156.066 SUITABLE LAND.

The Planning Commission may not approve the subdivision of land if it has been determined that, from adequate investigations conducted by all public agencies concerned and in the best interest of the public, the site is not suitable for the platting and development purposes being proposed. The Planning Commission may require the subdivider to furnish topographic maps, floodplain profile elevation information, or other relevant information.

(1998 Code, § 54-167) (Ord. passed 9-5-2017)

§ 156.067 FLOODING.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, sanitary sewer, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In areas where a base flood elevation has not been previously established, base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a flood insurance study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.

(E) Land in the 100-year floodplain, other land subject to flooding, and land deemed to be topographically unsuitable shall not be platted for residential occupancy, or for such other uses in such a way as to endanger health, life, or property, or aggravate erosion or flood hazard. Such land within

the subdivision shall be set aside on the plat for such uses as shall neither be endangered by periodic or occasional inundation, nor produce conditions contrary to public welfare.

(1998 Code, § 54-168) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.068 IMPROVEMENTS.

(A) *Cost of required improvements.* All required improvements shall be installed by the subdivider at his or her cost. Specifications that have been established either by the State Department of Transportation (VDOT) for streets or town regulations, ordinances, and codes shall be followed. The subdivider's bond shall not be released until all construction has been completed and approved by the Town Engineer or appropriate official. All improvements shall be in accordance with the requirements of this section.

(B) *Construction of public streets.* All public streets in the proposed subdivision shall be designed and constructed in accordance with the standards set by VDOT for acceptance into the state secondary road system, and at no cost to the town.

(1) *Alignment and layout.*

(a) The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas and proposed streets, as shown on the approved site plan. The street arrangement must cause no unnecessary hardship to owners of adjoining property when seeking convenient access to their property.

(b) Where, in the opinion of the agent, it is desirable to provide for street access to adjoining properties, the right-of-way of the proposed streets shall be extended to the boundary line of such properties.

(c) Half streets along the boundary of land proposed for subdivision shall not be permitted, unless approved by Town Council.

(d) Wherever possible, streets shall intersect at right angles. In all hillside areas, streets running with contours shall be required to meet the intersecting streets at angles of not less than 60 degrees unless approved by the agent upon recommendation of the highway engineer.

(2) *Alleys in new subdivisions.* Use of alleys in new subdivisions is not permitted.

(3) *Private streets.*

(a) Private streets shall not be allowed in any new subdivisions; except that townhouse, multifamily, and apartment projects may have access to a publicly maintained road via a private street, provided that it meets the appropriate design standards as approved by the Planning Commission of the town regulations. In no case shall there be reserve strips.

Occoquan - Land Usage

(b) Private streets shall be platted such that all lot owners are assured perpetual right of access to a publicly maintained street. The final plat shall note each private street as “privately owned and privately maintained by the lot owner(s)”. The final plat shall also provide an adequate easement for ingress, egress, maintenance of utilities, and public agencies, including police and fire departments.

(c) Private streets shall be constructed of minimum pavement design of six-inch 21A subgrade and two-inch SM-2A asphalt surface, or other such road section approved by the Town Engineer. Dead-end streets or culs-de-sac shall be terminated with a turnaround approved by the Town Engineer.

(4) *Names.*

(a) Proposed streets that are obviously in alignment with other existing and named streets shall bear the names of the duplicate existing street names, regardless of the use of the suffixes “street”, “avenue”, “boulevard”, “road”, “driveway”, “place”, “lane”, or “court”.

(b) Street names shall be indicated on the preliminary and final plats and shall be approved by the Council.

(c) Names of existing streets shall not be changed, except by approval of the Town Council.

(d) Street names shall be approved by County GIS for full use in the 9-1-1 system.

(5) *Identification signs.* Street identification signs shall be readable from either side, of a design approved by the Town Council, and installed at all intersections by the subdivider.

(C) *Monuments.*

(1) *Installation.* All monuments shall be installed by the subdivider and shall meet the minimum specifications described in this division (C). Upon completion of subdivision streets, sewers, and other improvements, the subdivider shall make certain that all required monuments are clearly visible for inspection and use. Such monuments shall be inspected and approved before an occupancy permit is issued by the Building Official.

(2) *Location.* All lot corners shall be marked with iron pipe not less than three-fourths inch in diameter and 18 inches long, and driven so as to be flush with the finished grade.

(D) *Water facilities.* Public water service shall be extended by the subdivider to all lots within a subdivision, in accordance with the approved site plan.

(E) *Sewerage facilities.* Public sewerage facilities shall be extended by the subdivider to all lots within a subdivision, and septic tanks will not be permitted. The subdivider shall provide each lot with a satisfactory and sanitary means of sewage collection and disposal in accordance with the approved site plan.

(F) *Storm drainage facilities.* The subdivider shall provide all necessary information needed to determine what drainage improvements are necessary to develop such property. The subdivider shall install the approved storm drainage facilities in accordance with the approved site plan.

(G) *Fire protection.* Fire hydrants shall be required in a subdivision at locations approved by the agent, provided adequate public water is available. The location and design of the fire hydrants shall meet the American Insurance Association's specifications and be in accordance with the approved site plan.

(H) *Easements.* The Planning Commission may require the subdivider to provide easements through adjoining property. The width of easement provided for drainage, water, sewer, power lines, and other utilities in the subdivision shall be determined by the Planning Commission.

(I) *Plans and specifications.* Six blue or black line prints of the plans and specifications, for all required physical improvements to be installed, shall be prepared by an engineer or land surveyor and shall be submitted with the final plat to the agent for approval within 30 days. If approved, one copy, bearing certification of such approval, shall be returned to the subdivider. If denied, all papers, except for one copy, shall be returned to the subdivider, with written reason(s) for denial.

(J) *Bonding.*

(1) *Performance bond.*

(a) The subdivider shall furnish a cash bond or equivalent, a surety bond of a surety company, or a certified check, payable to the town, in an amount equal to the total cost of the public improvements determined by the Council using the most recent county unit price list. Such bond or check shall guarantee that the improvements will be installed within a reasonable length of time in a manner acceptable to the Council. The bond or check shall accompany the final plat. When construction has been completed, approved, and accepted on sections of the required improvements, the Council may release the bond submitted for the amount of the entire required improvements or a portion thereof leaving an amount adequate to cover the entire cost of the improvements yet to be constructed, approved, and accepted.

(b) Occupancy permits shall not be issued until all proposed public and private improvements on a site plan are completed; however, the Zoning Administrator shall have the authority, in his or her discretion and in appropriate cases, to accept a completion bond in a satisfactory amount to ensure completion of public or private improvements in lieu of actual completion where the Zoning Administrator finds that a completion bond adequately protects future owners.

(2) *Maintenance bond.* The subdivider shall be required to file a maintenance bond with the town in an amount considered adequate and in a form satisfactory to the town, in order to assure the satisfactory condition of the required landscape improvements, for a period of one year after the date of their acceptance by the Town Council.

Occoquan - Land Usage

(3) *Phased development.* If development is projected over a period of years, the Planning Commission may authorize submission of final plats by section or phase of development, subject to requirements or guarantees for improvements in future sections or phases of development essential for the protection of any approved section of development.

(4) *Absence of bond.* In the absence of a performance bond or check, no final plat shall be approved or recorded until the required improvements have been installed and approved by the agent or his or her authorized representative.

(5) *Final as-built drawings.* Final as-built drawings, showing all subsurface utility conditions, shall be provided prior to release of the performance bond. Three certified reproducible copy shall be provided to the agent, with accompanying letter certifying accuracy, submitted in sufficient time to permit review prior to release of performance bond.

(K) *Sidewalks.* Sidewalks shall be constructed in all subdivisions in accordance with the specifications of VDOT.

(L) *Curb and gutter.* Where deemed necessary by the Planning Commission, curbs and gutters shall be installed in accordance with the standards and specifications of the Town Engineer and VDOT. (1998 Code, § 54-169) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.069 LOTS.

The following shall be taken into consideration when subdividing lots.

(A) *Shape.* The lot arrangement, design, and shape shall provide satisfactory and desirable sites for buildings and be properly related to topography. Lots shall not contain peculiarly shaped extensions solely to provide necessary square footage of area that would be unusable for normal purposes.

(B) *Location.* Each lot shall abut an existing or proposed dedicated public street, or on a street that has become public by right of use. If the existing streets are not 50 feet in width, the subdivider shall make provision, in the deeds to the lots, that all buildings be constructed so as to permit the widening of such roads or streets to a width of 50 feet by dedication.

(C) *Corner lots.* Corner lots shall have width sufficient for adequate site distance on both streets.

(D) *Side lines of lots.* Side lines of lots shall be approximately at right angles, or radial to the street line.

(E) *Separate ownership.* Where the land covered by a subdivision includes two or more parcels in separate ownership and the property ownership line divides one or more lots, the land in each divided lot shall be transferred by deed to single ownership, simultaneously with the recording of the final plat. This deed is to be recorded with the Clerk of the Court and held with the final plat until the subdivider is ready to record same, and then both shall be recorded.

(F) *Off-street parking and delivery facilities.* All subdivisions, including those intended for business and industrial uses, shall include space set aside for off-street parking and/or delivery facilities, in accordance with Chapter 157 of this code.
(1998 Code, § 54-170) (Ord. passed 9-5-2017) Penalty, see § 156.999

APPROVAL OF PLATS

§ 156.080 PRELIMINARY PLAT.

(A) For subdivisions of 51 or more lots, the subdivider shall present to the authorized representative six prints of a preliminary layout, at a scale no larger than 100 feet per inch, as a preliminary plat.

(B) The preliminary plat shall include the following information.

(1) *Identification.* Name of subdivision, owner, subdivider, person preparing drawing, date of drawing, number of sheets, north point, and scale. If true north is used, method of determination must be shown.

(2) *Vicinity map.* Location of proposed subdivision, by an inset map, at a scale of not less than two inches equal one mile, showing adjoining roads, road names and numbers, towns, subdivisions, other landmarks.

(3) *Boundaries of subdivision.* A boundary survey or existing survey of record; total acreage; acreage of subdivided area; number, approximate area, and frontage of all building sites; existing buildings within the boundaries of the tract; names of owners and property lines within the boundaries of the tract and adjoining such boundaries.

(4) *Streets, utilities, and other data.* All existing, platted, and proposed streets, names, numbers, and widths; existing utility or other easements; public areas and parking spaces; culverts, drains, and watercourses and their names; flood profile; and other pertinent data.

(5) *Drainage.* The storm drainage layout, including drainage easements and means of transporting the drainage to a well-defined open stream that is considered natural drainage, or to another approved drainage control facility.

(6) *Water and sewer.* Proposed connections with existing sanitary sewers and existing water supply or alternate means of sewage disposal and water supply. The location of all sewers shall be shown. The distance between manholes shall not exceed 400 feet. The location of all water lines shall be shown, as well as the location of necessary fire hydrants.

(7) *Grades.* Existing and proposed contours at a minimum interval of five feet, including tentative street grades.

(8) *Aerial or USGS map.* A location map tying the subdivision into the present road system, by using either aerial photographs, county topographic maps, or topographic maps of the United States Geological Survey.

(9) *Floodplain information.* A map showing the location of the proposed subdivision and/or land development with respect to any designated floodplain district, including information on, but not limited to, the 100-year flood elevations, boundaries of the floodplain districts, proposed lots and sites, fills, floods, or erosion protective facilities, and areas subject to special deed restrictions.

(10) *Chesapeake Bay areas.* All resources protection areas and resource management areas, as defined by § 157.150 through 157.163, Chesapeake Bay Preservation Overlay District. (1998 Code, § 54-202) (Ord. passed 9-5-2017)

§ 156.081 APPROVAL OF PRELIMINARY PLAT.

The agent shall discuss the preliminary plat with the subdivider in order to determine whether or not the preliminary plat generally conforms to the requirements of this chapter, Chapter 152 of this code, Chapter 157 of this code, VDOT, Health Department, and any other appropriate ordinance, rule, or regulation. Within 60 days of the preliminary plat submission, the subdivider shall be advised, in writing, by formal letter or by legible markings on the preliminary plat, of any additional data that may be required, and the character and extent of public improvements that will have to be made. (1998 Code, § 54-203) (Ord. passed 9-5-2017)

§ 156.082 NO GUARANTEE.

Approval of the preliminary plat does not guarantee approval of the final plat. (1998 Code, § 54-204) (Ord. passed 9-5-2017)

§ 156.083 FINAL PLAT.

(A) Within six months after receiving approval of the preliminary plat, the subdivider shall file with the agent a final subdivision plat in accordance with this chapter. Failure to do so shall make the preliminary approval null and void. The agent may, on written request by the subdivider, grant a one-time, six-month extension.

(B) The subdivision plat submitted for final approval and subsequent recording shall be clearly and legibly drawn, at a scale and sheet size acceptable to the County Clerk of the Circuit Court. The final plat shall conform to any approved site plan for the subdivision and include the following.

(1) *Drainage.* The drainage easements necessary for the conveyance of stormwater. The drainage easements shall match the approved plans.

(2) *Water and sewer.* The waterline and sanitary sewer easements necessary for the conveyance of public water and sewer.

(3) *Approval space.* A blank space, three inches by five inches, reserved for the use of the approving authority.

(4) *Certificates of title.* Certificates signed by a surveyor or engineer, setting forth the source of title of the owners of the land subdivided and the place of record of the last instrument in the chain of title.

(5) *Owner's statement.* A statement as follows: "The platting or dedication of the following described land (insert a correct description of the land being subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, and trustees".

(6) *Identification of tracts.* When the subdivision consists of land acquired from more than one source of title, the outlines of the various tracts shall be indicated by dashes and the identification of the respective tracts shall be placed on the plat.

(7) *Streets, public uses, utilities.* Includes:

(a) The accurate location and dimensions by bearings and distances with all curve data on all lots and streets;

(b) Boundaries of all proposed or existing easements;

(c) Parks;

(d) School sites;

(e) All existing public and private streets, including names, numbers, and widths;

(f) Existing utilities, and those to be provided, such as sanitary sewers, storm drains, water mains, manholes, and underground conduits, including sizes and types;

(g) Watercourses and names; and

(h) Names of owners and the property lines, both within the boundary of the subdivision and adjoining such boundaries.

(8) *CBPA.* All CBPA information required by §§ 157.150 through 157.163, Chesapeake Bay Preservation Overlay District, as applicable.

(9) *RPA's.* The depiction of all resource protection area boundaries, including a notation to retain an undisturbed and vegetative 100-foot-wide buffer area, as specified in §§ 157.150 through 157.163, and a notation of the permissibility of only specified exemptions in resource protection areas.

(10) *Wetlands*. If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following: “Wetlands and land within resource protection areas shall remain in a natural and undisturbed state except for those activities and uses allowed by 9 VAC § 10-20-130 of the Chesapeake Bay Preservation Area designation and management regulations.”

(1998 Code, § 54-206) (Ord. passed 9-5-2017) Penalty, see § 156.999

§ 156.084 APPROVAL OF FINAL PLAT.

The completed plat shall be submitted to the Planning Commission for approval. The plat shall not be approved until the subdivider has complied with the general requirements and minimum standards of design in accordance with this chapter and has made satisfactory arrangements for performance bond, cash, or cash bond to cover the cost of necessary improvements, in lieu of construction, to the satisfaction of the town. Upon the approval by the Planning Commission, the plat will be signed by the Planning Commission or its agent, marked “approved”, and returned to the subdivider, who will cause the plat to be recorded in the Clerk’s office of the Circuit Court of the county. No plat shall be recorded until approval has been made. If the plat submission is denied, the Planning Commission will return the plat to the subdivider, indicating corrections to be made by the subdivider.

(1998 Code, § 54-207) (Ord. passed 9-5-2017)

§ 156.085 EXTENSION OF SUBDIVISION PLAT APPROVALS TO ADDRESS HOUSING CRISIS.

Provisions for extension of zoning approvals shall be in conformance with VA Code§ 15.2-2209.1. (1998 Code, § 54-208) (Ord. passed 9-5-2017)

§ 156.999 PENALTY.

Any person violating the provisions of this chapter shall be subject to a fine of not more than \$500 for each lot or parcel of land subdivided, transferred, or sold. 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 in this chapter.

(1998 Code, § 54-5) (Ord. passed 9-5-2017)

CHAPTER 157: ZONING

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GENERAL PROVISIONS

§ 157.001 PURPOSE AND LEGISLATIVE AUTHORITY.

This chapter is adopted for the purpose of protecting and promoting the public health, safety, and general welfare in the town and accomplishing the goals, policies, and programs of the Comprehensive Plan. This chapter is established in accordance with the provisions of VA Code §§ 15.2-2280 et seq. to: provide for regulations governing nonconforming uses and structures; provide a Board of Zoning Appeals and for its powers and duties; provide for permits; establish and provide for the collection of fees; provide for the administration of this chapter and for the official whose duty it shall be to enforce the provisions of this chapter; provide penalties for the violation of this chapter; and provide for conflicts with other ordinances or regulations.

(1998 Code, § 66-1) (Ord. passed 9-5-2017)

§ 157.002 ASSUMPTION OF VALIDITY OF CONDITIONS OR LIMITATIONS.

Whenever any condition or limitation is included for a conditional use permit, variance, zoning permit, certificate of occupancy, site plan, or subdivision approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirement of some provision of this chapter, and to protect the public health, safety, and welfare, and that the officer or Board would not grant the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

(1998 Code, § 66-2) (Ord. passed 9-5-2017)

§ 157.003 RELATIONSHIP TO OTHER LAWS.

Whenever regulations or restrictions imposed by this chapter are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions that are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this chapter, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

(1998 Code, § 66-3) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.004 SCOPE OF CHAPTER.

(A) No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be used, designed, or arranged to be used for any purpose other than as included among the uses listed as permitted in the district in which such building or land is located, nor in any manner contrary to any other requirements specified in this chapter.

(B) The regulations listed for each district are hereby adopted and prescribed for each district and shall be deemed to be the minimum requirements in every instance of their application, subject to the provisions of other parts of this chapter.

(1998 Code, § 66-4) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.005 ADOPTION OF ZONING MAP.

(A) The incorporated territory of the town is divided into districts as set forth and indicated on the map entitled "Zoning Map", which map, properly identified and dated, is adopted as a part of this chapter insofar as it indicates such designations, locations, and boundaries; and the map shall be deemed to be as much a part of this chapter as if the information set forth on the map were fully described and incorporated in this chapter.

(B) The Zoning Map is available at Town Hall and on the town website.

(1998 Code, § 66-5) (Ord. passed 9-5-2017)

§ 157.006 INTERPRETATION OF COMPREHENSIVE PLAN, THIS CHAPTER, AND MAP.

(A) The town's Comprehensive Plan is intended to be no more than a textual and visual statement of goals and policies that will guide public actions, including land use regulation.

(B) This chapter, in addition to the Zoning Map of the town comprise the only definitive statement of land use.

(1998 Code, § 66-6) (Ord. passed 9-5-2017)

§ 157.007 ZONING MAP.

The Zoning Map serves as the best and most practical implementation of land use objectives of the town and supersedes all zoning maps and Comprehensive Plan maps in existence on the effective date of the ordinance from which this section derives.
(1998 Code, § 66-7) (Ord. passed 9-5-2017)

§ 157.008 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Additional definitions specific to their application in a division may be found in §§ 157.152 and 157.175. Sign definitions contained in § 157.301 also apply to this chapter.

ABANDON. To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

ABATTOIR. A commercial slaughterhouse.

ABUTTING/ADJOINING. Having a common point or border; having property or district lines in common. Properties separated from such a common border by public street or railroad right-of-way, and the like, shall be deemed adjacent but not be deemed **ABUTTING**. Property separated by an alley shall be deemed to **ABUT**.

ACCESSORY BUILDING USE OR STRUCTURE. A separate building, use, or structure on the same lot with and customarily incidental to the principal use of the parcel or principal structure.

ACCESSWAY. Landscaped strip of land intended for the passage of pedestrians but not vehicles.

ACREAGE. Parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

ACTIVE STORAGE. The holding or safekeeping of goods in an area for use as a part of the routine operation of the business.

ADULT BUSINESS. Any adult bookstore, adult video store, adult model studio, adult motel, adult movie theater, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matters relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

ADULT DAY-CARE FACILITY. A facility operated for the purpose of providing care, protection, and guidance to adults during normal business hours. No overnight facilities permitted.

ADULT ENTERTAINMENT. Dancing, modeling, or other live entertainment, if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CDs, DVDs, streaming video, or other media that are characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas.

ADULT MERCHANDISE. Magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CDs, DVDs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas; instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

ADULT MODEL STUDIO. A commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

ADULT MOTEL. A motel, hotel, or similar commercial establishment that: provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio, or television; offers a sleeping room for rent for a time period less than ten hours; or allows a tenant or occupant to subrent the sleeping room for a time period of less than ten hours.

ADULT MOVIE THEATER. An enclosed building regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons, excluding movies that have been rated "G", "PG", "PG-13", or "R" by the Motion Picture Association of America.

ADULT NIGHTCLUB. A restaurant, bar, club, or similar establishment that regularly features adult entertainment.

ADULT STORE. An establishment dealing in adult merchandise as a principal portion of its business.

ALLEY. A permanent service right-of-way providing a secondary means of access to abutting properties.

ALTERATION. Any change, reduction, or addition to part or all of the exterior of any structure including, but not limited to, color, height, floor area, use, or adaptability.

APARTMENT HOUSE. See **DWELLING, MULTIFAMILY.**

ARCHITECT. An individual who is qualified to engage in the practice of architecture as attested by the issuance of a currently valid license to such person as an architect by the State Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects.

ARCHITECTURAL FEATURES. The exterior details of a building, created by the type of construction, the manner of assembly of the materials and the use of decorative details that establishes the overall appearance, period, and style of the structure but are generally not necessary for the structural integrity of the structure. **FEATURES** include, but are not limited to, fanlights, cornice designs, corner boards, window trim, gingerbread, and similar such items.

ASSEMBLY or **ASSEMBLING.** Conversion of finished material and/or subcomponents into a major product or component.

ASSEMBLY, PLACE OF. Land and/or structures used as a meeting place where persons gather together for purposes of attending civic, social, and/or religious functions, recreational events, or entertainment performances on a regular or recurring basis including, but not limited to, religious institutions, banquet facilities, funeral homes, theaters, conference centers, stadiums, or indoor or outdoor recreational facilities. Excluded are public dance halls and restaurants as defined by this chapter. A gathering of less than 25 persons shall not be considered a **PLACE OF ASSEMBLY** provided the gathering is accessory and incidental to the principal use.

AUTO SERVICES. A facility where motor vehicle maintenance and repairs are conducted for compensation, such as body work, welding, painting, motor repairs, detailing, upholstery, installation of accessories, and like activities, but not including storage of junk vehicles.

BANK. Any establishment in which the primary business is concerned with state regulated activities, including banking, savings and loans, and consumer loan companies. A bank may not have a drive-in window.

BASEMENT. A story partly underground having more than half its floor-to-ceiling height below grade.

BED AND BREAKFAST. An owner or operator-occupied, single-family detached dwelling containing no more than one kitchen and ten or fewer guest rooms, occupied for sleeping purposes by guests for compensation with at least one meal being offered to guests of the establishment.

BIG BOX. A large single occupant building or unit used for retail or wholesale purposes exceeding 80,000 square feet of gross floor area located in a building or unit, or within a building group of less than five units connected by party walls, partitions, canopies, and similar features, and designed as a single or freestanding commercial use or group, which may be included or be part of a shopping center, possibly sharing parking areas and vehicular travel ways with other buildings or uses and which may be connected by walkways and access ways to other buildings or uses.

BOARDINGHOUSE. A building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

BUILDING. Any enclosed or open structure other than a tent or mobile home having a roof supported by columns or walls designed to support, shelter, house, or enclose persons, animals, or property of any kind.

BUILDING, HEIGHT OF. The vertical distance measured from the average elevation ten feet out from the finished grade adjoining the building on all exterior walls to the highest point of the roof for a flat roof or to the mean elevation between the main eaves and highest ridge or point of other types of roof. The term **ACTUAL HEIGHT OF BUILDING** as used in this chapter shall not be deemed to include any part of a building wall erected above a flat roof for the purpose of creating a false mansard or parapet to screen rooftop mechanical equipment or housings from public view.

BUILDING, MAIN. A building in which the principal use of the lot is conducted.

BUILDING/CODE OFFICIAL. The person appointed by the Town Council who issues the building permits for the structural design, construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or part of any building. It includes a **DEPUTY BUILDING/CODE OFFICIAL**.

BUILDING PERMIT. An approval statement signed by the Zoning Administrator and the code official authorizing the construction, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building.

BUILDING REPAIR. Any or all work involving the replacement of existing architectural or structural components with equivalent material for the purpose of maintenance, but not including any addition, change, or modification in construction.

CARNIVAL. An aggregation of shows, amusements, concessions, eating places, and riding devices, or any combination thereof, operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not they are owned and actually operated by separate persons.

CERTIFICATE OF APPROPRIATENESS. The approval statement signed by the Architectural Review Board which certifies the appropriateness of a particular request for the construction, alteration, reconstruction, repair, restoration, moving, relocation, demolition, or razing of all or part of any building within the historic district, subject to the issuance of all other permits needed for the matter sought to be accomplished.

CHILD CARE FACILITY. Any enterprise or facility operated for the purpose of providing care, protection, and guidance for more than five children separated from their parents or guardians during a part of a day. No overnight facilities permitted.

CHURCH. See **ASSEMBLY, PLACE OF**.

CIRCUS. A traveling or transportable show or exhibition of performances by persons and animals under at least one tent or similar structure with or without other sideshows.

CLUB or LODGE. A facility used by a group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws. **CLUBS** and **LODGES** may engage in any activity that is consistent with nonprofit status.

COMMERCIAL AMUSEMENT/RECREATION FACILITY. Any establishment where for coin, slug, ticket, pass, token, or other compensation more than five devices such as pinball, billiards, pool, foosball, table tennis, shuffleboard, electronic or video game, or any other game of recreation or amusement are displayed for public patronage, and/or any courts, fields, or arena designed for commercial lease on an hourly, daily, or event basis for athletic activity such as basketball, hockey, skating, virtual reality games, wrestling, or other such sports or athletic activities not under the control of a public or semipublic agency.

CONDOMINIUM. A group of dwellings, offices, or stores situated on a single lot wherein ownership of individual units is conveyed separately with an undivided vested interest in the common elements pertaining to that unit as defined under the Condominium Act (VA Code §§ 55-79.39 et seq.) or any successor law.

CONGREGATE/CONTINUING CARE FACILITY. A housing project designed for the care of ambulatory elderly persons, with spouses or companions when applicable. Such **FACILITIES** shall provide a community atmosphere by providing amenities for the residents including, but not limited to, a minimum of one prepared meal per day in a central dining area, recreational areas, social activities, and 24-hour staffing, in addition to other conditions as may be required by the special use permit to minimize impact on surrounding residential communities.

CONSTRUCTION STANDARDS. The technical design standards as outlined in this chapter, and the County Design and Construction Standards Manual, as adopted periodically.

DEAD STORAGE. Holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency, which will call for the removal of the goods.

DEMOLITION. The dismantling or tearing down of all, or part, of any building and incidental accessory buildings.

DOMESTICATED ANIMAL. Any dog or cat over four months of age that is maintained for companionship on residential property.

DRIVEWAY. The space specifically designated and reserved on the site for the movement of vehicles from one site to another or from a site to a public street.

DUPLEX. A building situated on a single lot and containing two dwelling units structurally attached, each having separate entrances.

DWELLING, ATTACHED. One of a series of three or more dwelling units separated from one another by common party walls without openings, i.e., townhouses.

DWELLING, DETACHED SINGLE-FAMILY. A detached dwelling designed for occupancy by only one family and not attached, duplex, or semidetached.

DWELLING, MULTIFAMILY. A building, or portion of a building, designed for occupancy by three or more dwelling units with shared principal entryways, including rental apartments and apartment condominiums.

DWELLING, SEMIDETACHED. A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.

DWELLING UNIT. A room, or interconnected rooms, constituting a separate independent housekeeping establishment intended for permanent, full-time human occupancy and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

EASEMENT. A grant or reservation by a property owner to another person for the use of a specified portion, or all, of his or her property for a specific purpose, without including title to the property.

EATING PLACE. See **RESTAURANT.**

ENGINEER. An individual who is qualified to engage in the practice of engineering or land surveying as attested by the issuance to such person of a currently valid license as a professional **ENGINEER** by the State Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects.

FAMILY.

(1) May be any of the following:

(a) An individual;

(b) Two or more persons related by blood, marriage, adoption, or guardianship, living and cooking together as a single housekeeping unit, exclusive of not more than one additional non-related person;

(c) A number of persons, not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, marriage, adoption, or guardianship; or

(d) Not more than two unrelated persons and their dependent children living and cooking together as a single housekeeping unit.

(2) Any family meeting one of the four definitions in divisions (1)(a) through (1)(d) above may have up to four residential guests, as defined in this section. Also see **GROUP HOME**.

FAMILY DAY CENTER. A dwelling unit providing as an accessory use in return for compensation, care, protection and/or guidance for more than five children under the age of 13, separated from their parents or guardian during a part of a day, exclusive of the provider's own children and any children who reside in the structure as part of the family residing there and meeting the definition of family.

FAMILY DAY HOME. A dwelling unit providing as an accessory use in return for compensation, care, protection, and/or guidance for five or fewer children under the age of 13, separated from their parents or guardians during a part of a day, exclusive of the provider's own children and any children who reside in the structure as part of the family residing there and meeting the definition of family.

FLOOR AREA, LEASABLE. Gross floor area less area devoted to common corridors, stairs, elevators, utility spaces, enclosed parking areas, and general maintenance spaces.

FOOD TRUCK. Any modular unit, trailer, or self-propelled motor vehicle (such as a truck, bus, van, camper, or semitrailer truck), not located on a permanent foundation, and used for the purpose of dispensing in exchange for compensation, food, and/or beverages to the public from the unit.

FRONTAGE. See **LOT FRONTAGE**.

FUNERAL HOME. A structure designed specifically for the purpose of conducting the ritual ceremonies held in connection with the burial of the dead.

GARAGE, PRIVATE. An accessory building or space within a dwelling unit designed or used for the storage of not more than three automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multifamily dwelling, a **GARAGE** may be designed and used for the storage of one and one-half times as many automobiles as there are dwelling units.

GASOLINE STATION. A facility for the retail sale and direct delivery to motor vehicles of fuel, lubricants, minor accessories, and including the sale of cigarettes, candy, soft drinks, and related items for the convenience of the motoring public.

GROUP HOME. A residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons. The terms **MENTAL ILLNESS** and **DEVELOPMENTAL DISABILITY** shall not include current illegal use of or addiction to a controlled substance as defined in VA Code § 54.1-3401 or any successor statute. The residential facility, to qualify as a **GROUP HOME**, must have a license from the State Department of Mental Health, Mental Retardation and Substance Abuse Services. For all purposes of this chapter, a **GROUP HOME** is a single-family dwelling.

HISTORIC DISTRICT. An area designated by the Town Council as an overlay district within which are found:

- (1) Historic landmarks as established by the State Board of Historic Resources;
- (2) Any historic structure;
- (3) Any historic areas;
- (4) Areas of unique architectural value located within designated conservation, rehabilitation, or redevelopment districts; and/or
- (5) Parcels of land contiguous to arterial streets or highways found by the Town Council to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures, or districts in the town or a contiguous locality.

HOME BUSINESS. Any commercial activity that is conducted within a dwelling unit as an occupation accessory use to the principal residential use and that does not adversely impact or change the character of the neighborhood. A **HOME BUSINESS** occupation is permitted only with a home occupation certificate issued by the town and subject to the standards of § 157.010.

HOMESTAY. An accessory use of a residential dwelling unit, or portion thereof, intended for short-term rental as transient lodging in exchange for a charge for the occupancy. The primary use of the dwelling unit shall remain residential.

HOSPITAL. An institution that renders two or more of the following services: medical and surgical services with associated bed space; obstetrical or convalescent care; or urgent care services, including nursing homes and sanitariums.

HOSPITAL, ANIMAL. A building designed or occupied for the medical care of animals with ancillary overnight supervision of animals in recovery.

HOTEL. Any facility, with or without separate cooking facilities within individual units, where overnight lodging is provided to the public with compensation on a nightly, weekly, or monthly basis for a period of less than 91 nights per individual per year. This definition includes **HOTELS** and **MOTELS**.

JUNKYARD. Any land or building used for the storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap, or discarded materials, or for the storage of automobiles or other vehicles not in running condition or the storage of machinery or parts thereof.

KENNEL. Any place where for hire, as part of the customary and routine activity of the premises, more than two dogs, or five cats, that are more than four months of age are kept for the purpose of providing care, protection, guidance, breeding, training, or exercise.

LIBRARY. Any place where books are loaned, with or without compensation, as a major part of the enterprise operated on the premises.

LOT. A parcel of land created by a metes and bounds description or plat of subdivision meeting minimum zoning requirements for area, coverage, setbacks, and other spaces as required at time of recordation.

LOT AREA. The total horizontal area included within lot lines.

LOT, CORNER. A lot abutting upon two or more streets, at their intersection; the shortest side, fronting upon a street, shall be considered the front of the lot, and the longest side, fronting upon a street, shall be considered the side of the lot.

LOT FRONTAGE. The distance measured from side lot line to side lot line, along a line parallel to the street line at the required minimum front yard depth.

LOT, INTERIOR. Any lot other than a corner lot.

LOT LINE. Any line or curve in the boundary of a lot.

LOT LINE, FRONT. A street right-of-way line which forms the boundary of a lot, or in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of, or approach to, the main building. On a corner lot, the shorter street right-of-way line shall be deemed to be the **FRONT LOT LINE**, regardless of the location of the principal entrance, or approach to the main building. On a corner lot, when sides abutting the streets are of equal length, the lot shall be considered to front on that street having the longest frontages within the same block. When frontage is on more than one street, all lot lines not otherwise defined as a **FRONT LOT LINE** shall be considered side lot lines.

LOT LINE, REAR. The lot line which is generally opposite the front lot line. If the lot is irregular in shape the following criteria will be used to determine the **REAR LOT LINE**:

(1) If a **REAR LOT LINE** is less than ten feet in length, or if the side lot lines come to a point at the rear, the **REAR LOT LINE** shall be deemed to be a line drawn parallel to the front lot line, that is not less than ten feet long, lying wholly within the lot and located as far as possible from the front lot line;

(2) If the lot has more than four contiguous lot lines that are not parallel to the front lot line, but all are greater than ten feet in length, the **REAR LOT LINE** shall include all the lot lines that have a beginning point greater than 65 feet from the front line and have an interior angle of 135 degrees or less; and

(3) Any lot line ten feet or less that has both ends intersecting with two lot lines with the same designation shall be deemed as being part of the same line.

LOT LINE, SIDE. Any lot line not otherwise defined as a front or rear lot line.

LOT OF RECORD. A lot which has been legally recorded in the Clerk's office.

LOT, THROUGH. An interior lot, fronting on two parallel or approximately parallel streets.

LOW-INTENSITY PROFESSIONAL, MEDICAL OFFICE OR FACILITY. A facility where there are no more than three clients on premises at a time.

MANUFACTURED HOME. A structure subject to federal regulation that is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on-site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. For purposes of this chapter, a **MANUFACTURED HOME** must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 C.F.R. part 3280, including the ANSI standards incorporated therein by reference. For purposes of this chapter, a **MANUFACTURED HOME** must bear a data plate declaring that it meets HUD standards. A recreational vehicle does not meet the definition of a **MANUFACTURED HOME**.

MANUFACTURING. The processing and/or converting of raw, unfinished materials, or products into articles or substances of different character for a different purpose.

MEDICAL USE. A facility providing emergency or nonemergency medical care, including surgery to patients on an outpatient basis.

MIXED USE DEVELOPMENT. Property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

MOBILE HOME. See **MANUFACTURED HOME**.

MOBILE OR MANUFACTURED HOME PARK OR SUBDIVISION. Any area designed to accommodate two or more independent mobile or manufactured homes intended for residential use where residence is in mobile or manufactured homes exclusively.

MORTUARY or MORGUE. A place where dead human bodies are prepared or kept for identification prior to arrangement for burial.

MOTEL. See **HOTEL**.

NONCONFORMING LOT. An otherwise legally platted lot that has less than the minimum specifications required by this chapter, either on the effective date of this chapter or at the date of subsequent amendments to this chapter.

NONCONFORMING STRUCTURE. An otherwise legal building or structure not complying with minimum lot area, yard, height, lot coverage, or other area or dimensional requirements of this chapter, either on the effective date of this chapter or at the date of subsequent amendments to this chapter.

NONCONFORMING USE. A use that was legal upon its inception but does not conform to the use regulations of this chapter, either on its effective date or at the date of subsequent amendments to this chapter.

OFFICE BUILDING. A facility in which the administrative activities, record keeping, clerical work, and other similar affairs of a business, professional service, industry, or government are conducted and, in the case of professions such as dentists, physicians, lawyers, or engineers, the facility where such professional services are rendered.

OFF-SITE. All area and structures not falling within the boundary of the land to be developed or under review.

ON-SITE. All land and structures falling within the boundary of the land to be developed, or contiguous, under the same ownership, and with a common plan of development.

OPEN SPACE. Land area set aside for recreation, landscaping, or natural preservation and not used for residences or business activities. **OPEN SPACE** may not be occupied by a patio, deck, or other structure. **OPEN SPACE** on which an approved landscaping plan is in effect is considered **LANDSCAPED OPEN SPACE**.

PARKING STRUCTURE, MULTILEVEL. A structure with multiple stories designed for the parking of passenger vehicles.

PATIO. An exterior living space designed and constructed in a manner that no portion of it is more than eight inches above the adjacent yard surfaces. For the purpose of this chapter, a **PATIO** is not a structure nor can any part of it be counted as landscaped space. A **PATIO** may intrude into a required side or rear yard no more than six feet. A **PATIO** intruding into the front yard is permitted as a stoop in front of the front door and may be no larger than sixteen square feet.

PERSON. Any individual, firm, corporation, partnership, association, company, business, trust, joint venture, organization, or other legal entity, by whatever term customarily known.

PERSONAL IMPROVEMENT SERVICE. A facility providing informational, instructional, and similar services for personal improvement. Typical uses include, but are not limited to, driving instruction, health or physical fitness studios, dance studios, handicraft, or hobby instruction.

PROFESSIONAL OFFICE. Any office for the practice of a profession including, but not limited to, architecture, engineering, law, medicine, psychology, theology, real estate, and accounting.

PUBLIC ACCESS EASEMENT. A right of ingress and egress granted by a property owner over his or her privately owned land for the use of the public to travel to a public street in which right to enjoyment is vested in the public generally or in an entire community.

PUBLIC DANCE HALL. The use of any structure, or structure and premises, open to the general public on a regular basis regardless of whether or not an admission fee is charged, where dancing, or the rhythmic movement of body and feet ordinarily accompanied by music, is permitted and the occupancy load of the premises is greater than 50 persons.

PUBLIC USE. Any holding, use, or control, exclusively for public purposes, of any facility, place, site, or structure by any department or branch of government of the federal government, state, or any political subdivision, public authority, or school board, or any combination thereof.

PUBLIC UTILITY. A business or service having an appropriate franchise from the state engaged in regularly supplying the public with a commodity or service of public consequence and need such as electricity, gas, water, sanitary sewer, stormwater management, transportation, or communications.

RECONSTRUCTION. Work required to remake or rebuild all or a part of any building to a sound condition, but not necessarily using original materials.

RECREATIONAL VEHICLE. Any vehicle, trailer, or semitrailer designed for human occupation and not meeting the definition of manufactured home and is not meant for permanent occupancy.

RESIDENTIAL GUEST. Any person not included in the definition of family who sleeps, eats, or otherwise is sheltered by the legal family unit for a period of not more than 30 consecutive days, or 104 calendar days in a single calendar year and who does not compensate the legal family unit for room or board except to defray actual expenses incurred.

RESTAURANT. A building designed or altered, in whole or part, for the purpose of preparation and serving of food and/or beverage for consumption on the premises in exchange for compensation, except for an establishment that meets the definition of “drive-through restaurant” or “public dance hall restaurant” below. At no time shall a **RESTAURANT** dispense food directly to persons in a vehicle.

RESTAURANT, DRIVE-THROUGH. A building designed or altered, in whole or part, to cater to or accommodate the consumption of food and/or beverage on premises, and to customers awaiting the dispensing of such food while in their motorized vehicles, in exchange for compensation.

RESTAURANT, PUBLIC DANCE HALL. A formal or informal restaurant with an occupancy load of more than 50 persons and which meets the definition of “public dance hall” above.

RESTORATION. Work connected with the returning to or repair of a building, or a part of any building, to its original condition through the use of original or nearly original materials.

RETAIL STORE. A building in which merchandise is displayed and sold or personal services rendered to the general public, including an aerobic and dance studio, hardware store, or wellness

facility, but not including an adult business, big box, commercial amusement/recreation facility, dead storage, gasoline station, hospital, animal hospital, junkyard, kennel, massage establishment as defined in § 112.02 of this code, multilevel parking structure, restaurant, truck terminal.

ROOMING HOUSE. See **BOARDINGHOUSE.**

SEMIPUBLIC. Any nonprofit use of a building, facility, structure, or land area by the general public for civic or philanthropically oriented uses not under the general supervision or responsibility of a government or governmental franchised utility. This term includes civic center, cultural arts, and similar activities.

SERVICE STATION. See **GASOLINE STATION.**

SETBACK. The minimum distance by which a structure must be separated from a lot line, measured from the nearest vertical wall of the structure to the property line. The term “nearest vertical wall” does not include bay windows, chimneys, eaves, and similar architectural features no more than two feet in depth. For portions of structures without vertical walls, such as decks, the **SETBACK** is measured to the nearest corner or edge of the structure instead.

SHELTER, RESIDENTIAL. A structure operated not for profit, and licensed by the State Welfare Division as transient housing providing short-term or long-term occupancy by more than eight residents, with associated administrative offices.

SIGN. See § 157.301.

SITE PLAN, FINAL. A plan delineating the overall scheme of development of a tract of land, including, but not limited to, grading, engineering design, construction details, survey data for existing and proposed improvements, public utility, storm drainage, landscaping, lighting detail, and erosion and sediment control plans.

SITE PLAN, PRELIMINARY. A plan showing the proposed general layout, the general location of the various types of land uses, the proposed number of dwelling units and layout of lots, general location of streets, and a plan showing the location of recreational spaces, parks, schools, and other public or community uses, where applicable.

SPACE, LOADING. Any off-street parking space designed, designated, and available for loading and unloading of bulk goods.

SPACE, OFF-STREET PARKING. A space adequate for the temporary storage of a motor vehicle with room for opening doors on both sides, together with properly related access to a public street and maneuvering room, all located outside the dedicated street right-of-way.

SPECIAL EXCEPTION. A use or activity which is not permitted by the provisions of this chapter within a specific zoning district, without being reviewed and authorized by legislative action of the Town Council through the issuance of a special use permit.

SPECIAL USE PERMIT. A permit issued by the Town Council for a special exception after determining such permit to be in keeping with the provisions and intent of this chapter.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or, if it is the topmost story, the portion included between the surface of its floor and the ceiling next above it.

STORY, HALF. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

STREET. A strip of land, including the entire right-of-way intended to be dedicated for use as a means of vehicular and pedestrian circulation by the public at large. The term ***STREET*** includes avenues, boulevards, highways, roads, bridges, and the approaches thereto and all other public thoroughfares, but not alleys, in the town, and shall mean the entire width thereof between abutting property lines.

STRUCTURE. Any assembly of materials forming a construction or fixture for occupancy or use on, under, or over (or any combination thereof) land or water including, but not limited to, stadiums, tents, reviewing stands, platforms, stages, observation towers, telecommunications towers, solar energy devices, water tanks, trestles, piers, wharfs, swimming pools, storage bins, fences, private or public utility lines and other facilities, signs, buildings, parking lots, driveways, decks, gasoline pumps and pump islands, underground storage tanks, stormwater management and retention facilities. The word ***STRUCTURE*** shall be construed as though followed by the words “or parts thereof” unless the context clearly requires a different meaning. The word ***STRUCTURE*** includes the word ***BUILDING***.

STRUCTURE, CONTRIBUTING. Any structure more than 50 years old at the time under consideration and that represents the period in which it was built by material, design, or other physical features, or is a place of significance that preserves, protects or enhances the character of the historic district in which it is located as determined by the Zoning Administrator.

STRUCTURE, HISTORIC. Any building or physical improvement built before 1900.

STRUCTURE, NON-CONTRIBUTING. Any structure found within a historic overlay district that has not been identified and listed on the historic district structures list adopted by the Town Council.

SUBDIVISION. Any division or re-division of a lot, tract, or parcel of land into lots, tracts, or parcels for the purpose of recordation of any single division and subject to the provisions of Chapter 156 of this code, as amended.

TOWNHOUSE. See ***DWELLING, ATTACHED.***

TRAVEL TRAILER. See ***RECREATIONAL VEHICLE.***

TRUCK TERMINAL. A structure and site designed and used primarily for the loading, unloading, storage, refueling, and maintenance (limited to the changing of tires, fuses, and lights) of tractor trailers or other commercial vehicles.

VETERINARY. See *HOSPITAL, ANIMAL*.

WELLNESS FACILITY. A structure and use designed primarily to provide at least two of the following services: physical therapy; class instruction on physical fitness; aerobics; weight training; nutritional consultation; classes on personal hygiene; and similar activities.

WHOLESALE BUSINESS. A business selling merchandise to retailers, industrial, commercial, institutional, or professional business users, or to other wholesalers, but not including a “big box”, as defined herein.

YARD. An open area on a lot between the lot line and the building, measured from the nearest vertical wall of the building to the property line. The term “nearest vertical wall” does not include bay windows, chimneys, eaves, and similar architectural features no more than two feet in depth. A **YARD** shall be open space except as otherwise provided in this chapter.

YARD, FRONT. A yard provided along any street frontage for the full width of the lot and whose depth is measured from the street line perpendicular to the lot frontage to the nearest vertical wall of the structure. For portions of structures without vertical walls, such as decks, the yard is measured to the nearest corner or edge of the structure instead.

YARD, REAR. A yard provided between a structure and the rear lot line and measured perpendicular to the rear lot line to the nearest vertical wall of the structure. For portions of structures without vertical walls, such as decks, the yard is measured to the nearest corner or edge of the structure instead.

YARD, SIDE. A yard provided between a structure and the side lot line and measured perpendicular to the side lot line to the nearest vertical wall of the structure. For portions of structures without vertical walls, such as decks, the yard is measured to the nearest corner or edge of the structure instead.

YARD SALE, RESIDENTIAL. A limited customary accessory use permitted in all residential districts which includes display and noncommercial sales, for the disposal of personal property accumulated by the family of a residential unit for family use and not for resale.

ZONING ADMINISTRATOR. The public official charged with interpretation and enforcement of the provisions of this chapter.

ZONING CERTIFICATION. An official document signed by the Zoning Administrator, or the designated agent, that certifies a specific use, or construction on a specific parcel in the town is consistent with the provisions and conditions of this chapter. An official certification must contain notice of appeal as required under VA Code § 15.2-2311 or successor statute.
(1998 Code, § 66-8) (Ord. passed 9-5-2017)

§ 157.009 DISCLOSURE OF INTERESTS.

(A) Any applicant for a special exception, a special use permit, an amendment to this chapter, or a variance shall make complete disclosure of the equitable ownership of the real estate to be affected including, in the case of corporate ownership, the name of stockholders, officers, and directors and in any case the names and addresses of all the real parties of interest. However, the requirement of listing names of stockholders, officers, and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and having more than 500 stockholders. In the case of a condominium, the requirement shall apply only to the title owner, contract purchaser, or lessee if he or she owns 10% or more of the units in the condominium.

(B) The disclosure of interests shall be made under oath, notarized, and provided to the body receiving the application simultaneously with the submission of the application.
(1998 Code, § 66-9) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.010 HOME OCCUPATION CERTIFICATE.

A home occupation certificate shall be required for all home business occupations and is subject to the following standards.

(A) The operation of the home occupation must be conducted entirely within the dwelling unit (not in any accessory structure, i.e. detached shed/garage) by the owner/occupant residing in the dwelling and shall not change the character of the dwelling unit nor exhibit any exterior evidence of nonresidential use. No outside storage shall be permitted. Commercial deliveries and pickups of supplies associated with the home occupation shall not be made between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and between the hours of 10:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays.

(B) No additional signs, freestanding or otherwise, shall be permitted on the property or on the exterior of the dwelling unit besides those permitted by § 157.320 Table 1.

(C) The storage of materials, merchandise or equipment on the property is limited to nontoxic or nonhazardous materials in quantities customarily found within a residential dwelling and necessary to conduct the home business occupation.

(D) One marked company vehicle shall be permitted. A marked company vehicle is a vehicle that is externally marked with any commercial markings. A company vehicle is a passenger motor vehicle or light duty truck less than 7,500 pounds gross vehicle weight exclusively used in a business or commercial activity and shall not include any of the following: contractor's equipment or other heavy equipment; a garbage truck; tractor; trailer of a tractor-trailer truck; flatbed truck; dump truck; tow truck; passenger bus; cement truck; and step vans. The marked company vehicle must be kept in a garage or accessory building.

(E) The area devoted to the home occupation shall not exceed 25% of the gross floor area of the dwelling unit.

(F) The home occupation certificate shall terminate on the earlier to occur of:

(1) The termination of the home occupation; or

(2) The applicant becoming a resident at a different location.

(1998 Code, § 66-10) (Ord. passed 9-5-2017; Ord. O-2019-05, passed 3-5-2019)

§ 157.011 EXTENSION OF ZONING APPROVALS TO ADDRESS HOUSING CRISIS.

Provisions for extension of zoning approvals shall be in conformance with VA Code § 15.2-2209.1.

(1998 Code, § 66-11) (Ord. passed 9-5-2017)

§ 157.012 SETBACK ENCROACHMENTS FOR ADA RAMPS, STRUCTURES, AND EQUIPMENT.

Notwithstanding the setback requirements set forth in this chapter, upon application and demonstration to the satisfaction of the Zoning Administrator that the same is reasonably necessary to allow for access or egress or for emergency services (“modification”), the Zoning Administrator shall allow a reasonable modification of setback requirements by permitting ramps, structures, and equipment needed to provide access or egress or for emergency services for a specific, identified individual with disabilities under the United States Americans with Disabilities Act of 1990 to encroach into any setback to the minimum distance necessary to provide the access or egress or for emergency services. The Zoning Administrator may seek guidance from appropriate governmental building and life safety officials when considering the application for modification. The Zoning Administrator shall report approval of such modification to the Town Council at the next regularly scheduled meeting. Any such modification approved by the Zoning Administrator shall: be constructed in accordance with the State Uniform Statewide Building Code, being 13 VAC 5-63 and is subject to all applicable review permitting and inspections requirements and fees; and be promptly removed and the setback restored to conform to this chapter upon discontinuance of the need. The Zoning Administrator may require reasonable documentation and access to the property to substantiate the extent of the need for the modification.

(1998 Code, § 66-12) (Ord. passed 9-5-2017)

DISTRICTS; GENERALLY**§ 157.025 ESTABLISHMENT OF DISTRICTS.**

(A) For purposes of this chapter, the incorporated areas of the town are hereby divided into the following districts:

- (1) R-1 District, limited residential, low-density;
- (2) R-2 District, general residential, medium-density;
- (3) R-3 District, general residential, high-density;
- (4) R-4 District, residential, high-density; and
- (5) B-1 District, generally business, with mixed-use components.

(B) The locations and boundaries of these districts are shown on the Zoning Map. (1998 Code, § 66-41) (Ord. passed 9-5-2017)

R-1 DISTRICT**§ 157.040 STATEMENT OF INTENT.**

The R-1 District consists of low-density residential areas, together with open areas, wherein further low-density residential development appears likely to occur. The regulations for this district are designed to protect and promote the essential characteristics of this district, to promote and encourage a healthy and suitable environment for family life, especially for families that include children, and to ensure that the limited physical size of the town is developed in accordance with its historical character as a town that is primarily residential, with concentrated commercial uses. To this end, development in the R-1 District is limited to low-concentration residential use, mostly detached single-family residences, together with certain additional uses that would serve the residents of this district, including schools, parks, and utilities. To preserve the character of this district, no commercial or industrial use is allowed.

(1998 Code, § 66-61) (Ord. passed 9-5-2017)

§ 157.041 USES PERMITTED.

Structures to be erected or maintained, or land to be used, shall be restricted to one or more of the following uses.

(A) *Uses permitted by-right.*

- (1) Detached single-family dwellings;
- (2) Schools;
- (3) Town parks;
- (4) Places of assembly with less than 25 seats, as an accessory to the principal use;

(5) Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a home occupation certificate in accordance with § 157.010;

(6) Homestay, as an accessory use;

(7) Accessory buildings; except that a garage or other accessory structure, such as a carport, porch, or stoop, when attached to the main building, shall be considered part of the main building, subject to any property line or setback restrictions in effect at the time of construction;

(8) Temporary seasonal display, subject to the following conditions: display must be accessory to the principal use of the property; and display may not be present for more than 45 days; and

(9) Public utilities, including poles, lines, distribution transformers, pipes, meters, or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities.

(B) *Uses permitted by special exception permit approved by Town Council.* Bed and breakfast; professional offices within detached single-family dwellings, operated by a resident and occupant; and rooming houses and boardinghouses operated by a resident and occupant.
(1998 Code, § 66-62) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.042 SIGNS PERMITTED.

Signs shall be in conformance with §§ 157.300 through 157.309, 157.320 through 157.322, and 157.335 through 157.339.
(1998 Code, § 66-63) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.043 AREA REGULATIONS.

A residential lot containing or intended to contain a detached single-family dwelling shall have a minimum lot area of 10,000 square feet.
(1998 Code, § 66-64) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.044 SETBACK REGULATIONS.

Buildings shall be located 35 feet or more from any street right-of-way that is 50 feet or more in width, or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the *SETBACK LINE*.
(1998 Code, § 66-65) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.045 FRONTAGE REGULATIONS.

For detached single-family dwellings, the minimum lot width at the setback line shall be 70 feet. The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets. (1998 Code, § 66-66) (Ord. passed 9-5-2017)

§ 157.046 YARD REGULATIONS.

(A) *Side.* The minimum side yard shall be ten feet, and the total minimum width of the two required side yards shall be 25 feet. For corner lots, the side yard on the side facing the side street shall be 20 feet or more for both main and accessory buildings. Decks are not permitted in the minimum side yard area.

(B) *Rear.* The minimum rear yard, measured from the largest structure upon the premises, shall be 40 feet, of which no more than 15 feet may be occupied by a deck. However, the Zoning Administrator shall issue a zoning permit reducing the rear yard to 25 feet if the existing or planned building will not have any provision for a deck and a note is placed on all site plans, subdivision plans, building plans, and record plats associated with the property that no deck is permitted on the lot. No deck may be built in any rear yard subject to such a zoning permit. The Zoning Administrator shall issue a zoning permit for a deck larger than 15 feet, if the distance from the rear edge of the deck to the property line is at least 25 feet.

(1998 Code, § 66-67) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.047 HEIGHT REGULATIONS.

(A) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(B) Public or semipublic buildings, such as a school, library, or hospital, may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aeriels are exempt.

(D) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(E) No accessory building shall be closer than five feet to any lot line, nor shall it be more than one story high. All accessory buildings shall be less than the main building in height.

(1998 Code, § 66-68) (Ord. passed 9-5-2017) Penalty, see § 10.99

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R-2 DISTRICT

§ 157.060 STATEMENT OF INTENT.

The R-2 District consists of certain medium-density residential uses, generally located between detached single-family residential and commercial areas, together with certain open areas, where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, with compatible intensities of land use, a suitable environment for family life composed of an adult population with some children, and to permit certain commercial uses of a character unlikely to develop a general concentration of traffic, crowds of customers and general outdoor advertising. To this end, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. All residential types of structures for both permanent and transient occupancy, including institutions, are permitted, as well as structures for commercial uses conforming to the pattern of the district. This residential district is not completely residential as it includes public, semipublic, institutional, and other related uses. However, it is mostly residential in character, and, as such, shall not be spotted with commercial and industrial uses.
(1998 Code, § 66-91) (Ord. passed 9-5-2017)

§ 157.061 USES PERMITTED.

Structures to be maintained or erected or land to be used shall be restricted to one or more of the following uses.

(A) *Uses permitted by right.* Uses permitted by right are as follows:

- (1) Detached single-family dwellings;
- (2) Two-family or duplex dwellings;
- (3) Places of assembly with less than 25 seats, as an accessory to the principal use;
- (4) Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a home occupation certificate in accordance with § 157.010;
- (5) Homestay, as an accessory use;
- (6) Accessory buildings, except that a garage or other accessory structure, such as a carport, porch, or stoop, when attached to the main building, shall be considered a part of the main building and shall be subject to any property line or setback restrictions in effect within the town;
- (7) Temporary seasonal display, subject to the following conditions: display must be accessory to the principal use of the property; and display may not be present for more than 45 days; and

(8) Public utilities, including poles, lines, distribution transformers, pipes, meters, or other facilities necessary for the provision and maintenance of public facilities, including water and sewerage facilities.

(B) *Uses permitted by special exception permit approved by Town Council.* Uses permitted by special exception permit approved by Town Council are as follows:

(1) Bed and breakfast;

(2) Low-intensity professional and medical offices and facilities within detached single-family dwellings, not conducted by a resident and occupant;

(3) Rooming houses and boardinghouses operated by a resident and occupant; and

(4) Professional offices within detached single-family dwellings, operated by a resident and occupant.

(1998 Code, § 66-92) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.062 SIGNS PERMITTED.

Signs shall be in conformance with §§ 157.300 through 157.309, 157.320 through 157.322, and 157.335 through 157.339.

(1998 Code, § 66-93) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.063 AREA REGULATIONS.

Residential lots containing or intended to contain a detached single-family dwelling shall have a minimum lot area of 10,000 square feet. Residential lots containing or intended to contain two-family or duplex dwellings shall have a minimum lot area of 12,000 square feet. Further, that portion of the lot area used or intended to be used for erection or maintenance of a building shall not be less than 3,600 square feet in area. That portion of the total lot area used for property line setbacks, walkways, and outdoor recreational areas shall not be less than 6,600 square feet in area. That portion of the total lot area used for off-street parking shall not be less than 1,800 square feet in area.

(1998 Code, § 66-94) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.064 SETBACK REGULATIONS.

Dwellings shall be located 35 feet or more from any street right-of-way that is 50 feet or more in width, or 60 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

(1998 Code, § 66-95) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.065 FRONTAGE REGULATIONS.

(A) For detached single-family dwelling, the minimum lot width at the setback line shall be 70 feet.

(B) For two-family or duplex dwellings, the minimum lot width at the setback line shall be 80 feet.

(C) The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets. (1998 Code, § 66-96) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.066 YARD REGULATIONS.

(A) *Side.* The minimum side yard for detached single-family dwellings shall be ten feet, and the minimum total width of the two required side yards shall be 25 feet. The minimum side yard for two-family or duplex dwellings shall be 15 feet, and the minimum total width of the two required side yards shall be 35 feet. For corner lots, the side yard on the side facing the side street shall be 20 feet or more for both main and accessory buildings. Decks are not permitted in the minimum side yard area.

(B) *Rear.* Each main building shall have a rear yard of 40 feet or more, of which no more than 15 feet may be occupied by a deck. However, the Zoning Administrator shall issue a zoning permit reducing the rear yard to 20 feet if the existing or planned building will not have any provision for a deck and a note is placed on all site plans, subdivision plans, building plans, and record plats associated with the property that no deck is permitted on the lot. No deck may be built in any rear yard subject to such a zoning permit. The Zoning Administrator shall issue a zoning permit for a deck larger than 15 feet if the distance from the rear edge of the deck to the property line is at least 25 feet. (1998 Code, § 66-97) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.067 HEIGHT REGULATIONS.

(A) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(B) Public or semipublic buildings, such as a school, library, or hospital, may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are exempt.

(D) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(E) No accessory building shall be closer than five feet to any lot line, nor shall it be more than one story high. All accessory buildings shall be less than the main building in height. (1998 Code, § 66-98) (Ord. passed 9-5-2017) Penalty, see § 10.99

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R-3 DISTRICT

§ 157.080 STATEMENT OF INTENT.

The R-3 District consists of areas in which residential development is likely to take the form of dwellings designed to accommodate more than two families, such as two-family or duplex dwellings, or townhouse projects. When possible, these higher density dwellings shall be built as unified projects rather than on a lot-by-lot basis. This district further consists of open areas which shall be preserved for use as parks and recreation property to ensure a healthful family environment in an area of high population density. This district shall not be spotted with business or commercial uses. (1998 Code, § 66-111) (Ord. passed 9-5-2017)

§ 157.081 USES PERMITTED.

Structures to be maintained or erected or land to be used shall be restricted to one or more of the following uses.

(A) *Uses permitted by right.* Uses permitted by right are as follows:

- (1) Detached single-family dwellings;
- (2) Duplex dwellings;
- (3) Townhouse development;
- (4) Rooming houses and boardinghouses, operated by a resident and occupant;
- (5) Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a home occupation certificate in accordance with § 157.010;
- (6) Homestay, as an accessory use;
- (7) Professional offices within detached single-family dwellings, operated by a resident and occupant;
- (8) Accessory buildings; except that a garage or other accessory structure, such as a carport, porch, or stoop, when attached to the main building, shall be subject to any property line or setback restrictions in effect within the town;
- (9) Temporary seasonal display, subject to the following conditions: display must be accessory to the principal use of the property; and display may not be present for more than 45 days;

(10) Public utilities, including poles, lines, distribution transformers, pipes, meters, or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities; and

(11) Private or public recreation facilities; events shall be scheduled to complete all activity before or as near to 11:00 p.m., as practical.

(B) *Uses permitted by special exception permit approved by Town Council.* Uses permitted by special exception permit approved by Town Council are as follows:

(1) Bed and breakfast;

(2) Child care facilities;

(3) Professional offices within townhouse dwellings, operated by a resident and occupant;
and

(4) Private club facilities.

(1998 Code, § 66-112) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.082 SIGNS PERMITTED.

Signs shall be in conformance with §§ 157.300 through 157.309, 157.320 through 157.322, and 157.335 through 157.339.

(1998 Code, § 66-113) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.083 AREA REGULATIONS.

(A) Residential lots containing or intended to contain detached single-family dwellings shall have a minimum lot area of 6,000 square feet.

(B) Residential lots containing or intended to contain duplex dwellings shall have a minimum lot area of 12,000 square feet.

(C) The average lot width for any group of townhouses shall be at least 20 feet. At least 40% of the total area of any townhouse project, including area on individual lots, shall be devoted to landscaped open space. Preservation of desirable natural vegetation may substitute for landscape plantings upon approval of the Town Council. The maximum number of attached units in any one group or series shall be eight. No townhouse lot shall be arranged or developed in such a way as to necessitate vehicles backing out onto any public street. Individual townhouse lots may front on private streets, provided there is an access easement to a publicly maintained street. Individual townhouse lots shall be platted outside of any private streets or common parking areas. Private streets shall be constructed in accordance with § 156.068(B). The provisions of this division (C) may be modified by the Town Council as part of the approval of a rezoning or special use permit.

(D) The minimum lot area for any multifamily structure shall be at least 10,000 square feet, and the minimum width shall be 100 feet. Not more than 16 multifamily units may be established per acre. At least 30% of the land area in any project shall be devoted to landscaped open space. (1998 Code, § 66-114) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.084 SETBACK REGULATIONS.

(A) Single-family dwellings within the R-3 District shall be located 25 feet or more from any public street right-of-way that is 50 feet or more in width, or 60 feet or more from the centerline of any public street right-of-way less than 50 feet in width. This shall be known as the setback line.

(B) Duplex and townhouse dwellings shall be set back at least 25 feet from the public or private street right-of-way; except that when parking is provided in the rear or side of a unit, the setback from a public or private street right-of-way or easement shall be a minimum of ten feet. In all cases, a minimum front yard of ten feet shall be required; and such front yard shall not be encumbered by common parking areas, private streets, travel ways, or sidewalks other than the entrance walk to the individual unit or parking spaces for the individual unit. No more than two abutting attached units shall have the same setback. Minimum setback variations shall be two feet.

(C) Multifamily dwellings shall be set back at least 25 feet from street right-of-way or the private street portion of access easements, whichever is closer.

(D) The setback regulations in this section shall not apply in the Old and Historic Occoquan District. (1998 Code, § 66-115) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.085 FRONTAGE REGULATIONS.

The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets. (1998 Code, § 66-116) (Ord. passed 9-5-2017)

§ 157.086 YARD REGULATIONS.

(A) *Side.*

(1) The minimum side yard for detached single-family dwellings shall be ten feet on each side.

(2) The minimum side yard for duplex dwellings shall be ten feet on each side.

(3) For townhouse lots, there shall be no side yard required except for end units, which shall have a minimum ten-foot side yard for each end unit.

(4) Multifamily dwellings shall have a minimum side yard on each side of at least 25 feet.

(5) Decks are not permitted in the minimum side area.

(6) Side yards within the Old and Historic Occoquan District shall be exempt.

(B) *Rear*. Each main building shall have a rear yard of at least 20 feet, of which no more than ten feet may be occupied by an uncovered deck.

(C) *Closeness*. No accessory building shall be closer than five feet to any lot line.
(1998 Code, § 66-117) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.087 HEIGHT REGULATIONS.

(A) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(B) Public or semipublic buildings, such as a school, library, or hospital, may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are exempt.

(D) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(E) Accessory buildings shall not be more than one story. All accessory buildings shall be less than the main building in height.

(F) The height limitations contained in this section may be modified as part of the approval of a special use permit or rezoning.
(1998 Code, § 66-118) (Ord. passed 9-5-2017) Penalty, see § 10.99

R-4 DISTRICT

§ 157.100 STATEMENT OF INTENT.

The R-4 District consists of areas in which residential development is likely to take the form of dwellings designed to accommodate multifamily dwellings, garden, and high-rise apartment projects. When possible, these higher density dwellings shall be built as unified projects rather than on a lot-by-lot basis. This district further consists of open areas which shall be preserved for use as park and recreation

property to ensure a healthful family environment in an area of high population density. This district shall not be spotted with business or commercial uses.

(1998 Code, § 66-119) (Ord. passed 9-5-2017)

§ 157.101 USES PERMITTED.

Structures to be maintained or erected, or land to be used, shall be restricted to the following uses.

(A) *Uses permitted by right.* Uses permitted by right are as follows:

(1) Multifamily dwellings or apartment houses, upon site plan approval by the Planning Commission;

(2) Accessory buildings, except that a garage or other accessory structure, such as a carport, porch, or stoop, when attached to the main building, shall be subject to any property line or setback restrictions in effect at the time of approval;

(3) Home business occupations conducted by a resident and occupant, as an accessory use, subject to the issuance of a home occupation certificate in accordance with § 157.010;

(4) Temporary seasonal display, subject to the following conditions: display must be accessory to the principal use of the property; and display may not be present for more than 45 days;

(5) Public utilities, including poles, lines, distribution transformers, pipes, meters, or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities; and

(6) Private or public recreation facilities; events shall be scheduled to complete all activity before or as near to 11:00 p.m. as practical.

(B) *Uses permitted by special exception permit approved by Town Council.* Uses permitted by special exception permit approved by Town Council are as follows: child care facilities; garden and high-rise apartment projects; and private club facilities.

(1998 Code, § 66-120) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.102 SIGNS PERMITTED.

Signs shall be in conformance with §§ 157.300 through 157.309, 157.320 through 157.322, and 157.335 through 157.339.

(1998 Code, § 66-121) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.103 AREA REGULATIONS.

The minimum lot area for any multifamily structure shall be at least 10,000 square feet, and the minimum width shall be 100 feet. No more than 16 multifamily units may be established per acre. At least 30% of the land area in any project shall be devoted to landscaped open space.
(1998 Code, § 66-122) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.104 SETBACK REGULATIONS.

(A) Multifamily dwellings shall be set back at least 25 feet from street right-of-way or the private street portion of access easements, whichever is closer.

(B) The setback regulations in this section shall not apply in the Old and Historic Occoquan District.

(1998 Code, § 66-123) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.105 FRONTAGE REGULATIONS.

The front of a corner lot shall be deemed to be the shorter of the two sides fronting on streets.
(1998 Code, § 66-124) (Ord. passed 9-5-2017)

§ 157.106 YARD REGULATIONS.

(A) Multifamily dwellings shall have a minimum side yard on each side of at least 25 feet.

(B) Each main building shall have a rear yard of at least 20 feet.

(C) No accessory building shall be closer than five feet to any lot line.

(D) The side and rear yards required by this section shall not apply in the Old and Historic Occoquan District.

(1998 Code, § 66-125) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.107 HEIGHT REGULATIONS.

(A) Buildings may be erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls.

(B) Public or semipublic buildings, such as a school, library, or hospital, may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(D) No accessory structure shall be more than one story high. All accessory buildings shall be less than the main building in height.

(E) The height limitations contained in this section may be modified as part of the approval of a special use permit or rezoning.

(1998 Code, § 66-126) (Ord. passed 9-5-2017) Penalty, see § 10.99

B-1 DISTRICT

§ 157.120 STATEMENT OF INTENT.

Generally, the B-1 District covers that portion of the town intended for the conduct of general business to which the public requires direct and frequent access, but is not characterized either by constant heavy trucking, other than stocking and delivery of light retail goods, or by any nuisance factors, other than incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, restaurants, and taverns. The B-1 District is also encouraged to incorporate mixed-use designs, characterized by business uses along the street or water front with high-density residential above, as new developments and redevelopment occurs.

(1998 Code, § 66-141) (Ord. passed 9-5-2017)

§ 157.121 USES PERMITTED.

Structures to be maintained or erected, or land to be used, shall be restricted to one or more of the following uses.

(A) *Uses permitted by right.* Uses permitted by right are as follows:

- (1) Home appliance services;
- (2) Bakeries;
- (3) Banks;
- (4) Barbershops and beauty shops;
- (5) Bed and breakfasts;

- (6) Clubs and lodges;
- (7) Drugstores;
- (8) Festivals, town sponsored;
- (9) Hotels;
- (10) Laundry facilities;
- (11) Libraries;
- (12) Machinery sales and service;
- (13) Medical uses;
- (14) Office buildings;
- (15) Places of assembly with less than 25 seats, as an accessory to the principal use;
- (16) Plumbing and electrical supply stores (with storage under cover);

(17) Public utilities, including poles, lines, distribution transformers, pipes, meters or other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities;

- (18) Restaurants, eating places;
- (19) Retail food stores;
- (20) Retail stores;

(21) Temporary seasonal display, subject to the following conditions: display must be accessory to the principal use of the property; and display may not be present for more than 45 days; and

(22) Waterfront business activities: wholesale and retail marine, such as boat docks, piers, small boat docks, yacht clubs and marine servicing facilities; dock and areas for receipt, storage, and transshipment of waterborne commerce; and recreational activities, primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

(B) *Uses permitted by special exception permit approved by Town Council.* Uses permitted by special exception permit approved by Town Council are as follows:

- (1) Auto services;

(2) Child care facilities;

(3) Funeral homes;

(4) General residential uses, subject to the following condition: residential uses may not occupy the floor of the building that is adjacent to the primary street and/or sidewalk;

(5) Lumber and building supply stores (with storage under cover);

(6) Places of assembly; and

(7) Wholesale businesses.

(1998 Code, § 66-142) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.122 SIGNS PERMITTED.

Signs shall be in conformance with §§ 157.300 through 157.309, 157.320 through 157.322, and 157.335 through 157.339.

(1998 Code, § 66-143) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.123 SETBACK REGULATIONS.

(A) Buildings shall be located five feet or more from any street right-of-way that is 50 feet or more in width, or 35 feet or more from the centerline of any street right-of-way less than 50 feet in width. This shall be known as the setback line.

(B) For those lots included in the plat recorded in the Clerk's office of the County Circuit Court on January 7, 1805, the setback line may be 30 feet from the center of the street.

(C) The setback regulations contained in this section may be modified as part of the approval of a special use permit or rezoning.

(1998 Code, § 66-145) (Ord. passed 9-5-2017; Ord. O-2019-06, passed 3-5-2019) Penalty, see § 10.99

§ 157.124 HEIGHT REGULATIONS.

Buildings may be maintained or erected up to 35 feet in height from the average of the finished ground level adjoining the building at all exterior walls; except that:

(A) A public or semipublic building, such as a school, library, or general hospital, may be erected to a height of 60 feet from grade, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet;

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are exempt. Parapet walls may be up to four feet above the height of the buildings on which the walls rest; and

(C) No accessory building may be more than one story tall.

(D) The height limitations contained in this section may be modified as part of the approval of a special use permit or rezoning.
(1998 Code, § 66-146) (Ord. passed 9-5-2017; Ord. O-2019-06, passed 3-5-2019) Penalty, see § 10.99

PARKS AND PUBLIC UTILITY DISTRICT (PPU)

§ 157.135 STATEMENT OF INTENT.

The Parks and Public Utility District (PPU) covers the portion of the town located along the Occoquan River and formerly used as a water treatment facility. This district is intended to provide for public water utility uses, as well as a riverfront public park.
(1998 Code, § 66-166) (Ord. passed 9-5-2017)

§ 157.136 USES PERMITTED.

Structures to be maintained or erected or land to be used shall be restricted to the following: public park; trails/boardwalk; open space; public water utilities including, but not be limited to: water supply intakes; water purification facilities; water storage, control, and pumping facilities; water utility transmission and distribution facilities including, but not limited to, pipes, conduits, vaults, laterals, valves, hydrants, or other similar equipment for the transmission and distribution of water; office and maintenance space related to water utility functions; and supporting utility infrastructure (electricity, telecommunications, gas, sanitary, and storm sewer) incidental to any use set forth in this paragraph including poles, structures, wires, conduits, cables, or other similar equipment; and uses ancillary to the permitted uses including, but not limited to, service roads and storage.
(1998 Code, § 66-167) (Ord. passed 9-5-2017) Penalty, see § 10.99

CHESAPEAKE BAY PRESERVATION OVERLAY DISTRICT**§ 157.150 FINDINGS OF FACT.**

(A) The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of the town and the state. The health of the bay is vital to maintaining the town's economy and the welfare of its citizens.

(B) The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high-quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, significant ecological benefits can be achieved by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. The lands designated by the Town Council as Chesapeake Bay Preservation Areas need to be protected from destruction and damage in order to protect the quality of water in the bay and consequently the quality of life in the town and the state.

(1998 Code, § 66-191) (Ord. passed 9-5-2017)

§ 157.151 PURPOSE AND INTENT.

(A) This subchapter is enacted to implement the requirements of VA Code §§ 62.1-44.15:72 et seq. (the Chesapeake Bay Preservation Act), and 9 VAC §§ 25-830-20 et seq. Chesapeake Bay Preservation Area designation and management regulations.

(B) The intent of the Town Council and the purpose of the overlay district is to:

(1) Protect existing high-quality state waters;

(2) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, that might reasonably be expected to inhabit them;

(3) Safeguard the clean waters of the state from pollution;

(4) Prevent any increase in pollution;

(5) Reduce existing pollution; and

(6) Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of the town.

(C) This district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by this chapter. Unless otherwise stated in the overlay district, the review and approval procedures provided for in Chapters 111, 151, 152, and 156 of this code shall be followed in reviewing and approving development, redevelopment, and uses governed by this division.

(D) This subchapter is enacted under the authority of VA Code §§ 62.1-44.15:72 et seq. (the Chesapeake Bay Preservation Act), and 9 VAC § 25-830-20, and VA Code § 15.2-2283, stating that “such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in VA Code § 62.1-255”. (1998 Code, § 66-192) (Ord. passed 9-5-2017)

§ 157.152 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and terms not defined in this subchapter but defined in this chapter shall be given the meanings previously set forth.

APPLICANT. A person seeking any determination under this part or permit required by this subchapter.

BEST MANAGEMENT PRACTICE (BMPS). A practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

BUFFER AREA. Natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

CHESAPEAKE BAY PRESERVATION AREA (CBPA). Any land designated by the Town Council pursuant to part III of the Chesapeake Bay Preservation Area designation and management regulations, 9 VAC §§ 25-830-70 et seq. and 62.1-44.15:72. A **CBPA** shall consist of a resource protection area and a resource management area.

CONSTRUCTION FOOTPRINT. The area of all impervious surface including, but not limited to, buildings, roads and drives, parking areas, sidewalks, and the area necessary for construction of such improvements.

DEVELOPMENT. The construction or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

DIAMETER AT BREAST. The diameter of a tree measured outside the bark at a point four and one-half feet above height (dBA) ground.

DRIPLINE. A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

FLOODPLAIN. All lands that would be inundated by floodwater as a result of a storm event of a 100-year return interval.

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

HIGHLY PERMEABLE SOILS. Soils with a given potential to transmit water through the soil profile. **HIGHLY PERMEABLE SOILS** are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches, permeability groups rapid and very rapid, as found in the *National Soil Survey Handbook* of November 1996, in the *Field Office Technical Guide* of the U.S. Department of Agricultural Natural Resources Conservation Service.

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

INTENSELY DEVELOPED AREAS (IDEAS). A portion of a resource protection area or a resource management area designated by the Town Council where development is concentrated and little of the natural environment remains.

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

NONTIDAL WETLANDS. Wetlands other than tidal wetlands that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to § 404 of the Federal Clean Water Act, in 33 C.F.R. § 328.3b.

NOXIOUS WEEDS. Weeds that are difficult to control effectively, such as Johnson grass, kudzu, and multiflora rose.

PLAN OF DEVELOPMENT. The process for site plan or subdivision plat review to ensure compliance with 9 VAC § 25-830, and this subchapter prior to any clearing or grading of a site or the issuance of a building permit.

PRIVATE ROAD. A privately owned and maintained road designed and constructed in accordance with the State Department of Transportation standards.

PUBLIC ROAD. A publicly owned road designed in accordance with the State Department of Transportation standards.

REDEVELOPMENT. The process of developing land that is or has been previously developed, including in-fill development in intensely developed areas.

RESOURCE MANAGEMENT AREA (RMA). The component of the CBPA that is not classified as the resource protection area. **RMA**s include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

RESOURCE PROTECTION AREA (RPA). The component of the CBPA comprised of lands adjacent to water bodies with perennial flow, that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts that may result in significant degradation to the quality of state waters. See § 157.153 for areas of applicability.

SUBSTANTIAL ALTERATION. The expansion or modification of a building or development within the resource management area that would result in land disturbance exceeding 2,500 square feet.

TIDAL SHORE or SHORE. Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

TIDAL WETLANDS. Vegetated and non-vegetated wetlands as defined in VA Code § 28.2-1300.

WATER-DEPENDENT FACILITY. Development of land that cannot exist outside of the RPA and must be located on the shoreline due to the intrinsic nature of its operation. These facilities include, but are not limited to: ports; the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; marinas and other boat docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

WETLANDS. Tidal and nontidal wetlands.
(1998 Code, § 66-193) (Ord. passed 9-5-2017)

§ 157.153 AREAS OF APPLICABILITY.

(A) The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Town Council and as shown on the Occoquan Chesapeake Bay Preservation Area Map. This map, together with all explanatory matter thereon, is adopted by reference and declared to be a part of this subchapter.

(1) The resource protection area (RPA) is hereby established and shall consist of lands adjacent to water bodies with perennial flow that include:

- (a) Tidal wetlands;
- (b) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
- (c) Tidal shores; and
- (d) A 100-foot vegetated buffer area located adjacent to and landward of the components listed in divisions (A)(1)(a) through (A)(1)(c) above and along both sides of any water bodies with perennial flow.

(2) The RMA is composed of concentrations of the following land categories: floodplains; highly erodible soils, including steep slopes; highly permeable soils; nontidal wetlands not included in the RPA; and other lands, including all areas in the town necessary to protect the quality of state waters.

(B) The Occoquan Chesapeake Bay Preservation Area Map shows the general location of CBPAs and should be consulted by persons contemplating activities within the town prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under § 157.158.

(C) All areas within the town limits north of and including Mill Street and Poplar Lane are designated as IDEAS. These areas shall serve as redevelopment areas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards for redevelopment in § 157.159.

(1998 Code, § 66-194) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.154 USE REGULATIONS.

Permitted uses, special permit uses, accessory uses, and special requirements shall be as established by the underlying zoning district unless specifically modified by the requirements set forth in this subchapter.

(1998 Code, § 66-195) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.155 LOT SIZE.

Lot size shall be subject to the requirements of the underlying zoning district, provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in § 157.159, when such development is not otherwise allowed in the RPA.

(1998 Code, § 66-196) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.156 REQUIRED CONDITIONS.

(A) All development and redevelopment exceeding 2,500 square feet of land disturbance shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of Chapter 155 of this code or a subdivision plat in accordance with Chapter 156 of this code.

(B) Development in RPAs may be allowed only when permitted by the Zoning Administrator and if it is: water-dependent; constitutes redevelopment; or constitutes development or redevelopment in the IDEA.

(1) A new or expanded water-dependent facility must meet the following criteria: it does not conflict with the Comprehensive Plan; it complies with all performance standards of § 157.159; all non-water-dependent components must be located outside of the RPA; and access to the water-dependent

facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.

(2) Redevelopment on isolated redevelopment sites outside of locally designated intensely developed areas sites shall be permitted only if there is not an increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to the stormwater management requirements outlined under § 157.159(B)(7).

(C) A water quality impact assessment shall be required for any proposed land disturbance, development, or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of § 157.160.
(1998 Code, § 66-197) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.157 CONFLICT WITH OTHER REGULATIONS.

In any case where the requirements of this subchapter conflict with any other provision of the ordinances of the town or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.
(1998 Code, § 66-198) (Ord. passed 9-5-2017)

§ 157.158 INTERPRETATION OF RPA BOUNDARIES.

(A) The site-specific boundaries of the RPA shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with § 157.161 or through the submission of a water quality impact assessment in accordance with section § 157.160. The Occoquan Chesapeake Bay Preservation Area Map shall be used as a guide to the general location of RPAs.

(B) The Zoning Administrator, when requested by an applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use hydrology, soils, plant species, and other data, and consult other appropriate resources as needed, to perform the delineation.

(C) Where the applicant has provided a site-specific delineation of the RPA, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with § 157.161 or 157.160 (water quality impact assessment) of this subchapter. If the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of section 66-202(i).
(1998 Code, § 66-199) (Ord. passed 9-5-2017)

§ 157.159 PERFORMANCE STANDARDS.*(A) Purpose and intent.*

(1) The purpose and intent of this section is to prevent a net increase in nonpoint source pollution from new development and achieve a 10% reduction in nonpoint source pollution from redevelopment.

(2) The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, is an especially effective filter of stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

(B) General performance standards for development and redevelopment.

(1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

(a) In accordance with an approved site plan, the limits of land disturbance, including clearing or grading, shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.

(b) Ingress and egress during construction shall be limited to one access point unless otherwise approved by the Zoning Administrator.

(2) Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use or development proposed, and in accordance with the *Virginia Erosion and Sediment Control Handbook*.

(a) Existing trees over six inches dbh shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire or other injury may be removed.

(b) Clearing shall be allowed only to provide necessary access, positive site drainage, water quality BMPs, and the installation of utilities, as approved by the Zoning Administrator.

(c) Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected one foot outside of the dripline of any tree or stand of trees to be preserved. These protective barriers shall remain erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

(3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground consistent with the proposed use or development permitted.

(4) Notwithstanding any other provisions of this division (B) or exceptions or exemptions to this division (B), any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 152 of this code.

(5) All existing sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the County Health Code. New septic tanks and private sewage plants are not permitted.

(6) For any development or redevelopment, stormwater runoff shall be controlled by the use of BMPs that achieve the following.

(a) For development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on a Chesapeake Bay watershed-wide average impervious surface cover of 16%.

(b) For any redevelopment site and for sites within IDEAS, the nonpoint source pollution load shall be reduced by at least 10%. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated BMPs for stormwater runoff quality control, provided the following provisions are satisfied:

1. In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load;

2. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution; and

3. If BMPs are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Zoning Administrator may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this division (B)(6).

(c) For redevelopment, both the pre- and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.

(7) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with § 157.161.

(8) Clearing, land disturbance, or development exceeding 500 square feet, on a recorded lot of record as of the date of this chapter amendment, on slopes 20% or greater is prohibited.

(C) *Buffer area requirements.*

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(1) To minimize the adverse effects of human activities on the other components of RPAs, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.

(2) The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any waterbody with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with sections § 157.153 and 157.161.

(3) The 100-foot buffer area shall be deemed to achieve a 75% reduction of sediments and a 40% reduction of nutrients.

(4) The buffer area shall be maintained to meet the following additional performance standards.

(a) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, as permitted by the Zoning Administrator, to provide for reasonable sight lines, access paths, general woodlot management practices, including those that prevent upland erosion and concentrated flows of stormwater and BMPs, as follows.

1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

2. Any path shall be constructed and surfaced to effectively control erosion.

3. Dead, diseased, or dying trees or shrubbery and noxious weeds may be removed and thinning of trees may be allowed pursuant to sound horticulture practice as recommended by the town.

4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(b) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may allow encroachments into the buffer area in accordance with § 157.161 and the following criteria.

1. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities.

2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel.

3. The encroachment may not extend into the seaward 50 feet of the buffer area.

(c) Redevelopment within IDEAS may be exempt from the buffer area, in accordance with § 157.161. Where possible a buffer area shall be provided in order to remove pollutants and protect water quality. Any and all buffer exemptions are to be granted by the Zoning Administrator. (1998 Code, § 66-200) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.160 WATER QUALITY IMPACT ASSESSMENT.

(A) The purpose of the water quality impact assessment is to:

(1) Identify the impacts of proposed development on water quality and lands within RPAs and other environmentally sensitive lands;

(2) Ensure that, where development does take place within RPAs and other sensitive lands, it will be in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands;

(3) Protect individuals from investing funds for proposed improvements on lands not suited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage;

(4) Provide for administrative relief from the terms of this section when warranted and in accordance with the requirements contained in this section; and

(5) Specify mitigation that will address water quality protection.

(B) A water quality impact assessment is required for any proposed land disturbance, development, or redevelopment within an RPA, including any buffer area modification or encroachment as provided for in § 157.159; and any development in an RMA, floodplain, area of highly erodible soils, or 20% or greater slopes.

(C) There shall be two levels of water quality impact assessments, minor and major.

(1) *Minor water quality impact assessment.*

(a) A minor water quality impact assessment pertains only to development within an RPA and its 100-foot buffer strip under the following conditions:

1. No more than 6,000 square feet of land disturbance; and

2. No disturbance of the seaward 50 feet of the 100-foot buffer area.

(b) A minor assessment must demonstrate that the undisturbed buffer area, enhanced vegetative plantings, and any required BMPs will result in removal of no less than 75% of sediments and

40% of nutrients from post-development stormwater runoff. It must also demonstrate that it will retard runoff, prevent erosion, and filter nonpoint source pollution the equivalent of the full undisturbed 100-foot buffer area. A minor assessment shall include a site drawing to scale, which shows the following:

1. Location of the components of the RPA, including the 100-foot buffer area;
2. Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
3. Type and location of proposed BMPs to mitigate the proposed encroachment;
4. If development is in an IDEA, proposed measures to restore all or part of the buffer strip, if possible;
5. Location of existing vegetation on-site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification; and
6. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion, and runoff control.

(2) *Major water quality impact assessment.*

- (a) 1. A major water quality impact assessment shall be required for any development that:
- a. Exceeds 6,000 square feet of land disturbance within an RPA or its buffer strip;
 - b. Disturbs any portion of the seaward 50 feet of the 100-foot buffer area; or
 - c. Is located in an RMA and includes areas of floodplain, highly erodible soils, or 20% or greater slopes.
2. The information required in this division (C)(2)(a) shall be considered a minimum unless the Zoning Administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.
- (b) The following elements shall be included in the preparation and submission of a major water quality assessment:
1. All of the information required in a minor water quality impact assessment, as specified in this division (C);

2. A hydrogeological element that:
 - a. Describes the existing topography, soils, hydrology, and geology of the site and adjacent lands; and
 - b. Describes the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands.
3. Indicates the following:
 - a. Disturbance or destruction of wetlands and justification for such action;
 - b. Disruptions or reductions in the supply of water to wetland, streams, lakes, rivers, or other water bodies;
 - c. Disruptions to existing hydrology, including wetland and stream circulation patterns;
 - d. Source location and description of proposed fill material;
 - e. Location of dredge material and location of dumping area for such material;
 - f. Location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas;
 - g. Estimation of pre- and post-development pollutant loads in runoff;
 - h. Estimation of percentage of increase in impervious surface on the site and types of surfacing materials used;
 - i. Percentage of site to be cleared for the project;
 - j. Anticipated duration and phasing schedule of the construction project; and
 - k. Listing of all requisite permits from all applicable agencies necessary to develop the project.
4. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:
 - a. Proposed erosion and sediment control concepts; concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection;
 - b. Proposed stormwater management system;

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- c. Creation of wetlands to replace those lost; and
- d. Minimizing cut and fill.

(c) A landscape element that:

1. Identifies and delineates the location of all significant plant material on-site, including all trees six inches or greater dbh. Where there are groups of trees, stands may be outlined;

2. Describes the impacts of the development or use on the existing vegetation, including:

a. General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;

b. Clear delineation of all trees to be removed; and

c. Description of plant species to be disturbed or removed.

3. Describes the potential measures for mitigation. Possible mitigation measures include:

a. Replanting schedule for trees and other significant vegetation removed for construction, including a list of possible plants and trees to be used;

b. Demonstration that the design of the plan will preserve, to the greatest extent possible, any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation; and

c. Demonstration that indigenous plants are to be used to the greatest extent possible.

(d) Submission and review requirements.

1. Ten copies of all site drawings and other applicable information as required by divisions (C)(2)(c)1. and (C)(2)(c)2. above shall be submitted to the Zoning Administrator for review.

2. All information required in this section shall be certified as complete and accurate by a professional engineer.

3. A water quality impact assessment shall be prepared and submitted to and reviewed by the Zoning Administrator in conjunction with § 157.161.

4. As part of any major water quality impact assessment submittal, the Zoning Administrator may require review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon

receipt of a major water quality impact assessment, the Zoning Administrator will determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the Zoning Administrator, provided that such comments are provided by CBLAD within 90 days of the request.

(e) Evaluation procedure.

1. Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine if any proposed modification or reduction to the buffer area is consistent with the provisions of this subchapter and make a finding based upon the following criteria:

- a. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
 - b. Impervious surface is minimized;
 - c. Proposed BMPs, where required, achieve the requisite reductions in pollutant loadings;
 - d. The development, as proposed, meets the purpose and intent of this section;
- and
- e. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.

2. Upon the completed review of a major water quality impact assessment, the Zoning Administrator will determine if the proposed development is consistent with the purpose and intent of this section and make a finding based upon the following criteria:

- a. The proposed development within the RPA is water dependent;
- b. The disturbance of any wetlands will be minimized;
- c. The development will not result in unnecessary disruption of the hydrology of the site;
- d. The development will not result in unnecessary degradation to aquatic vegetation or life;
- e. The development will not result in unnecessary destruction of plant materials on the site;
- f. Proposed erosion and sediment control concepts are adequate to achieve the reductions in erosion and minimize off-site sedimentation;

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- g. Proposed stormwater management concepts are adequate to control the stormwater runoff and achieve the required performance standard for pollutant control;
- h. Proposed re-vegetation of disturbed areas will provide effective erosion and sediment control benefits;
- i. The development, as proposed, is consistent with the purpose and intent of the overlay district;
- j. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality;
- k. The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed in division (C)(2)(e)1. above and this division (C)(2)(e)2; and
- l. The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of this section when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria listed in division (C)(2)(e)1. above and this division (C)(2)(e)2. (1998 Code, § 66-201) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.161 PLAN OF DEVELOPMENT PROCESS.

(A) Any development or redevelopment exceeding 2,500 square feet of land disturbance shall be accomplished through a plan of development process prior to any clearing, grading, or filling of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this subchapter.

(B) In addition to the requirements of this section and Chapters 155 and 156 of this code, the plan of development process shall consist of the plans and studies identified in this division (B). These required plans and studies may be coordinated or combined, as deemed appropriate by the Zoning Administrator. The Zoning Administrator may determine that some of the following information is unnecessary due to the scope and nature of the proposed development. The following plans or studies shall be submitted unless otherwise provided for:

- (1) A site plan in accordance with the provisions of Chapter 155 of this code or a subdivision plat in accordance with the provisions of Chapter 156 of this code, as necessary;
- (2) An environmental site assessment;
- (3) A landscaping plan;

(4) A stormwater management plan; and

(5) An erosion and sediment control plan in accordance with the provisions of Chapter 152 of this code.

(C) An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

(1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:

(a) Tidal wetlands;

(b) Tidal shores;

(c) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;

(d) A 100-foot buffer area located adjacent to and landward of the components listed in divisions (C)(1)(a) through (C)(1)(c) above and along both sides of any waterbody with perennial flow; and

(e) Other sensitive environmental features as determined by the Zoning Administrator.

(2) Wetlands delineations shall be performed consistent with the procedures specified in the current edition of the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, 1987, or as determined by the Army Corps of Engineers (ACOE).

(3) The environmental site assessment shall delineate the site-specific geographic extent of the RPA.

(4) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat and shall be certified as complete and accurate by a professional engineer. This requirement may be waived by the Zoning Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.

(5) Any request for exemption from the buffer requirements for properties contained wholly within designated IDEAS, as allowed by § 157.159(C)(4), must be submitted in writing with the assessment.

(D) A landscaping plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing, grading, or filling of any lot or parcel shall be permitted without an approved landscaping plan.

(1) *Contents of the plan.*

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(a) The landscaping plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site six inches or greater dbh shall be shown on the landscaping plan. Where there are groups of trees, stands may be outlined instead. The specific number of trees six inches or greater dBA to be preserved outside the construction footprint shall be indicated on the plan. Trees to be removed to create a desired construction footprint shall be clearly delineated.

(b) Any required buffer area shall be clearly delineated, and any plant material to be added to establish or supplement the buffer area as required by this subchapter shall be shown.

(c) Within the buffer area, trees to be removed for sight lines, vistas, access paths, and BMPs, as provided for in this subchapter, shall be shown. Vegetation required by this subchapter to replace any existing trees within the buffer area shall also be shown.

(d) Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this subchapter shall be shown on the landscaping plan.

(e) Grade changes or other work adjacent to trees that would affect adversely them. Specifications shall be provided as to how grade, drainage, and aeration will be maintained around trees to be preserved.

(f) Specifications for the protection of existing trees during clearing, grading, and all other phases of construction.

(2) *Plant specifications.*

(a) All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.

(b) All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the *American Standard for Nursery Stock*, published by the American Association of Nurserymen.

(c) Where areas that are to be preserved, as designated on an approved landscaping plan, are disturbed or encroached, replacement of existing trees and other vegetation will be achieved at a ratio of one planted tree to one removed. Replacement trees shall be of a similar species, a minimum of 12 feet in height and one and one-half inches dBA at the time of planting.

(3) *Maintenance.*

(a) The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this subchapter.

(b) In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris for a period of one

year after the developer has completed all real estate sales in the developed property. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this subchapter.

(E) A stormwater management plan shall be submitted in accordance with Chapter 153 of this code in conjunction with site plan or subdivision plan approval. The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this subchapter.

(1) At a minimum, the stormwater management plan must contain the following:

(a) Location and design of all proposed stormwater control devices;

(b) Procedures for implementing nonstructural stormwater control practices and techniques;

(c) Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations; and

(d) For facilities, verification of structural soundness, including a professional engineer certification.

(2) All engineering calculations must be performed in accordance with procedures outlined in the current edition of the *Virginia Stormwater Management Handbook*.

(3) The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities including all maintenance requirements and persons responsible for performing said maintenance. If the designated maintenance responsibility is with a party other than the town, a maintenance agreement shall be executed between the responsible party and the town.

(F) An erosion and sediment control plan shall be submitted that satisfies the requirements of this subchapter and in accordance with Chapter 152 of this code, in conjunction with site plan or subdivision plan approval.

(G) Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in Chapters 155 and 156 of this code.

(1) Final plans for all lands within CBPAs shall include the following additional information:

(a) The delineation of the RPA boundary;

(b) The delineation of required buffer areas;

(c) All wetlands permits required by law;

(d) A maintenance agreement, as deemed necessary and appropriate by the Zoning Administrator, to ensure proper maintenance of BMPs in order to continue their functions;

(e) Measures to be taken for the protection of the resource protection areas (RPAs) during clearing, grading, and all other phases of construction. The following notations shall be included.

1. All existing vegetation within the RPA shall remain in its undisturbed natural state, except as allowed by this code.

2. Permissible development in the RPA is limited to water-dependent facilities, redevelopment, or other uses specifically allowed by this code.

(f) Gross acreages of the following physical land units shall be tabulated and computed by accurate planimetric methods at the final plan scale: 100-year floodplains; wetlands; existing water features (bodies of water, drainage channels, streams, and the like); and resource protection areas and resource management areas as specified by this subchapter; and

(g) Buildable areas allowed on each lot based on the performance criteria specified in the Chesapeake Bay Preservation Area regulations in this chapter; front, side, and rear yard setback requirements established pursuant to this chapter, and any other relevant easements or limitations regarding lot coverage shall be graphically depicted on the site plan.

(2) Installation and bonding requirements are as follows.

(a) Where buffer areas, landscaping, stormwater management facilities, or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed in accordance with the approved site plan.

(b) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the town a form of surety satisfactory to the Zoning Administrator in an amount equal to the remaining plant materials, related materials, and installation costs of the landscaping or other specifications and/or maintenance costs for any required stormwater management facilities.

(c) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy, or the surety may be forfeited to the town.

(d) All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete, or maintain appropriate actions required by the approved plan, the surety may be forfeited to the town. The town may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

(e) After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection with the as-built site plan or subdivision plan. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended or unobligated portion of the surety held shall be refunded in accordance with Chapters 155 and 156 of this code. The Zoning Administrator may require a certificate of substantial completion from a professional engineer before making a final inspection.

(H) Administration of the plan of development process shall be in accordance with Chapters 155 and 156 of this code.

(1) If the final plan or any component of the plan of development process, as related to this chapter, is not approved by the Zoning Administrator and/or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission.

(2) The appeal shall be made in writing to the Planning Commission. The Planning Commission shall review the appeal and make recommendation to the Town Council. In reviewing the appeal, the Planning Commission shall determine if:

(a) The plan is in accordance with all applicable ordinances and includes the necessary elements to mitigate any detrimental impact on water quality, adjacent properties, and the surrounding area; or

(b) Such plan meets the purpose and intent of the performance standards in this subchapter.

(3) If the Planning Commission finds that the applicant's plan does not meet the criteria stated in subsection (i)(2) of this section, it shall recommend denial of the plan to the Town Council. If the applicant's plan is found to meet the criteria stated in subsection (i)(2) of this section, the Planning Commission shall recommend approval of the plan to the Town Council.

(4) The Town Council shall consider the findings and rationale of the Planning Commission when voting to deny or approve the applicant's appeal.

(1998 Code, § 66-202) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.162 NONCONFORMING USES AND NONCOMPLYING STRUCTURES.

(A) The lawful use of a building or structure existing on the effective date of the ordinance from which this section derives or which exists at the time of any amendment to this subchapter, and which is not in conformity with the provisions of the overlay district may be continued in accordance with §§ 157.210 through 157.213.

(B) No change or expansion of use shall be allowed, with the exception that:

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(1) The Town Council may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures, provided that:

(a) There will be no increase in nonpoint source pollution load; and

(b) Any development or land disturbance exceeding 2,500 square feet in area complies with all erosion and sediment control requirement of this subchapter.

(2) An application for a nonconforming use and development waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include, for the purpose of proper enforcement of this section, the following information:

(a) Name and address of the applicant and the property owner;

(b) Legal description of the property;

(c) Type of proposed use and development;

(d) A sketch of the dimensions of the lot or parcel, location of buildings, and proposed additions relative to the lot lines, and boundary of the RPA; and

(e) Location and description of any existing private water supply or sewerage system.

(3) Requests for a nonconforming use and development waiver shall be reviewed by the Planning Commission, who shall forward a recommendation to the Town Council;

(4) A nonconforming use and development waiver shall become null and void 12 months from the date issued if no substantial work has commenced; and

(5) An application for the expansion of a nonconforming principal structure may be approved by the Town Council after an administrative review process provided that the following findings are made:

(a) The request for the waiver is the minimum necessary to afford relief;

(b) Granting the waiver will not confer upon the applicant any specific privileges that are denied by this subchapter to other property owners in similar situations;

(c) The waiver is in harmony with the purpose and intent of this subchapter and does not result in water quality degradation;

(d) The waiver is not based on conditions or circumstances that are self-created or self-imposed;

(e) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing degradation of water quality;

(f) Other findings, as appropriate and required by the town, are met; and

(g) In no case shall this provision apply to accessory structures.
(1998 Code, § 66-203) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.163 EXEMPTIONS.

(A) Construction, installation, and maintenance of water, sewer, roads, natural gas lines, underground telecommunications, and cable television lines owned, permitted by the town, shall be exempt from the overlay district provided that:

(1) To the extent possible, the location of such utilities and facilities shall be outside RPAs;

(2) No more land shall be disturbed than is necessary to provide for the proposed utility installation;

(3) All construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and

(4) Any land disturbance exceeding 2,500 square feet in area shall comply with all town erosion and sediment control requirements.

(B) Water wells; passive recreation facilities such as boardwalks, trails, and pathways; and historic preservation and archaeological activities within the RPAs may be exempted from the overlay district, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

(1) Any required permits, except those to which this exemption specifically applies, shall have been issued;

(2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;

(3) The intended use does not conflict with nearby planned or approved uses; and

(4) Any land disturbance exceeding 2,500 square feet in area shall comply with all town erosion and sediment control requirements.

(1998 Code, § 66-204) (Ord. passed 9-5-2017)

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OLD AND HISTORIC OCCOQUAN DISTRICT

§ 157.175 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Architectural Review Board.
(1998 Code, § 66-220) (Ord. passed 9-5-2017)

§ 157.176 CREATION OF BOUNDARIES.

In order to preserve the unique cultural heritage represented by the original section of the town, there is established in the town a district to be known as the “Old and Historic Occoquan District”. The boundaries of this district are shown on the Official Zoning Map of the town as an overlay district.
(1998 Code, § 66-221) (Ord. passed 9-5-2017)

§ 157.177 CERTIFICATE OF APPROPRIATENESS REQUIRED TO ERECT, RECONSTRUCT, ALTER, RESTORE, OR RAZE A BUILDING.

In order to promote the general welfare, through the preservation and protection of historic places and areas of historic interest, no building listed in this section and titled “Historic Occoquan Landmarks” may be demolished, in whole or in part, nor may any architectural features of such buildings, which are subject to public view from a public street, be altered, without prior application to the Board created in §§ 33.45 through 33.50 of this code. Neither shall any building or structure be erected, reconstructed, altered, or restored within the Old and Historic Occoquan District, unless an application for a certificate of appropriateness shall have been approved by the Board. Review of such application by the Board will include analysis of external architectural features, including signs, which are subject to public view from a public street, way, or place.

<i>Historic Occoquan Landmarks</i>	
<i>Street</i>	<i>Number</i>
Commerce Street	202, 204, 205, 206, 208, 209, 303, 304, 306, 308, 309, 310, 312
Mill Street	206, 301, 302, 304, 306, 308, 309, 314, 400-402, 404, 406, 413, 440
Union Street	201, 202, 203, 204, 205, 206
Washington Street	202, 203, 205, 206, 207, 209

(1998 Code, § 66-222) (Ord. passed 9-5-2017)

§ 157.178 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

Application for a certificate of appropriateness shall be made through the Town Clerk for any modifications described in § 157.179 within the boundaries of the Old and Historic Occoquan District. (1998 Code, § 66-223) (Ord. passed 9-5-2017)

§ 157.179 MATTERS TO BE CONSIDERED BY THE BOARD.

(A) The Board shall not consider interior arrangement, relative size of the building or structure, detailed design, or features not subject to any public view. The Board shall not make any requirements, except for the purpose of preventing developments obviously incongruous to the old and historic aspect of the surroundings.

(B) The Board shall consider the following in passing upon the appropriateness of architectural features:

(1) Exterior architectural features, including all signs that are subject to public view from a public street, way, or place;

(2) General design and arrangement;

(3) Texture, material, and color;

(4) The relation of the factors in division (B)(1) through (B)(3) above, to similar features of the buildings and structures in the immediate surroundings;

(5) The extent to which the building or structure would be in harmony with the old and historic aspect of the surroundings;

(6) In the case of a building to be razed, a primary consideration will be the extent to which its continued existence would tend to protect irreplaceable historic places and preserve the general historic atmosphere of the town; and

(7) The extent to which the building or structure will promote the general welfare by:

(a) Preserving and protecting historic places and areas;

(b) Maintaining and increasing real estate value;

(c) Generating business;

(d) Creating new positions;

(e) Attracting tourists, students, writers, historians, artists and artisans, and new residents;

- (f) Encouraging study of and interest in American history;
- (g) Stimulating interest in and study of architecture and design;
- (h) Educating citizens in American culture and heritage; and
- (i) Making the town a more attractive and desirable place in which to live.

(1998 Code, § 66-224) (Ord. passed 9-5-2017)

§ 157.180 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

Approval by the Board will be incorporated into certificates of appropriateness. Immediately upon approval by the Board of any application to erect, reconstruct, alter, restore, or raze a building, a certificate of appropriateness, signed by the Chairperson of the Board and bearing the date of issuance, shall be made available to the applicant. The Zoning Administrator shall refuse to honor any request for a zoning certificate without such certificate of appropriateness, but a certificate of appropriateness will in no way affect the requirement to comply with the other provisions necessary to obtain a zoning certificate.

(1998 Code, § 66-225) (Ord. passed 9-5-2017)

§ 157.181 RIGHT OF APPEAL.

(A) Whenever the Board shall deny an application for a certificate of appropriateness, it shall be done in writing.

(B) Any person shall have the right to appeal and be heard before the Town Council provided the person files, with the Zoning Administrator, on or before 14 days after the decision of the Board, a written notice of intention to appeal.

(C) Upon receipt of such notice, the Zoning Administrator shall schedule a public hearing before the Town Council, at a time not more than 30 days after the receipt of such notice of appeal.

(D) Such hearing shall be advertised in accordance with VA Code § 15.2-2204.

(1998 Code, § 66-226) (Ord. passed 9-5-2017)

§ 157.182 APPEAL TO CIRCUIT COURT.

Any person, following the final decision of the Town Council on an appeal of a denial of an application for a certificate of appropriateness, shall have the right to file a petition for appeal to the Circuit Court. Such petition must be filed within 30 days after the final decision is rendered by the Town Council and must otherwise comply with the requirements of VA Code § 15.2-2306.A.3.

(1998 Code, § 66-227) (Ord. passed 9-5-2017)

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OFF-STREET PARKING STANDARDS

§ 157.195 SCOPE OF SUBCHAPTER.

The intent of this subchapter is to regulate off-street parking in all zoning districts.
(1998 Code, § 66-228) (Ord. passed 9-5-2017)

§ 157.196 GENERAL PROVISIONS.

(A) Parking spaces shall be located on the same parcel as the principal use. However, with approval of the Zoning Administrator, the required parking may be provided on an adjacent or nearby parcel, provided a legally sufficient easement is approved by the Town Attorney and recorded among the county land records to ensure the perpetual availability of the parking spaces for the principal use.

(B) No structure or site shall be altered in any manner that would enable the structure or site to accommodate any increase in business capacity unless the requirements of this subchapter are satisfied with respect to such alteration and increase in capacity. Whenever a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise, to create a need under the requirements of this subchapter for an increase in parking spaces of 10% or more, such additional spaces shall be provided on the basis of the change or enlargement. Under no circumstances shall alterations to existing structures reduce existing parking below that which would be required for the entire structure as altered.

(C) All off-street parking facilities shall be used solely for the parking of vehicles by patrons, occupants, or employees of the use to which such parking is accessory. No motor vehicle repair work, except emergency service, no storage of merchandise, and no motor vehicles for sale, shall be permitted in association with any required off-street parking facilities.

(D) Required off-street parking spaces may be provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Zoning Administrator. The amount of such combined space shall equal the sum of the amounts required for the separate uses; however, the Zoning Administrator may reduce the total number of parking spaces required by strict application of these requirements when it can be determined the same spaces may adequately serve two or more uses by reason of the hours of operation of such uses.

(E) If a question shall arise regarding the classification of a use for application of this subchapter, the Zoning Administrator shall determine the classification/basis of the number of spaces to be provided.

(F) Due to the unique character of existing structures and amenities in the Old and Historic Occoquan District, the Zoning Administrator shall have the authority to waive the requirements of §§ 157.197 and 157.198 to approve nonstandard spaces.

(G) For the purposes of this section, net floor space is equal to 75% of the gross floor area. (1998 Code, § 66-229) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.197 REQUIRED PARKING.

(A) Residential uses: townhouse, multifamily, duplex, and single family units:

(1) One bedroom unit: two spaces; and

(2) Units with two or more bedrooms shall have one additional parking space per bedroom (i.e., three bedroom unit is required to have four parking spaces).

(B) Business uses (other than places of assembly) require the following spaces per 400 square feet (net floor space); except that in the Old and Historic Occoquan District, the number of required spaces shall be one for each 800 square feet (net floor space) or portion thereof:

(1) Commercial: one space; and

(2) Office: one space.

(C) Places of assembly require one space per four seats; except that in the Old and Historic Occoquan District, the required number of spaces shall be one per eight seats or portion thereof; except that no parking spaces shall be required for restaurants and places of assembly in the Old and Historic Occoquan District with fewer than 50 seats. Restaurants and places of assembly in the Old and Historic Occoquan District with more than 50 seats shall be one for eight seats or portion thereof, the difference of the total number of seats minus 50.

(D) Mixed use developments shall provide spaces in accordance with the percentage of floor space devoted to each use.

(E) For uses not otherwise set forth in this section, parking spaces shall be provided in sufficient quantity to accommodate the parking demand generated by the proposed use as determined by the Zoning Administrator.

(F) Parking areas shall be graded at a slope not to exceed 5%. Slope may be up to 10%, with approval of the Town Engineer.

(G) Parking computations yielding fractional spaces of one-half and above shall be rounded up to the next whole number, and fractional yields below one-half shall be rounded down to the nearest whole number.

(H) Parking spaces expressly designated for compact cars may be provided. Each space must be clearly marked by an above-grade sign. Such spaces shall not constitute more than 30% of the entire parking space requirements and meet the minimum dimensions outlined in Table B in § 157.198.

(I) All off-street parking spaces shall have an all-weather, dust-free, and impervious surface, where appropriate.

(J) Under no circumstances shall alterations to existing structures reduce existing parking below that which would be required for the entire structure as altered.

(1998 Code, § 66-230) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.198 GEOMETRICS.

The following tables represent the minimum size requirements for required automobile parking spaces (see § 157.197(A) through (C) for the required number of parking spaces per use):

<i>Table A. Standard Size Car Spaces</i>				
<i>Parking Angle (degrees)</i>	<i>Stall Width (feet)</i>	<i>Depth of Stall Perpendicular to Aisle (feet)</i>	<i>One-Way Aisle Width (feet)</i>	<i>Two-Way Aisle Width (feet)</i>
30	9	16.8	11	22
45	9	19.0	11	22
60	9	20.0	11	22
90	9	18.0	17	22
Parallel	9	22.0	11	22

<i>Table B. Compact Car Spaces</i>				
<i>Parking Angle (degrees)</i>	<i>Stall Width (feet)</i>	<i>Depth of Stall Perpendicular to Aisle (feet)</i>	<i>One-Way Aisle Width (feet)</i>	<i>Two-Way Aisle Width (feet)</i>
30	8	15.0	11	22
45	8	16.0	11	22
60	8	17.0	11	22
90	8	15.5	17	22
Parallel	9	22.0	11	22

(1998 Code, § 66-231) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.199 DISABLED PARKING PROVISIONS.

(A) Disabled parking and building or sidewalk accessibility shall be provided in accordance with the current adopted edition of the State Uniform Statewide Building Code, being 13 VAC 5-63.

(B) Disabled parking spaces shall be identified by above-grade signs and demarcated per typical detail HP-1 and HP-2 of the State Uniform Statewide Building Code, being 13 VAC 5-63.

(C) Disabled parking spaces shall be located as close as possible to a main building entrance, ramp, or walkway.

(D) Inclined approaches shall be provided and arranged so as to allow convenient access to a building entrance. This approach shall have a slope of not more than one foot in 12 feet and be three-foot wide exclusive of flare sides.

(1998 Code, § 66-232) (Ord. passed 9-5-2017) Penalty, see § 10.99

NONCONFORMING USES, LOTS, AND STRUCTURES

§ 157.210 PURPOSE.

(A) Within the districts established by this chapter or amendments that may later be adopted there exist lots, structures, and uses of land and structures that were lawful before this chapter was passed or amended, but would be prohibited or restricted under the terms of this chapter or amendment. It is the purpose of this chapter to permit these nonconformities to continue.

(B) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in building plans if a permit for construction was issued prior to the effective date of adoption or amendment of this chapter and where actual building construction is carried on diligently. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

(1998 Code, § 66-236) (Ord. passed 9-5-2017)

§ 157.211 NONCONFORMING LOTS OF RECORD.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, except where specific limitations are imposed by other provisions of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and requirements, other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

(1998 Code, § 66-237) (Ord. passed 9-5-2017)

§ 157.212 NONCONFORMING STRUCTURES.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

(A) (1) Such nonconforming structure may be enlarged or altered to an extent not to exceed 20% of its original size.

(2) Such enlargement or alteration may be done only with approval from the Zoning Administrator and only if such action shall not increase the degree of nonconformance.

(B) Should such nonconforming structure or nonconforming portion of structure be destroyed or damaged by any means, it may be reconstructed, but not to an extent exceeding 50% of the current replacement cost of the original structure and only if such reconstruction shall not increase the degree of nonconformance.

(C) Where a nonconforming structure devoted to a nonconforming activity is damaged less than 50% of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75% of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.

(D) Should such structure be moved for any reason to another parcel of land, regardless of distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(E) Should any nonconforming structure be changed to a more limited nonconforming use, such newly created use may be changed only to an even more limited use.
(1998 Code, § 66-238) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.213 NONCONFORMING USES; PERMITS REQUIRED.

(A) All operators or owners of nonconforming uses, lots, or structures shall, within six months after the adoption of the ordinance from which this section derives, obtain from the Zoning Administrator a nonconforming use permit; and such nonconforming use, lot, or structure shall be recorded as part of the records of the town.

(B) Whenever the boundaries of a district are changed, any uses of land or buildings that become nonconforming as a result of such change shall be recorded as part of the records of the town.
(1998 Code, § 66-239) (Ord. passed 9-5-2017) Penalty, see § 10.99

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ENFORCEMENT OF ZONING BY ZONING ADMINISTRATOR

§ 157.225 RIGHT OF ENTRY.

The provisions of this chapter shall be enforced by the Zoning Administrator, who shall serve at the pleasure of the Council, and whose compensation, if applicable, shall be fixed by the Council. The Zoning Administrator or any of his or her authorized assistants, upon proper identification, shall have the right to enter upon any land or into any building for the purpose of making an inspection or acquiring information to determine whether the property and its use conform to the requirements of this chapter.

(1998 Code, § 66-271) (Ord. passed 9-5-2017)

§ 157.226 QUESTIONS OF INTERPRETATION.

(A) Unless otherwise provided in this chapter, the Zoning Administrator shall make all determinations and issue all rulings and orders authorized in this chapter or otherwise necessary in the interpretation and enforcement of this chapter.

(B) Any person aggrieved by a zoning violation, written order, or determination issued by the Zoning Administrator may appeal as provided in § 33.30 of this code. Decisions of the Zoning Administrator shall be final and not appealable if not appealed within 30 days.

(1998 Code, § 66-272) (Ord. passed 9-5-2017)

§ 157.227 WRITTEN ORDER, REQUIREMENT, DECISION, OR DETERMINATION BY THE ZONING ADMINISTRATOR.

(A) Notwithstanding the provisions of § 157.226, the Zoning Administrator may issue a written order, requirement, decision, or determination regarding the permissibility of a specific use or density of a landowner's property only in accordance with this section and with the concurrence of the Town Attorney. Except to the extent expressly delegated in writing, no other town officer or employee is authorized to issue such orders, requirements, decisions, or determinations.

(B) The Zoning Administrator does not have the authority to issue an order, requirement, decision, or determination regarding the permissibility of a specific use or density of a landowner's property that is inconsistent with this chapter. Such an inconsistency, if it occurs, shall be considered nondiscretionary error.

(C) The Zoning Administrator is hereby authorized and directed to establish a written policy which governs the issuance of written orders, requirements, decisions, or determinations regarding the permissibility of a specific use or density of a landowner's property.

(D) (1) The Zoning Administrator is hereby authorized and directed to create a standard form of application that is to be used by landowners or their authorized agents in order to obtain a written order,

requirement, decision, or determination regarding the permissibility of a specific use or density of their property.

(2) The Zoning Administrator shall not issue a written order, requirement, decision, or determination regarding the permissibility of a specific use or density of a landowner's property, unless said landowner or their authorized agent submits the standard form of application and provides all of the information that is requested therein.

(E) The fee for processing an application requesting a written order, requirement, decision, or determination regarding the permissibility of a specific use or density of a landowner's property shall be equal to the fee associated with obtaining a zoning certification.

(F) (1) Unless earlier suspended by action of the Council, a written order, requirement, decision, or determination issued under this section remains in effect for one year.

(2) If the owner or developer incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the written order, requirement, decision, or determination, however, it shall remain in effect while such diligent pursuit continues.
(1998 Code, § 66-273) (Ord. passed 9-5-2017)

SPECIAL USE PERMITS

§ 157.240 GENERALLY.

Special use permits, as specified in this chapter, may be authorized by the Town Council in the district indicated, upon a finding that the use will not be detrimental to the character and development of the adjacent land and will be in harmony with the purposes of the town's plan of land use.
(1998 Code, § 66-301) (Ord. passed 9-5-2017)

§ 157.241 FEE SCHEDULE.

A fee, as established by separate ordinance, shall be paid for a special use permit, to defray costs incurred for a public hearing, which is to be held in accordance with the provisions of this chapter. Special use permits shall be subject to time limitations and such other conditions as the Town Council deems necessary to carry out the intent of this chapter.
(1998 Code, § 66-302) (Ord. passed 9-5-2017)

Statutory reference:

Advertisement of plans, ordinances, and the like, joint public hearings, written notice of certain amendments, see VA Code § 15.2-2204

§ 157.242 REVIEW AND APPROVAL PROCESS.

(A) Before the formal submission of an application seeking approval of a special use permit, the applicant (who must be the property owner or contract purchaser) shall hold a conference with the Zoning Administrator concerning the proposal and shall provide, at or before that conference, a concept plan that specifies the following:

- (1) The general location and amount of land proposed for development;
- (2) The number of dwelling units, gross floor area, and acreage for each use or land area;
- (3) The general location and number of parking spaces;
- (4) Bearings and distances for all property lines and existing and/or proposed division lines;
- (5) Scale;
- (6) North arrow; and
- (7) Names of boundary roads or streets and widths of existing rights-of-way.

(B) Within 15 days after the conference, the Zoning Administrator or designee shall provide the applicant with a summary of the meeting.

(C) Within one year of the required pre-application meeting, the applicant must submit a special use permit application, accompanied by the required fee. The application must contain all of the following materials in order to be complete.

(1) A fully-complete application form obtained from the town; the application may be signed by the owner, the contract purchaser (with special power of attorney from the owner or that person's agent. However, if the application is signed by an agent, then a copy of written authority, or power of attorney form, from the owner (or contract purchaser) must accompany the application.

(2) A generalized development plan (GDP) with the following elements on or submitted in conjunction with, prepared by an appropriately licensed professional:

(a) All existing improvements, proposed changes, and new improvements anticipated if the request is approved;

(b) A landscape plan indicating the general location and type of significant or specimen trees located within the limits of the planned development area;

(c) All plans shall be to a scale no less than one-inch equals 50 feet;

(d) All plans shall be of sufficient detail to show the location of all existing utilities affected by the request;

(e) Each submission shall include one eight-and-one-half-inch by 11-inch reduction of the plan;

(f) Any model must be accompanied by eight-inch by ten-inch clear photographs showing a top view, an isometric view, and each side view of the model;

(g) Two copies of a narrative statement shall be provided outlining operational conditions and special provisions proposed by the applicant to minimize the impact of the use on surrounding properties;

(h) A general vicinity map providing information concerning existing street and cross street locations within one-half mile or greater shall be provided. Vicinity map may be on the plan itself or as an addendum;

(i) Topography of the site (using town maps if alternative sources of topography are not available);

(j) A traffic impact analysis (TIA), if deemed necessary by the Zoning Administrator at the pre-application meeting;

(k) Wetlands on-site and the source of delineation;

(l) Resource protection areas on-site and their source of delineation;

(m) Locations of floodplains; and

(n) Location of the Old and Historic Occoquan District adjoining or encompassing the site.

(3) If the requested use would not result in the exterior alteration of a structure or parking area, a current building location plan may be submitted for site information only, in lieu of the generalized development plans.

(4) The applicant shall submit building elevation drawings of all buildings and structures to be altered, relocated, or constructed, showing any proposed exterior alterations.

(D) The Zoning Administrator shall report to the Planning Commission regarding the application before the opening of the public hearing and provide a recommendation, citing appropriate principles of zoning practice and applicable provisions of the Comprehensive Plan; however, failure of the Zoning Administrator to perform this duty shall not affect the authority of the Planning Commission or Town Council to take action or the validity of that action. The Planning Commission shall hold a public hearing after due advertisement according to law, and may close or continue the public hearing from time to

time. The applicant may revise the application at any time before the closing of the public hearing. After the public hearing is closed, the Planning Commission may take any of the following actions:

- (1) Require additional information from the applicant and schedule a further hearing for other action after receipt of the additional information;
- (2) Recommend that the Town Council approve the application as requested by the applicant;
- (3) Recommend that the Town Council approve the application with changes to the scope, duration, or conditions; or
- (4) Recommend that the Town Council deny the application.

(E) (1) After the Planning Commission makes a recommendation regarding the application, the Town Council shall hold a public hearing after due advertisement according to law, and may close or continue the public hearing from time to time. The applicant may revise the application at any time before the closing of the public hearing, in which case the Town Council may refer the application back to the Planning Commission for review and a new recommendation. After the public hearing is closed, the Town Council may take any of the following actions:

- (a) Require additional information from the applicant and schedule a further hearing for other action after receipt of the additional information;
- (b) Approve the application as requested by the applicant;
- (c) Approve the application with changes to the scope, duration, or conditions; or
- (d) Deny the application.

(2) Only an affirmative majority vote in favor of an action can result in a decision by the Town Council to take action on the application.

(F) If the Town Council approves the application, the Zoning Administrator shall issue the special use permit, noting any changes or conditions made by the Town Council.
(1998 Code, § 66-303) (Ord. passed 9-5-2017)

§ 157.243 REFILING FOLLOWING DENIAL.

If an application for a special use permit is denied, the Zoning Administrator shall not accept any new application that includes any of the uses sought in the previously denied application and that is filed within one year of the denial on all or any part of the same parcel of land.
(1998 Code, § 66-304) (Ord. passed 9-5-2017)

§ 157.244 WITHDRAWAL OF AN APPLICATION.

An applicant may withdraw an application for a special use permit at any time; however, if the withdrawal is made after publication of the notice for the public hearing, the Zoning Administrator shall not accept an application that includes any of the uses sought in the withdrawn application and that is filed within six months of the withdrawal date on all or any part of the same property. There shall be no refund of special use permit application fees in the case of withdrawal, regardless of the time of withdrawal.

(1998 Code, § 66-305) (Ord. passed 9-5-2017)

§ 157.245 DEFERRAL OF APPLICATION BY APPLICANT.

(A) Deferral of consideration of any application for a special use permit may be requested in writing by the applicant at any time.

(B) If a request for deferral is made after publication of the notice of public hearing, it may be granted only by the Town Council. In that case, the applicant shall bear the additional costs to re-advertise the public hearing.

(C) A request for deferral by the applicant cannot extend more than six months or the application shall be deemed withdrawn.

(1998 Code, § 66-306) (Ord. passed 9-5-2017)

§ 157.246 DURATION AND EXPIRATION OF PERMIT.

(A) If a special use permit application is approved by the Town Council, the applicant has one calendar year from the date of the approval to initiate and diligently pursue construction authorized under the permit, or (if no construction was authorized or all construction is complete) to begin the use permitted under the permit. If no such action is taken, then at the end of that year the permit shall lapse and be of no further force or effect. If the permitted use lapses for a period of one year or more on the property, then the permit shall terminate without further action by the town. The Zoning Administrator will notify the Town Council of that fact.

(B) Unless otherwise specified by the Town Council in the permit, the duration of any special use permit shall be five years, renewable at the Town Council's sole discretion upon application by the then-owner or contract purchaser. However, the expiration or nonrenewal of a special use permit shall not require the removal of any building or structure constructed under a valid special use permit, unless specifically stated in the special use permit itself. Rather, any such building or structure will be treated as a nonconforming building or structure under this chapter. After the expiration or termination of the special use permit, any use of the parcel, including any use of such building or structure, must conform to the then-existing zoning restrictions.

(1998 Code, § 66-307) (Ord. passed 9-5-2017)

§ 157.247 REVOCATION OF SPECIAL USE PERMITS.

(A) The Town Council may revoke a special use permit at any time upon notice to the holder of the permit that the conditions of such permit have not been met or that failure to comply with any town regulation poses a nuisance to the surrounding properties.

(B) Such revocation shall not occur until such time as the holder of such permit and/or the owner of the property have been notified in writing by the Zoning Administrator advising him or her of the violations of the permits and giving him or her a reasonable time to comply, not to exceed 30 days.

(C) A certified letter shall be mailed to the address of record advising the permit holder and/or property owner of the date and time of a public hearing to be held before the Town Council on the consideration of revocation of the permit.

(D) After the Town Council holds a public hearing on the matter, the Council may, based on evidence provided and the nature of the violations, revoke the special use permit.
(1998 Code, § 66-308) (Ord. passed 9-5-2017)

ZONING AMENDMENTS**§ 157.260 INITIATION OF AMENDMENTS.**

(A) The text of this chapter and any zoning district boundary shown on the Zoning Map may be amended, changed, modified, or repealed by the Town Council.

(B) Proceedings for any amendment shall be initiated only:

(1) By the adoption of a resolution by the Planning Commission of intention to propose an amendment;

(2) By the adoption of a resolution by the Town Council of intention to amend, which resolution, upon adoption, shall be referred to the Planning Commission; or

(3) By the filing of a petition by the owner or contract purchaser of the land proposed to be rezoned (Zoning Map amendment).

(1998 Code, § 66-331) (Ord. passed 9-5-2017)

§ 157.261 APPLICATION REQUIREMENTS.

(A) All applications for amendments to the Zoning Map or rezoning, initiated in the manner prescribed by § 157.260, shall be filed with the Zoning Administrator. No application shall be officially

accepted for filing until all of the information identified in this section is furnished, unless specific items are authorized by the Zoning Administrator for later submission, or unless otherwise provided for in this section in accordance with the provisions of this subchapter. The application shall not be scheduled for a public hearing until all required data have been filed.

(B) Applications and supplemental information, unless qualified below, shall include the following elements:

- (1) Two copies of a completed application for Zoning Map amendment (rezoning) application form: the application may be signed by the owner, the contract purchaser (with special power of attorney from the owner), or that person's agent. However, if the application is signed by an agent, then a copy of the written authority, or power of attorney, must accompany the application;
- (2) Two copies of a plat of the property proposed for rezoning showing:
 - (a) Bearings and distances for all existing property lines and proposed division lines;
 - (b) Area of proposed zoning changes in square feet or acres, outlined in red;
 - (c) Scale, not less than one inch equals 50 feet with match lines, if necessary;
 - (d) North arrow; and
 - (e) Names of boundary roads or streets and widths of existing rights-of-way.
- (3) Two copies of a written metes and bounds description of the proposed rezoning that shall conform to plat information;
- (4) Two copies of a generalized development plan (GDP) shall be submitted in accordance with the provisions of § 157.262, unless determined to not be necessary by the Zoning Administrator;
- (5) Statements to address the following:
 - (a) Surrounding areas that have scenic assets or natural features deserving of protection and preservation with a statement of how protection and maintenance will be accomplished;
 - (b) The relationship of the proposed development to the town's adopted Comprehensive Plan;
 - (c) How adjacent and neighboring properties shall be protected from any adverse effects prompted by the proposed development. This includes vehicular access plans, proposed screening and buffering, and peripheral setback requirements;
 - (d) The maximum height of any proposed buildings in the development;

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(e) The maximum number of dwelling units and square footage of office, assembly, commercial, and industrial space proposed;

(f) Special amenities that are proposed within the development;

(g) Anticipated off-site improvements that are proposed for the development, such as roads, water and sewer, and drainage facilities; and

(h) Any proposed phasing plan and the projected wastewater flows for each phase.

(6) Any additional information that the applicant may desire to proffer in the consideration of the application;

(7) Nonrefundable filing fee set forth by the uncodified ordinance of the town in a check or money order payable to the Town Treasurer; and

(8) Based on the size and scale of the parcel, or complexity of the proffers submitted, the Zoning Administrator may require additional copies of all submitted materials as needed for supplemental reviewing agencies.

(1998 Code, § 66-332) (Ord. passed 9-5-2017)

§ 157.262 GENERALIZED DEVELOPMENT PLANS (GDP).

Generalized development plans shall include the following:

(A) Topography shown with contour lines on an interval not exceeding two feet;

(B) A schematic land use plan, at a scale of one inch equals 100 feet or less, for parcels equal to or larger than ten acres; or one inch equals 30 feet or less, for parcels less than ten acres;

(C) A proposed traffic circulation plan, including: major streets connections; major pedestrian, bike, and/or bridge paths; all proposed major open space areas; the approximate location of all proposed community and public facilities; and the proposed plan for all major sanitary sewer, water systems, and storm drainage improvements;

(D) A landscape plan indicating the general location and type of significant or specimen trees located within the limits of the planned development area;

(E) A plan showing sensitive environmental features including steep slopes (those over 20%), highly permeable soils, highly erodible soils, resource protection areas, wetlands, floodplains, and other such features as may be designated by the Zoning Administrator;

(F) Location of any overlay district boundaries adjoining or encompassing the site; and

(G) Location of any portion of the Old and Historic Occoquan District adjoining or encompassing the site.

(1998 Code, § 66-333) (Ord. passed 9-5-2017)

§ 157.263 PROFFER DECLARATION.

(A) In accordance with the VA Code, all statements, plans, profiles, elevations, and other demonstrative material submitted with an application for rezoning shall be annotated with one of the following statements. Each statement shall be signed by the applicant; however, the applicant is not restricted to use the same statement on every submitted document. The applicant may vary statements as necessary to proffer certain statements, plans, profiles, and elevations, and not proffer other information or pieces of demonstrative material related to the same application.

(B) One of the following statements should accompany any application for zoning modification.

(1) *Commitment to proffer.* “I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission, unless an amendment thereto is mutually agreed upon by the Town Council and the undersigned.”

(2) *Noncommitment to proffer.* “The conditions set forth in this submission are not to be construed as to be binding on the development of the subject property of this application.”

(1998 Code, § 66-334) (Ord. passed 9-5-2017)

§ 157.264 VALIDITY AND CONFORMANCE WITH PROFFERED CONDITIONS.

(A) If an amendment to the Zoning Map is adopted subject to the conditions proffered by the applicant as set forth in § 157.263, the property in question shall be appropriately annotated on the Zoning Map and all other land records referencing the conditions as adopted.

(B) Such proffered conditions shall become a part of the zoning regulations applicable to the property in question unless subsequently changed by an amendment to the Zoning Map, and such conditions shall be in addition to the specific regulations set forth in this chapter for the zoning district in question.

(C) Upon approval, any site plan, subdivision plat, or general development plan submitted for the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations, or other demonstrative materials; and no development shall be approved by any town official in the absence of substantial conformity.

(D) For the purpose of this section, substantial conformance shall allow for a reasonable margin of adjustment due to final engineering data, but conform to the general nature of the proposed development,

the specific uses and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.

(1998 Code, § 66-335) (Ord. passed 9-5-2017)

§ 157.265 PUBLIC HEARING REQUIREMENTS.

(A) The Planning Commission shall not recommend, nor the Town Council adopt, any zoning ordinance or Zoning Map amendment (rezoning) to change district boundaries or classification of property until notice of intention to do so has been published and/or mailed in accordance with the law.

(B) The cost of any such notice shall be paid by the applicant.

(C) When any notice is required by law to be sent to units in a condominium or cooperative, the written notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in lieu of each individual unit owner.

(1998 Code, § 66-336) (Ord. passed 9-5-2017)

§ 157.266 REFERRAL TO PLANNING COMMISSION.

(A) In accordance with VA Code Title 15.2, proposed amendments to this chapter, changes in district boundaries, amendments to proffers, or classification of property shall be referred by the Town Council, or the Zoning Administrator (in cases of amendments proposed by the property owner, contract purchaser with the owner's written consent, or owner's agent), to the Planning Commission for its recommendations.

(B) In accordance with VA Code § 15.2-2214, the Planning Commission shall annually fix a calendar for holding regular meetings, and may also, by resolution, fix certain days to which any meeting shall be continued if the Chairperson, or Vice-Chairperson if the Chairperson is unable to act, finds and declares that weather conditions are such that it is hazardous for members to attend the meeting. Such findings shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required, provided the resolution setting the schedule is inserted in a newspaper having general circulation in the locality at least seven days prior to the first meeting held pursuant to the adopted schedule.

(C) The Planning Commission shall hold a public hearing on such application or resolution with advertising as provided by § 157.265.

(D) At the conclusion of the Planning Commission public hearing, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment. After that time, any material change made in the application shall necessitate the return of the application to the Planning Commission and the scheduling of another public hearing.

(E) The Planning Commission need not confine its recommendation to the proposed amendment as set forth in the petition/application/resolution.

(1) If the proposed amendment consists of a change in the text of this chapter, it may recommend a revision to the proposal.

(2) If the proposed amendment consists of a change in zoning district boundaries, it may reduce or enlarge the extent of land that it recommends to be rezoned or it may recommend that the land be rezoned to a different zoning district classification than that petitioned for if, in either case:

(a) The Commission is of the opinion that such revision is in accordance with sound zoning practice and is in furtherance of the purpose of this chapter; and/or

(b) Before recommending a larger extent of land or a rezoning to a less restricted classification than was set forth in the petition, the Commission shall hold a further hearing on the matter, of which notice shall be given as in the first instance.

(F) In recommending the adoption of any amendment to this chapter, the Planning Commission shall state its reasons for such recommendation, describing any changes in conditions, if any, that it believes makes the amendment advisable and specifically setting forth the manner in which, in its opinion, the amendment would be in harmony with the adopted Comprehensive Plan and would be in furtherance of the purposes of this chapter.

(G) The Planning Commission shall have 90 days following its first meeting after the proposed amendment has been referred to the Commission to transmit its recommendation to the Council. Failure to provide a recommendation within such specified time shall be deemed a recommendation of approval unless a deferral is requested by the applicant in conformance with this chapter. (1998 Code, § 66-337) (Ord. passed 9-5-2017)

§ 157.267 TOWN COUNCIL ACTION.

(A) Following the report to the Town Council by the Planning Commission of any proposed amendment to this chapter, change in district boundaries, amendment to proffers, or classification of property, and before approving and adopting any ordinance or amendment thereof, the Town Council shall hold at least one public hearing thereon, pursuant to public notice as required by law.

(B) In order to approve an application, Town Council must find the following conditions have been addressed:

(1) The fees for zoning requests, as established by an un-codified ordinance, have been paid; and

(2) Proposed amendments have been considered with reasonable regard for the existing use and character of the property, the suitability of the property for various uses, the trends of growth or change,

and the current and future requirements of the town. Considerations shall include, but not be limited to, comprehensive plans or parts thereof, capital outlay programs, timing of development, relation of development to utilities and public facilities. Other elements to be considered include:

- (a) Various purposes as determined by population and economic studies and other studies;
- (b) Transportation requirements of the community and the town;
- (c) Requirements for schools, parks, playgrounds, recreation areas, and other public services;
- (d) Conservation of natural resources, and preservation of floodplains; and
- (e) Conservation of properties and their values and the encouragement of the most appropriate use of land throughout the town.

(C) The Town Council shall determine that the following requirements are met, or be assured that they will be met, in acting upon a petition to change the zoning boundaries, proffer amendment, or classification of property on the Zoning Map.

(1) *General conformance.* The requested zoning district shall be in general conformance with the adopted Comprehensive Plan that includes the area of the parcel subject to the requested change.

(2) *Change of classification.* Parcels which are the subject of requests for changes of zoning classification shall have direct access to arterial, thoroughfare, or collector streets without creating unsafe traffic conditions along minor streets. Rezoning requests requiring enlargement or extension of new or existing arterial thoroughfare and collector streets to provide proper access to the parcel under the proposed zoning district shall:

- (a) Be consistent with the improvements and timing of the Comprehensive Plan and protect against danger and congestion in travel and transportation; and
- (b) Provide for the reservation or dedication of rights-of-way required on the subject parcel for the future enlargement or extension of new or existing streets that are shown in the adopted Comprehensive Plan.

(3) *Relation to utilities.*

(a) Parcels subject to requests for changes of zoning classification shall be located in relation to sanitary sewers, treatment plants, waterlines, storm drainage systems, and other utilities or installations that any required enlargement or extension of such system will be generally consistent with local and regional water quality management plans, the adopted capital improvements program, and the adopted Comprehensive Plan for the area in which the subject parcel is located.

(b) The applicant shall provide, where necessary, sanitary sewers, waterlines, storm drainage systems and other utilities and installations, or for the enlargement or improvement of existing systems, to serve the development in a manner consistent with applicable plans and policies.

(4) *Relation to public facilities.*

(a) Parcels subject to requests for changes of zoning classification shall be located, designed, scaled, and scheduled for development such that either existing public facilities or planned public facilities that are contained in an adopted capital improvements program will be adequate to serve the proposed development.

(b) In the event that new or enlarged public facilities are necessary to serve development permitted as a result of the requested change in zoning, the applicant shall provide for these facilities. (1998 Code, § 66-338) (Ord. passed 9-5-2017)

§ 157.268 REFILING FOLLOWING DENIAL.

Upon denial of any petition to change a zoning district boundary, proffers, or classification of property, applications for any or all of the same property for amendment to the same zoning district or use as applied for in the previously denied application shall not be filed within one year of the original denial.

(1998 Code, § 66-339) (Ord. passed 9-5-2017)

§ 157.269 WITHDRAWAL OF APPLICATION.

(A) An application for an amendment of this chapter may be withdrawn at any time. If the request for withdrawal is made after publication of the notice of public hearing before Town Council, then no application for all or any part of the same property may be filed within six months of the withdrawal date.

(B) There shall be no refund of rezoning fees in the case of withdrawal, regardless of the time of withdrawal.

(1998 Code, § 66-340) (Ord. passed 9-5-2017)

§ 157.270 DEFERRAL OF APPLICATION BY APPLICANT.

(A) Petitioner may request deferral of consideration of the application for rezoning.

(B) If the request for deferral is made after publication of the notice of hearing, such deferral shall only be with the consent of either the Planning Commission or the Town Council, whichever body advertised the hearing.

(C) The applicant shall bear the costs to re-advertise the application.

(D) Applications deferred by the Planning Commission at the request of the petitioner will not be deemed as being referred to the Planning Commission until such time as the matter has been rescheduled on the Commission's agenda.

(1998 Code, § 66-341) (Ord. passed 9-5-2017)

OUTDOOR LIGHTING REQUIREMENTS

§ 157.285 GENERAL REQUIREMENTS AND EXEMPTIONS.

(A) *Purpose and intent.* The purposes of the outdoor lighting regulations are to protect dark skies and the general welfare by controlling the spillover of light onto adjacent properties, and to prevent glare from outdoor luminaires and limit the intensity of light on adjacent properties and roadways to further public safety.

(B) *Conformance with applicable codes and ordinances.* All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this subchapter, and applicable provisions of this chapter. The most restrictive shall govern.

(C) *General requirements.*

(1) All outdoor light fixtures except those exempted by division (D) below and those otherwise regulated by § 157.287 shall be fully shielded. A fully shielded fixture must be a full cutoff luminaire or a decorative luminaire with full cutoff optics, and defined as an outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixture. The light source visibility shall be shielded from the adjoining property (See Figures 1 and 2 in § 157.288).

(2) Spillover light, vertical or horizontal, shall not exceed one-half foot-candles at the property line.

(3) Building- and pole-mounted luminaires shall not have adjustable features.

(D) *Exemptions.* Exemptions include:

(1) Outdoor light fixtures installed prior to the effective date of this subchapter are exempt from the provisions of this subchapter, provided, however, that no change in use, increase in lumen output, or structural alteration of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this subchapter. Replacement of a fixture shall mean a change of fixture type or change to the mounting height of location of a fixture. Routine lighting fixture maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, and other similar components shall not constitute

replacement and shall be permitted provided such changes do not result in a higher lumen output. Changing of housing or lenses in a fixture shall not constitute an exemption to the requirements of this subchapter;

(2) Lighting required by state or federal law, to the extent that compliance with state or federal law is inconsistent with compliance with this subchapter;

(3) Roadway lighting and security lighting controlled and activated by motion sensor devices for a duration of 15 minutes or less;

(4) Lighting of the U.S. or state flags and other noncommercial flags expressing constitutionally-protected speech;

(5) Temporary circus, fair, carnival, or civic uses; and/or

(6) Construction and emergency lighting provided that said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(1998 Code, § 66-350) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.286 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FOOT-CANDLE. A quantitative unit of measure referring to the measurement of illumination at a single point. One **FOOT-CANDLE** is equal to one lumen uniformly distributed over an area of one square foot.

FULL CUTOFF ANGLE. The angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted. (See Figure 1 in § 157.288.)

FULLY SHIELDED. Fixtures that are shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. This means that a **FULLY SHIELDED** fixture is one used in a way that allows no direct or internally reflected light to shine above the fixture. (See Figure 1 in § 157.288.)

INITIAL LUMENS. The lumens emitted from a lamp as specified by the manufacturer of the lamp.

LAMP. The component of a luminaire that produces light. A **LAMP** is also commonly referred to as a bulb.

LUMEN. A standard unit of measurement referring to the amount of light energy emitted by a light source without regard to the effectiveness of its distribution.

LUMINAIRE. A complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A **LUMINAIRE** is also commonly referred to as a fixture.

OUTDOOR LIGHT. Outdoor artificial illuminating devices, outdoor fixtures, lamps, or other fixture devices, permanent or portable, used for illumination, direction, or advertisement. Such devices shall include, but are not limited to, search, spot, or floodlights for: buildings and structures including canopies and overhangs; recreational areas; parking lot lighting; landscape lighting; signs, including billboards; and display and service areas.

OUTDOOR LUMINAIRE. A luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign.

PHOTOMETRIC PLAN. A point by point plan depicting the intensity and location of lighting on the property. (See Figure 4 in § 157.288.)

TEMPORARY. Not used more than seven consecutive days and not used more than 15 days in any calendar year.
(1998 Code, § 66-351) (Ord. passed 9-5-2017)

§ 157.287 USE AND ZONING DISTRICT SPECIFIC REQUIREMENTS.

(A) *Public or private outdoor recreational facilities.* Outdoor night-time recreational events have unique and site specific lighting needs. This section is intended to permit adequate illumination for such events, while minimizing sky-glow and reducing glare and lighting spillover onto surrounding streets and properties.

(1) *Primary playing areas with the exception of residential accessory uses.* Where playing fields or other recreational areas are to be illuminated, lighting fixtures shall be specified, mounted, and aimed so that their beams fall within the primary playing area. Direct illumination shall be confined to within the property lines of the recreational use. External shields may be required in order to reduce spillover light.

(2) *Lighting plans.* Lighting plans shall comply with special provisions listed in § 157.288.

(3) *Event hours.* Under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m. except to conclude an event that was reasonably scheduled to conclude prior to 11:00 p.m. All newly lighted fields, or existing fields being upgraded or refitted (public or private) shall be equipped with override timing devices which will automatically cut off the lights to ensure curfew compliance.

(B) *Outdoor lighting of buildings, parking lots, loading areas, sales areas, display areas, aprons/canopies, landscaping, signs, flags, statues, and other objects.* The following lighting requirements apply to single-family attached, multifamily, educational, institutional, commercial recreation, public, commercial business and retail, motor vehicle related, wholesaling, and industrial uses identified in this chapter.

(1) Lighting of the aforementioned uses shall consist of fully cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is confined to the object intended to be illuminated.

(2) Directional control shields shall be used where necessary to limit stray light.

(3) No light from any illuminated sign shall cause or direct non-reflected light from the fixture to shine onto any adjoining property or public right-of-way.

(4) Lighting for all parking, display, and loading areas shall not exceed an average horizontal illumination level of two and one-half foot-candles. All lighting fixtures serving these areas shall be fully cut-off fixtures.

(5) Maximum mounting height is 20 feet for residential uses and 25 feet for nonresidential uses. Height is measured from the ground surface to the bottom of the lighting fixture. (See Figure 3 in § 157.288.)

(6) The lighting fixture bulbs in aprons and canopies shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling so that light is restrained to no more than 85 degrees from vertical.

(a) As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy.

(b) Lights shall not be mounted on the top or sides (facial) of the canopy and the sides of the canopy shall not be illuminated.

(7) The lighting for pump islands and under canopies shall have a minimum of one foot-candle at grade, and the average horizontal illumination cannot exceed ten foot-candles at grade level, subject to a uniformity ratio (ratio of average to minimum illuminance) no greater than four to one. The standards herein are based on the Illuminating Engineering Society of America (IESNA) RP-33, *Lighting for Exterior Environments*.

(8) Lamps shall not exceed 400 watts.

(C) *Outdoor fixtures for single-family detached residential structures.* Outdoor fixtures for single-family detached residential structures shall be limited to lamps with a maximum of 180 watts per fixture and shall be installed so that light does not spill onto an adjoining property. (1998 Code, § 66-352) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.288 SITE PLAN REQUIREMENTS.

(A) *Application requirements.*

(1) Any person applying for a site plan in accordance with Chapter 155 of this code or applying for a building, electrical, or sign permit to install outdoor lighting fixtures shall, as a part of said application, submit evidence that the proposed work will comply with this subchapter.

(2) The lighting plan application shall include the following:

(a) A site plan drawn to scale showing building(s), landscaping, parking areas, and proposed exterior lighting fixtures;

(b) Location of all post, canopy, supports, and light fixtures, including the height of each fixture, relative to the buildings, structures, parking, and display and loading areas;

(c) Specifications of the illuminating devices, lamps, supports, and other devices including designation as Illuminating Engineering Society of North America (IESNA) “cut-off” fixtures. This description may include, but is not limited to, manufacturers catalog cuts, and drawings including sections where required; and

(d) A photometric plan indicating the minimum and maximum foot-candle levels within the lighted area of the site. Such plan shall show locations of all pole mounted and building mounted fixtures and a numerical 25 foot by 25 foot grid of lighting levels, in foot-candles, that the fixtures will produce on the ground. (See Figure 4 below.)

(3) The required plans and descriptions shall be sufficiently complete to enable the Planning Commission, Zoning Administrator, Building Official, or their designee to readily determine compliance with the requirements of this subchapter. If such plans and descriptions cannot enable this ready determination by reason of the nature or configuration of the devices, fixtures, or lamps proposed, the applicant shall submit evidence of compliance by test reports performed by a testing lab certifying that the tests were conducted according to the standards of the Illuminating Engineering Society of North America (IESNA).

(B) *Conformance with this subchapter.*

(1) Prior to issuance of a building, electrical, or sign permit, the Zoning Administrator or designee shall determine that the submitted plans and details for said permit are in conformance with this subchapter.

(2) The stamping of the plans and the signature of the Building Official or designated representative and the date of the signature shall indicate that the plans are in conformance.

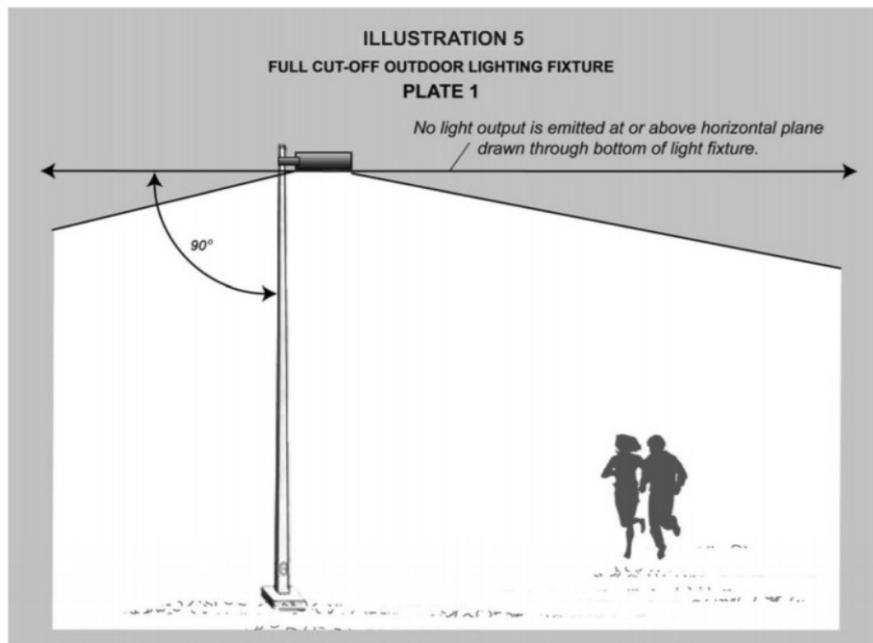
(C) *Changes after approval.* Should the applicant desire to substitute outdoor light fixtures or lamps to be installed on private property after a lighting plan has been approved, the applicant shall submit said changes to the Zoning Administrator or designee for approval, with adequate information to assure compliance with this subchapter.

(D) *Special requirements for public or private outdoor recreational facilities.*

(1) For each athletic field or complex to be illuminated, a lighting plan shall be submitted detailing the property lighting installation. The plan shall include the lighting requirements for each sports field, the lighting specifications, and technical measures showing how those requirements will be achieved. Special tree planting and/or buffering to assist in light control and protection of adjacent properties and roadways may be required.

(2) All applications for lighted outdoor recreational facilities shall include an accurate photometric plan in conjunction with a site plan for the proposed field and associated facilities.

**Figure 1: Full
Lighting**



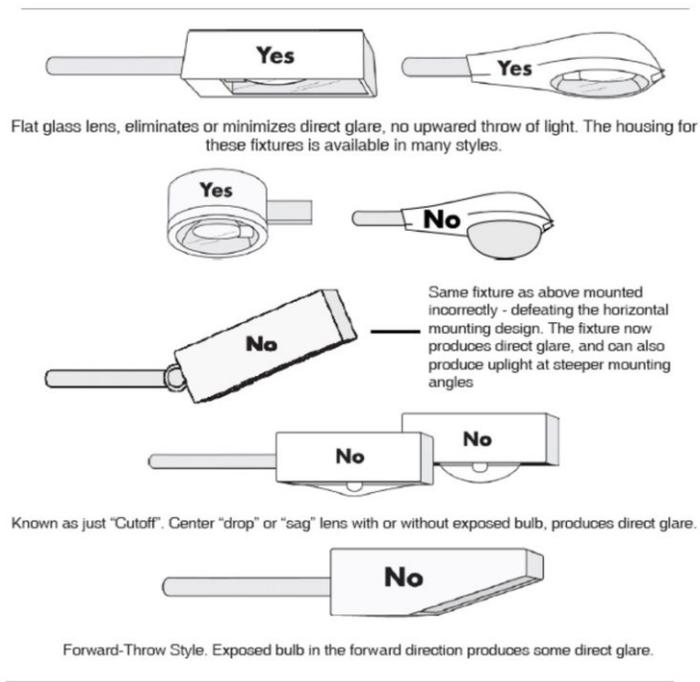
**Cut-off
Fixture**

Source: Fairfax County, Virginia Zoning Ordinance - Appendix 2 (Illustrations)

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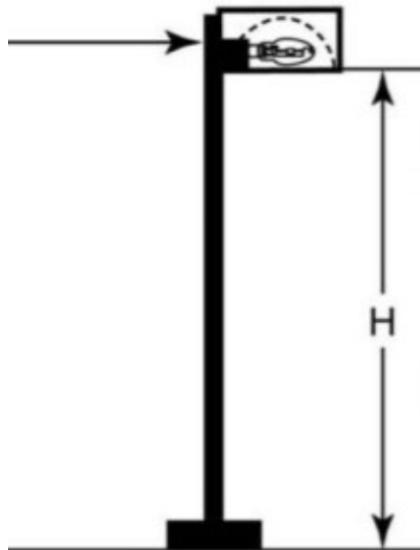
Figure 2: Full Cut-

Off Light Fixtures



Source: International Dark-Sky Association (IDA Inc.), www.darksky.org.

Figure 3: Mounting Height

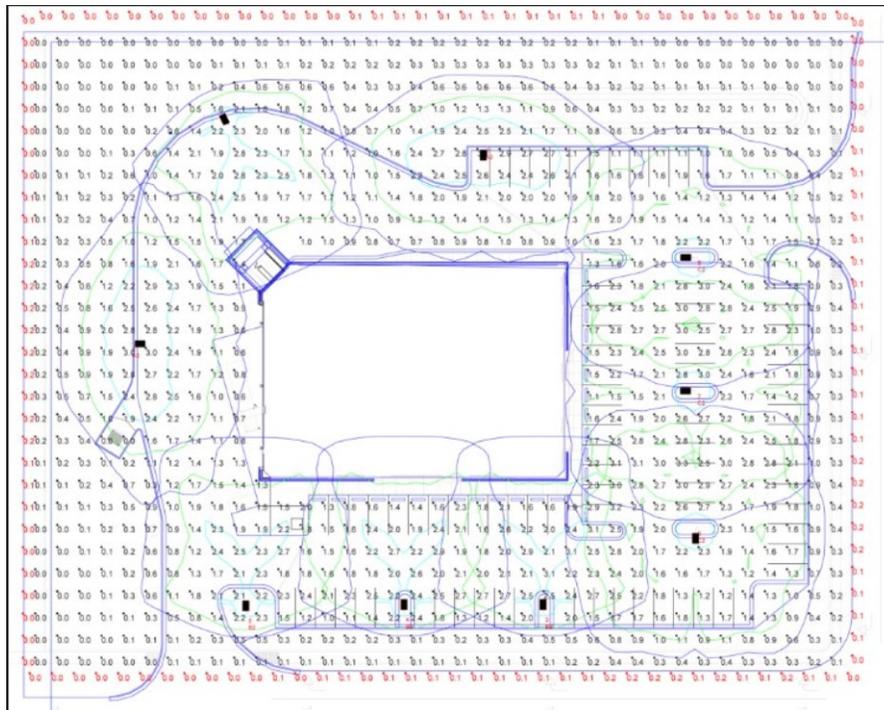


Source: Fairfax County, Virginia Zoning Ordinance - Appendix 2 (Illustrations)

Zoning197

Figure 4:
Plan

Photometric



Source: Hubbell Outdoor Lighting

(1998 Code, § 66-353) (Ord. passed 9-5-2017)

SIGNS; GENERAL PROVISIONS

§ 157.300 FINDINGS, PURPOSE, AND INTENT; INTERPRETATION.

(A) Signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation. The purpose of this subchapter is to regulate the size, color, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of the various neighborhoods, the creation of a convenient, attractive, and harmonious community, protection against destruction of or encroachment upon historic areas, and the safety and welfare of pedestrians and wheeled traffic, while providing convenience to citizens and encouraging economic development. This subchapter allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This subchapter shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this subchapter is found by a court of competent jurisdiction to be invalid, such finding shall not affect the validity of other provisions of this subchapter which can be given effect without the invalid provision.

(B) Signs not expressly permitted as being allowed by right or by special use permit under this subchapter, by specific requirements in another portion of this chapter, or otherwise expressly allowed by the Town Council are forbidden.

(C) A sign placed on land or on a building for the purpose of identification, protection, or directing persons to a use conducted therein shall be deemed to be an integral but accessory and subordinate part of the principal use of land or building. Therefore, the intent of this subchapter is to establish limitations on signs in order to ensure they are appropriate to the land, building, or use to which they are appurtenant and are adequate for their intended purpose while balancing the individual and community interests identified in division (A) above.

(D) These regulations are intended to promote signs that are compatible with the use of the property to which they are appurtenant, landscape and architecture of surrounding buildings, are legible and appropriate to the activity to which they pertain, are not distracting to motorists, and are constructed and maintained in a structurally sound and attractive condition.

(E) These regulations distinguish between portions of the town designed for primarily vehicular access and portions of the town designed for primarily pedestrian access.

(F) These regulations do not regulate every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the town. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above.

(G) These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs.

(1998 Code, § 66-360) (Ord. passed 9-5-2017)

Statutory reference:

Outdoor advertising in sight of public highways, see VA Code §§ 33.2-1200 et seq.

§ 157.301 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-FRAME SIGN. A two-faced chalkboard sign with supports that are connected at the top and separated at the base, forming an “A” shape. These are also referred to as ***SANDWICH BOARD SIGNS***. They are included in the term ***PORTABLE SIGN***.

ADVERTISING. Any words, symbol, color, or design used to call attention to a commercial product, service, or activity.

ANIMATED SIGN. A sign or part of a sign that is designed to rotate, move, or appear to rotate or move.

AWNING SIGN. A sign placed directly on the surface of an awning.

BANNER. A temporary sign of flexible material designed to be installed with attachments at each of four corners.

BOX SIGN. A sign contained in a box, transparent on one side, which is not more than four and a half square feet in area and not more than one foot deep.

BUSINESS SIGN. A sign which directs attention to a product, service, or commercial activity available on the premises.

CANOPY SIGN. A sign attached to a canopy.

CHANGEABLE COPY SIGN. A sign or part of a sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or surface of the sign.

COMPREHENSIVE SIGN PLAN. A plan for the signage of a property that includes multiple tenants or owners with shared parking or other facilities, with special use permit (SUP) from Town Council.

FEATHER SIGN. A lightweight, portable sign mounted along one edge on a single, vertical, flexible pole. The physical structure may resemble a sail, bow, or teardrop.

FLAG. A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope, and used as a symbol or decoration; this includes **PENNANTS**.

FLASHING SIGN. A sign that includes lights that flash, blink, or turn on and off intermittently.

FREESTANDING SIGN. A non-portable sign that is supported by structures or supports in or upon the ground and independent of any support from any building or wall.

HEIGHT. The maximum vertical distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: existing grade immediately prior to construction of the sign; or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating primarily for the purpose of mounting or elevating the sign.

ILLEGAL SIGN. Any sign erected without a required permit or which otherwise does not comply with any provisions of this subchapter.

ILLUMINATED SIGN. A sign that is backlit, internally lighted, or indirectly lighted, but does not include a neon sign.

INFLATABLE SIGN. Any sign which uses compressed or forced gas to provide support.

MARQUEE. A permanent structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

MARQUEE SIGN. A sign attached to and made a part of a marquee or any similar projections from a building, with changeable, fixed, or both types of lettering in use.

MINOR SIGN. A wall or freestanding sign, as per the tables in §§ 157.320 through 157.322 and not illuminated.

MONUMENT SIGN. A sign affixed to a structure built on grade in which the sign and the structure are an integral part of one another; not a pole sign.

NEON SIGN. A sign containing exposed tubes filled with light-emitting gas.

NONCONFORMING SIGN. Any sign which was lawfully erected in compliance with applicable regulations of the town and maintained prior to the effective date of this chapter and which fails to conform to current standards and restrictions of this chapter.

OFF-PREMISES SIGN. A sign that directs attention to a business, product, service, or activity conducted, sold, or offered at a location other than the premises on which the sign is erected.

POLE SIGN. A sign that is mounted on one or more freestanding poles.

PORTABLE SIGN. Any temporary sign not affixed to a building, structure, vehicle, or the ground. It does not include a flag or banner.

PROJECTING SIGN. Any sign, other than a wall, awning, or marquee sign, affixed to a building and supported only by the wall on which it is mounted.

PUBLIC AREA. Any public place, public right-of-way, any parking area, or right-of-way open to use by the general public, or any navigable body of water.

ROOF SIGN. A sign erected or constructed, in whole or in part, upon or above the highest point of a building with a flat roof, or the lowest portion of a roof for any building with a pitched roof.

SIGN. Any device (writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure, or character) visible to and designed to communicate information to persons in a public area. However, the term **SIGN** does not include architectural features, except those that identify products or services or advertise a business use. The term **SIGN** also does not include the display of merchandise for sale on the site of the display.

SIGN FACE. The portion of a sign structure bearing the message.

SIGN STRUCTURE. Any structure bearing a sign face.

TEMPORARY SIGN. A sign constructed of cloth, canvas, vinyl, paper, fabric, or other lightweight material not well suited to provide a durable substrate or, if made of some other material, is neither permanently installed in the ground nor permanently affixed to a building or structure which is permanently installed in the ground.

VEHICLE OR TRAILER SIGN. Any sign attached to or displayed on a vehicle, if the vehicle or trailer is used for the primary purpose of advertising a business establishment, product, service, or activity. Any such vehicle or trailer shall, without limitation, be considered to be used for the primary purpose of advertising if it fails to display current license plates, inspection sticker, or municipal decal, if the vehicle is inoperable, if evidence of paid-to-date local taxes cannot be made available, or if the sign alters the standard design of such vehicle or trailer.

WALL SIGN. Any sign attached to a wall or painted on or against a flat vertical surface of a structure.

WATERFRONT SIGN. A sign facing the river on riverfront property.

WINDOW SIGN. Any sign visible outside the window and attached to or within 18 inches in front of or behind the surface of a window or door.
(1998 Code, § 66-361) (Ord. passed 9-5-2017)

§ 157.302 SIGNS REQUIRING A PERMIT.

(A) *Permit required.* A sign permit is required prior to the display and erection of any sign except as provided in § 157.303.

(B) *Application for permit.*

(1) An application for a sign permit shall be filed with the town on forms furnished by the town. The applicant shall provide sufficient information to determine if the proposed sign is permitted under this chapter and other applicable laws, regulations, and ordinances. An application for a temporary sign shall state the dates intended for the erection and removal of the sign.

(2) The Town Zoning Administrator or designee shall promptly process the sign permit application and approve the application, deny the application, or notify the applicant of deficiencies in the application within 20 business days after receipt. Any application that complies with all provisions of this chapter, the Building Code, and other applicable laws, regulations, and ordinances shall be approved.

(3) If the application is denied, the town shall provide a list of the reasons for the denial in writing. An application shall be denied for noncompliance with the terms of this chapter, the Building Code, or other applicable law, regulation, or ordinance.

(C) *Nonrefundable fee.* A nonrefundable fee as set forth in the uncodified fee schedule adopted by the Town Council shall accompany all sign permit applications.

(D) *Permit void after one year.* If a sign is not installed within one year following the issuance of a sign permit (or within 20 days in the case of a temporary sign permit), the permit shall be void. The permit for a temporary sign shall state its duration, not to exceed 20 days unless another time is provided in this chapter. The town may revoke a sign permit under any of the following circumstances:

(1) The town determines that information in the application was materially false or misleading;

(2) The sign as installed does not conform to the sign permit application; or

(3) The sign violates this chapter, the Building Code, or other applicable law, regulation, or ordinance.

(E) *Signs in Old and Historic Occoquan Overlay District.* All signs in the Old and Historic Occoquan Overlay District (HOD) require compliance with Architectural Review Board (ARB) guidelines except when a sign permit is not required as provided in § 157.303.

(F) *Comprehensive sign plans approval by Town Council.* The Town Council shall approve comprehensive sign plans in the B-1 District. The comprehensive sign plan shall establish the time, manner, and placement of signs, frequency of message changes, the materials, the hours of lighting, the height of signs, the total number of square feet of sign surface, and the number of signs to be placed on a site. Height of signs shall not be modified above the height permitted in this chapter. (1998 Code, § 66-362) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.303 SIGNS NOT REQUIRING A PERMIT.

A sign permit is not required for the following:

(A) Signs erected by a governmental body or required by law;

(B) Flags up to 16 square feet in size not containing any advertising; provided, that no freestanding pole shall be erected in the public right-of-way nor be within five feet of a service drive, travel lane, or adjoining street;

(C) The changing of messages on marquees and the repair of an existing permitted sign, except that repair of a nonconforming sign must comply with § 157.308(E);

(D) Temporary signs as follows:

(1) One sign, no more than 16 square feet in area, located on property where a building permit is active;

(2) On any property for sale or rent, not more than one sign with a total area of up to 16 square feet and a maximum height of six feet when the sign abuts a road with a speed limit of 25 mph or less, and when the sign abuts a road with a speed limit greater than 25 mph not more than one sign with a total area of up to 32 square feet and a maximum height of eight feet;

(3) Official notices or advertisements posted or displayed by or under the direction of any public or court officer in the performance of his or her official or directed duties; provided, that all such signs shall be removed no more than ten days after their purpose has been accomplished;

(4) On residential use property, one or more temporary signs with a total area of no more than eight square feet, and which are removed within 90 days after being erected. Once removed, temporary signs may not be erected again; and

(5) On residential use property, window signs, provided that the total extent of window signs do not obstruct more than 25% of the total area of all windows on each building façade.

(E) Not more than four minor signs per parcel, consistent with the tables in §§ 157.320 through 157.322. Additional minor signs are permitted in certain districts with a permit;

(F) A-frame signs not in the public right-of-way, consistent with the tables in §§ 157.320 through 157.322;

(G) A permanent window sign, provided that the aggregate area of all window signs on each window or door does not exceed 25% of the total area of the window or door; and

(H) Box signs, consistent with the tables in §§ 157.320 through 157.322.
(1998 Code, § 66-363) (Ord. passed 9-5-2017)

§ 157.304 PROHIBITED SIGNS.

In addition to signs prohibited elsewhere in this code or by applicable state or federal law, the following signs are prohibited.

(A) *General prohibitions.* General prohibitions include:

- (1) Signs that violate any law of the state relating to outdoor advertising;
- (2) Signs attached to natural vegetation;

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(3) Signs simulating, or which are likely to be confused with, a traffic control sign or any other sign displayed by a public authority. Any such sign is subject to immediate removal and disposal by an authorized town official as a nuisance;

(4) Vehicle or trailer signs;

(5) Freestanding signs more than 15 feet in height;

(6) Vending machines within the Old and Historic Occoquan District that are outside of a wholly enclosed structure; and

(7) Any sign displayed without complying with all applicable regulations of this chapter.

(B) *Prohibitions based on materials.* Prohibitions based on materials include:

(1) Signs painted directly on a building, driveway, or road, except where expressly permitted by this chapter;

(2) Animated signs;

(3) Flashing signs;

(4) Signs consisting of illuminated tubing or strings of lights outlining property lines or open sales areas, rooflines, doors, windows, or wall edges of any building, except for temporary decorations not to exceed three months per year or not to exceed 60 consecutive days;

(5) Signs that emit smoke, flame, scent, mist, aerosol, liquid, or gas;

(6) Signs that emit sound;

(7) Any electronic sign that is generated by a series of moving images, such as a TV, digital display, or other video technology, whether displayed on a building, vehicle, or mobile unit;

(8) Strings of flags (two or more connected together) visible from, and within 50 feet of, any public right-of-way;

(9) Pole signs less than six feet in height;

(10) Feather signs;

(11) Inflatable signs;

(12) Illuminated signs, except for box signs; and

(13) Neon signs.

(C) *Prohibitions based on location.* Prohibitions based on location include:

(1) Off-premises signs;

(2) Signs erected on public land other than those approved by an authorized town official in writing, required by law without such approval, or permitted under VA Code § 24.2-310 E. Any sign not so authorized is subject to immediate removal and disposal by any authorized official. Removal of the sign under this provision does not preclude prosecution of the person responsible for the sign;

(3) Signs on the roof surface or extending above the roofline of a building or its parapet wall;

(4) Any sign which obstructs visibility for motorists or pedestrians at an intersection; and

(5) Window signs whose aggregate area on a window or door exceed 25% of the total area of the window or door.

(1998 Code, § 66-364) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.305 MEASUREMENTS OF SIGN AREA AND HEIGHT.

(A) *Supports, uprights, or structures in determining sign area.* Supports, uprights, or structures on which any sign is supported shall not be included in determining the sign area unless such supports, uprights, or structures are designed in such a way as to form an integral background of the display; except, however, when a sign is placed on a fence, wall, planter, or other similar structure that is designed to serve a separate purpose other than to support the sign, the entire area of such structure shall not be computed. In such cases, the sign area shall be computed in accordance with the preceding provisions.

(B) *Sign area.*

(1) Sign area is calculated under the following principles.

(a) With signs that are regular polygons or circles, the area can be calculated by the mathematical formula for that polygon or circle. With signs that are not regular polygons or circles, the sign area is calculated using all that area within a maximum of three abutting or overlapping rectangles that enclose the sign face.

(b) The permitted area of a double-faced sign shall be considered to be the area on one side only. If one face contains a larger sign area than the other, the larger face shall be used in calculating the sign area. A double-faced sign must have an internal angle between its two faces of no more than 45 degrees.

(c) For projecting signs with a thickness of four inches or more, the sign area also includes the area of the visible sides of the sign, calculated as a rectangle enclosing each entire side view.

(2) The maximum height for any sign shall be 15 feet unless otherwise specified within this chapter.

(3) Maximum sign area is 16 square feet unless otherwise specified within this chapter. (1998 Code, § 66-365) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.306 MAINTENANCE AND REMOVAL.

(A) All signs shall be constructed and mounted in compliance with the State Uniform Statewide Building Code, 13 VAC 5-63.

(B) All signs and components thereof shall be maintained in good repair and in a safe, neat, and clean condition.

(C) The Building Official may take action under the State Maintenance Code, after such notice as is provided by law, to address any sign which, in his or her opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof as provided in Chapters 92 and 150 of this code.

(D) Where the use or business has ceased operating, the owner of the sign or property owner shall remove the sign within 60 days of the cessation of use or business operation, or remove/replace the sign face with a blank face until such time as a new use or business has resumed operating on the property.

(E) Any sign which becomes a safety hazard or which is not kept in a reasonably good state of repair shall be put in a safe and good state of repair within 30 days of a written notice to the owner and permit holder. Any sign which constitutes a nuisance may be abated by the town under the requirements of VA Code §§ 15.2-900, 15.2-906, and/or 15.2-1115. (1998 Code, § 66-366) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.307 GENERAL REQUIREMENTS.

(A) *Placement.* Except as otherwise permitted, all freestanding signs shall leave a vertical clearance over any sidewalk of at least seven feet and shall not overhang any vehicular right-of-way.

(B) *Illumination.* All permitted signs may be indirectly lighted, unless such lighting is specifically prohibited in this subchapter. Box signs may be internally lighted.

(1) In the case of indirect lighting, the source shall be so shielded that it illuminates only the face of the sign. However, wall signs shall be indirectly illuminated or have shielded direct lighting, unless otherwise prohibited within this chapter. Indirect lighting shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be

substantially confined to the sign to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the sign.

(2) Internal illumination shall be limited to the illumination standards for outdoor lighting in § 157.287. No sign shall be permitted to have an illumination spread of more than five-hundredths foot-candle at the lot line, shine into oncoming traffic, affect highway safety, or shine directly into a residential dwelling unit. In no event shall the illumination of any sign resulting from any internal or external artificial light source exceed 100 lumens. All lighting fixtures used to illuminate a sign shall be full-cutoff, as defined by the Illuminating Engineering Society of North America (IESNA), and shall have fully shielded or recessed luminaires with horizontal-mount flat lenses that prevent upward light scatter and protect the dark night sky.

(3) All illumination for signs shall comply with provisions of §§ 157.285 through 157.288.

(C) *Waterfront signs.* See chart in §§ 157.320 through 157.322.

(D) *Banners.* In the Old and Historic Occoquan District, banner colors shall be consistent with the ARB guidelines.

(1) A banner shall not contain more than four colors.

(2) Such banners shall be attached to an existing principal structure (with a clearance of at least 12 inches from the edge of the store or building) or sign pole. They must not obscure architectural features of the building (such as windows, railings, or ornamentation) and shall not exceed 16 square feet in total area. They may be hung in a horizontal or vertical manner and shall be attached at all four corners in a taut manner.

(3) Banner permits shall be for 20 consecutive days and no more than twice in one calendar year per property.

(4) Banners installed and used for special events and festivals sponsored by the town may be erected without a permit and shall be removed within two days after the event.
(1998 Code, § 66-367) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.308 NONCONFORMING SIGNS.

(A) Signs lawfully existing on the effective date of this chapter or prior ordinances, which do not conform to the provisions of this chapter, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. The burden of establishing nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the Zoning Administrator, a property owner shall submit verification that sign(s) were lawfully existing at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into compliance with the current ordinance.

(B) No nonconforming sign shall be enlarged nor shall any feature of a nonconforming sign, such as illumination, be increased.

(C) (1) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign.

(2) Nonconforming signs shall not be extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area.

(D) No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform in all respects to the provisions of this subchapter.

(E) (1) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding 50% of its area may be restored within two years after such destruction or damage but shall not be enlarged in any manner.

(2) If such sign is so destroyed or damaged to an extent exceeding 50%, it shall not be reconstructed but may be replaced with a sign that is in full accordance with the provisions of this subchapter.

(F) A nonconforming sign which is changed to becoming conforming or is replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this subchapter.

(G) A nonconforming sign structure shall be subject to the provisions of § 157.212. In addition, a nonconforming sign structure shall be removed if the use to which it is accessory has not been in operation for a period of two years or more. Such sign structure shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign structure, the Zoning Administrator or designee shall give the owner 15 days' written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator or designee may enter the property upon which the sign is located and remove any such sign or may initiate such action as may be necessary to gain compliance with this provision. The cost of such removal shall be chargeable to the owner of the property.

(1998 Code, § 66-368) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.309 NONCOMMERCIAL SIGNS.

Wherever this subchapter permits a sign with commercial content, noncommercial content is also permitted subject to the same requirements of size, color, illumination, movement, materials, location, height, and construction.

(1998 Code, § 66-369) (Ord. passed 9-5-2017) Penalty, see § 10.99

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<i>Table 2: Nonresidential Signs</i>							
<i>Type</i>	<i>Flags</i>	<i>Temporary</i>	<i>Variable Message Signs</i>	<i>Permanent Box, Freestanding, Monument, Pole, Projecting, and Wall</i>	<i>Minor</i>	<i>Monument</i>	<i>Waterfront</i>
Size (each/total)	16 sf/no limit	8 sf/8 sf	16 sf/16 sf	16 sf/16 sf	1 sf/4 sf	16 sf	16 sf

(1998 Code, § 66-391) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.321 COMMERCIAL DISTRICT SIGNS (B-1).

(A) (1) Except as provided otherwise in Table 3 below, the following signs are permitted as accessory uses in commercial districts.

(2) In addition, up to one minor sign per business is permitted as a wall sign.

(B) Window signs are permitted up to 25% of the area of a window and count toward the maximum square footage of wall signs. Window signs are permitted only on the first floor of a building unless the business advertised is only on the floor where the window sign is displayed.

<i>Table 3: Commercial Signs</i>						
<i>Type</i>	<i>Permanent-Box, Freestanding, Monument, Pole, Projecting, and Wall</i>	<i>Temporary</i>	<i>Flags</i>	<i>Minor</i>	<i>Waterfront</i>	<i>Marquee</i>
Duration	Unlimited	20 days	Unlimited	Unlimited	Unlimited	Unlimited
Illumination	Indirect	None	As required by law	None	Indirect	Backlit, internally or indirectly
Location	Wall, window sign, freestanding or affixed to mailbox	See § 157.303(D)	See § 157.303(B)	Wall, window, freestanding, or affixed to mailbox	Wall, window, freestanding, or affixed to mailbox	SUP req.
Maximum number	4 (with no flags)*	Unlimited	4 (with no signs)*	4 signs total without a permit; up to 2 additional with a permit	Unlimited up to maximum size	1

<i>Table 3: Commercial Signs</i>						
<i>Type</i>	<i>Permanent-Box, Freestanding, Monument, Pole, Projecting, and Wall</i>	<i>Temporary</i>	<i>Flags</i>	<i>Minor</i>	<i>Waterfront</i>	<i>Marquee</i>
Maximum height	6 ft	6 ft	15 ft	6 ft	Height of building	Height of building
Setback	None	See § 157.303(D)	See § 157.303(B)	None	None	None
Size (each)	16 sf (except box signs, which are limited to 4.5 sf by definition)	16 sf total for commercial use property; 8 sf total for residential use property	16 sf	1 sf total	Total: 2 sf/linear foot of building riverfront width, divided into as many signs as occupant wishes	SUP req.
SUP req.	No	No	No	No	No	Yes
Table notes: *: Maximum number is a combination of signs and flags. There shall be no more than four signs and/or flags on any one property at a given time.						

(1998 Code, § 66-392) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.322 HISTORIC DISTRICT SIGNS.

(A) In the Old and Historic Occoquan District, a certificate of appropriateness is required before erection or alteration of any structure.

(B) Repair of an existing sign, or replacement of an existing sign with like materials and colors, does not require a certificate of appropriateness.

(1998 Code, § 66-393) (Ord. passed 9-5-2017) Penalty, see § 10.99

SIGNS; ADMINISTRATION

§ 157.335 SIGN PERMIT PROCEDURES.

(A) *Applicability.* A sign permit shall be required for all signs erected after December 12, 1995, except for those signs specifically excluded from the sign permit requirements as provided in § 157.307.

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(B) *Filing of application; fees.* Applications for sign permits shall be filed on a form provided by the town by the applicant or his or her agent. Applications for permits for signs in the Old and Historic Occoquan District shall be subject to review and approval by the Architectural Review Board. All applications for permits for signs outside the Old and Historic Occoquan District shall be subject to the review and approval of the Town Zoning Administrator, and shall contain information required in division (C) below, and shall be accompanied by a fee, as established from time to time by resolution of the Town Council.

(C) *Information required.* All applications for sign permits shall contain or have attached thereto the following information in either written or graphic form:

- (1) Name, address, and telephone number of the sign erector and the sign owner;
- (2) Positions of the sign in relation to adjacent lot lines, buildings, sidewalks, streets, and intersections;
- (3) Type of sign and general description of structural design and construction materials to be used; and
- (4) Drawings of the proposed sign, which shall contain specifications indicating the height, perimeter, and area dimensions, means of support, method of illumination, colors, and other significant aspects of the proposed sign.

(D) *Inspections.* A final inspection shall be completed after installation of approved signs. Any discrepancies between the approved sign and the sign as constructed shall be identified and may result in the halt of construction or sign removal, if so ordered by the town.

(E) *Revocations.* The town may revoke a permit or approval if it is found that there has been concealment or misrepresentation of material facts in either the application or plans.
(1998 Code, § 66-401) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.336 TEMPORARY SIGN PERMIT PROCEDURES.

(A) All applications for signs requiring the issuance of a temporary sign permit, as established in § 157.308, shall contain all information requested by the Architectural Review Board prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of the permit for good cause. Temporary signs remaining after the expiration of the permit shall be considered obsolete.

(B) All applications for banners, as established in § 157.308, shall contain all information requested by the town prior to the issuance of such permit. The approved permit shall include the expiration date of the temporary permit. The applicant may request extensions of the permit for good cause. Banners remaining after the expiration of the permit shall be considered obsolete.
(1998 Code, § 66-402) (Ord. passed 9-5-2017) Penalty, see § 10.99

§ 157.337 EXPIRATION OF SIGN PERMITS; SIGNS NOT CONSTRUCTED.

A sign permit shall expire and become null and void if the approved sign is not erected within a period of 12 months from the date the permit was originally issued. The town may grant one extension of the sign permit for a period of six months, but in no case shall a permit be valid for more than a total of 18 months. Extensions may be granted only when the proposed sign is in compliance with all current applicable regulations.

(1998 Code, § 66-403) (Ord. passed 9-5-2017)

§ 157.338 VARIANCES TO SIGN REGULATIONS NOT PERMITTED.

(There is no text for this section.)

(1998 Code, § 66-404) (Ord. passed 9-5-2017)

§ 157.339 REMOVAL OF SIGNS.

(A) *Illegal signs.* The town may remove or order the removal of any illegal sign at the expense of the property owner.

(B) *Structurally unsafe signs.* Whenever in the opinion of the Zoning Administrator or building official, board a sign becomes structurally unsafe or endangers the safety of a building or premises, or endangers the public safety, or is in need of maintenance, the Zoning Administrator shall order that such sign be made safe, repaired, or removed. Such order shall be complied with within five days of receipt of the order by the person owning or using the sign or the owner of the building or premises on which such unsafe sign is affixed or erected.

(1998 Code, § 66-405) (Ord. passed 9-5-2017) Penalty, see § 10.99

