CODE OF ORDINANCES

COUNTY OF

MADISON, VIRGINIA

Published in 2020 by Order of the Board of Supervisors

municode

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OFFICIALS

of the

COUNTY OF

MADISON, VIRGINIA

AT THE TIME OF THIS CODIFICATION

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Kevin McGhee
Carlton Yowell
Board of Supervisors

Jack Hobbs
County Administrator

Sean D. Gregg
County Attorney

PREFACE

This Code constitutes a codification of the general and permanent ordinances of the County of Madison, Virginia.

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

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

Chapter and Section Numbering System

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

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately

to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1
CODE	CD1:1
CODE APPENDIX	CDA1:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
RELATED LAWS INDEX	RLi:1
SPECIAL ACTS INDEX	SAi:1
CODE INDEX	CDi:1

Index

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

Looseleaf Supplements

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

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

Acknowledgments

This publication was under the direct supervision of Daniel F. Walker, Code Attorney, and Erin McDaniel, Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Jack Hobbs, County Administrator, for his cooperation and considerable assistance during the progress of the work on this publication. It is hoped that his efforts, those of the county staff, and those of the publisher have resulted in a Code of Ordinances which will make the active law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

Copyright

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

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CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

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

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

State law references—Authority of county to codify and recodify its ordinances, Code of Virginia, § 15.2-1433; judicial notice of laws, Code of Virginia, § 8.01-38.6.

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

In the construction of this Code and of all other ordinances of the County, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of Supervisors or unless the context clearly requires otherwise:

Board of Supervisors; Board. Wherever the term "Board of Supervisors" or "Board" is used, it shall be construed to mean the Board of Supervisors of the County of Madison, Virginia.

Code. Wherever the term "Code" or "this Code" is used without further qualification, it shall mean the Code of Ordinances, County of Madison, Virginia, as designated in section 1-1.

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

County. The terms "the County" and "this County" mean the County of Madison in the Commonwealth of Virginia.

Gender. A term importing the masculine gender may extend and be applied to females and to corporations as well as to males.

Health Officer. The term "Health Officer" means the Public Health Officer of the County or representative of the State Board of Health serving the County.

Highway; street; road. The terms "highway," "street" and "road" shall be construed to embrace highways, streets, avenues, boulevards, roads, alleys, lanes, viaducts, publicly-maintained parking lots and all other public ways in the County.

Joint authority. Terms purporting to give authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons.

May. The term "may" shall be permissive.

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

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

Officer, Board, etc. Whenever reference is made to a particular Officer, Department, Board, Commission or other agency, such reference shall be construed as if followed by the words "of the County of

Madison, Virginia." A reference to a particular officer shall also be construed as if followed by the words "or his duly authorized representative, deputy assistant," subject, however, to the provisions of Code of Virginia, § 15.2-1502.

Official time standard. Whenever particular hours are referred to, the time applicable shall be official standard time or daylight saving time, whichever may be in current use in the County.

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

Person. The term "person" includes a firm, partnership, association of persons, corporation, body politic, organization or any other group acting as a unit as well as an individual.

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

Section numbers. Whenever reference is made to a specific section (e.g., section 1-1), without further qualification, it shall be deemed to refer to that section of this Code.

Shall. The term "shall" is mandatory.

Signature; subscription. The term "signature" or "subscription" includes a mark when a person cannot write.

State Code; Code of Virginia. References to the "State Code" or "Code of Virginia" mean the Code of Virginia (1950), as amended.

State, Commonwealth. The terms "the State," "this State" and "the Commonwealth" mean the Commonwealth of Virginia.

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

Tense. Terms used in the present tense shall include the future.

VAC. References to the abbreviation "VAC" refers to the Virginia Administrative Code.

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

State law reference—Similar provisions, Code of Virginia, § 1-202 et seq.

Sec. 1-3. Headlines of sections.

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

State law reference—Similar provisions applicable to state law, Code of Virginia, § 1-217.

Sec. 1-4. Severability of parts of Code.

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

Sec. 1-5. Conflicting provisions within Code.

(a) If the provisions of different chapters, articles, divisions or sections of this Code conflict with or contravene each other, the provisions of each chapter, article, division or section shall prevail as to all matters and questions growing out of the subject matter of that chapter, article, division or section.

(b) If clearly conflicting provisions are found in different sections of the same chapter, the provisions of the section last enacted shall prevail unless the construction is inconsistent with the meaning of that chapter.

Sec. 1-6. Ordinances, etc., conflicting with Code.

The provisions of this Code shall govern over conflicts with the provisions of any existing ordinance, bylaw, rule, regulation, or order.

Sec. 1-7. Effect of repeal on former ordinances.

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

Sec. 1-8. Provisions considered as continuations of prior existing ordinances.

The provisions of this Code, so far as they are substantively the same as those of the ordinances included in this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-9. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any ordinance promising or guaranteeing the payment of money by or for the County or authorizing the issuance of any bonds by the County or evidencing the County's indebtedness on any contract or obligation assumed by the County;

(2) Any ordinance granting any franchise, permit or right;

(3) Any ordinance appropriating funds, making assessments or relating to an annual tax levy or budget;

(4) Any ordinance relating to salaries, compensation or bonds of County employees and officials or members of County boards or Commissions;

(5) Any ordinance authorizing, providing for or otherwise relating to any public improvements;

(6) Any appropriation ordinance or any ordinance levying or imposing taxes or fees;

(7) Any ordinance dedicating or accepting any subdivision in the County;

(8) Any ordinance establishing the official plat of the County;

(9) Any zoning map amendment or land use or rezoning ordinance;

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

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

(12) Any ordinance concerning election districts or polling places;

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

Sec. 1-10. Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinances adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.

Sec. 1-11. Additions and amendments deemed incorporated in Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the Board of Supervisors to make the same a part hereof, shall be deemed to be incorporated herein, so that reference to the Code shall be understood and intended to include such additions and amendments.

Sec. 1-12. Supplementation of Code.

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

Sec. 1-13. Copies of Code and supplements to be available for public inspection.

At least three copies and every supplement thereto shall be kept in the office of the County Administrator and shall be available for public inspection, during normal business hours.

State law reference—Similar provisions, Code of Virginia, § 15.2-1433.

Sec. 1-14. Classification of and penalties for violations; continuing violations.

(a) Wherever in this Code or in any ordinance of the County or any rule or regulation promulgated by any officer or agency of the County, under authority duly vested in such officer or agency, it is provided that a violation or any provision thereof shall constitute a Class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as follows:

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

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

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

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

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

(c) Notwithstanding any other provision of this section or any other section of this Code, no penalty shall be imposed for a violation of this Code or any other ordinance or any rule or regulation referred to in this section, which is greater than the penalty provided by state law for a similar offense.

(d) Each day any violation of this Code or any other ordinance or any rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

State law references—Classification of misdemeanors and punishment therefor, Code of Virginia, §§ 18.2-9—18.2-11; authority of county to provide penalties for violation of ordinances, Code of Virginia, § 15.2-1429.

Sec. 1-15. Taxing of costs in prosecutions; disposition of fines and costs generally.

(a) Costs shall be taxed in prosecutions under this Code and other County ordinances in the same amounts and in the same manner as prescribed by law in misdemeanor cases under State statutes.

(b) All fines and costs collected under the terms of this Code and other County ordinances shall be paid over to the Treasurer of the County and credited by the Treasurer to the General County Fund, except as otherwise specifically provided.

Sec. 1-16. Adoption of State law regarding traffic and criminal offenses.

(a) Pursuant to the authority of Code of Virginia, § 46.2-1313, all the provisions and requirements of the laws of the State contained in the Code of Virginia, title 46.2 (regulation of traffic), except those provisions and requirements which, by their very nature, can have no application to or within the County, and the provisions of Code of Virginia, §§ 18.2-266 to 18.2-273 (driving motor vehicles, etc., while intoxicated), are adopted and incorporated in this section of local code by reference and made applicable within the County.

(b) Reference to "highways of the State" contained in the provisions and requirements adopted by this section shall be deemed to refer to the street, highways and other public ways within the County.

(c) The provisions and requirements referred to in subsection (a) of this section are adopted, mutatis mutandis, and made a part of this section as fully as though set forth at length in this section, and it shall be unlawful for any person in the County to violate or to fail, neglect or refuse to comply with any such provision or requirements. In no event shall the penalty imposed for the violation of any such provision or requirement exceed the penalty imposed for that offense under the State law adopted in this section.

Chapter 2

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***State law references**—Counties generally, Code of Virginia, § 15.2-100; State and Local Government Conflict of Interests Act, Code of Virginia, § 2.2-3100 et seq.

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Sec. 2-171. Topping Fund Committee.
Secs. 2-172—2-180. Reserved.

Division 10. Tourism Advisory Committee

Sec. 2-181. Tourism Advisory Committee.
Sec. 2-182. Membership; qualification of members.

ARTICLE I. IN GENERAL

Sec. 2-1. Board of Supervisors.

(a) The membership of the Board of Supervisors of the County shall be five members. All members shall be elected from the County at large.

(b) The members of the Board of Supervisors of the County shall be elected for staggered terms; two members will be regularly elected at one election and three members will be regularly elected at a subsequent election. Terms shall be for the normal four-year terms.
(Ord. of 2-10-1986)

Secs. 2-2—2-20. Reserved.

ARTICLE II. GOVERNMENT ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 2-21. Office of County Administrator.

The Office of County Administrator to the Board of Supervisors, the governing body of the County, is created in accordance with the Code of Virginia and the powers and duties of the County Administrator shall be in accordance with the Code of Virginia.

State law reference—Appointment of county administrator, Code of Virginia, § 15.2-406.

Sec. 2-22. Publication of County matters.

All advertisements and handbills of County matters requiring publication shall be published in any newspaper having general circulation in the County and permitted to accept legal advertisements as provided by the Code of Virginia, as amended.

Sec. 2-23. Public meetings.

The meetings of the Board of Supervisors are open to the public and all persons conducting themselves in an orderly manner may attend meetings.

State law reference—Meetings of Board of Supervisors, Code of Virginia, § 15.2-1419.

Sec. 2-24. Procurement of goods and services.

(a) The County hereby adopts and incorporates the provisions of Code of Virginia, § 2.2-4300 et seq., as amended, otherwise known as the Virginia Public Procurement Act, to govern its procedures for the procurement of services and goods from non-governmental sources.

(b) The County Administrator shall be responsible for the procurement of goods, services, insurance, and construction in accordance with this article, as well as the management and disposal of goods. His duties shall include the following:

(1) Purchase or supervise the purchasing of all goods, services, insurance, and construction needed by the County;

(2) Sell, trade, or otherwise dispose of surplus goods belonging to the County;

(3) Establish and maintain programs for specifications development, contract administration, inspection and acceptance, in cooperation with the public agencies using the goods, services and construction;

(4) Ensure that a using department has available funding sufficient for a given procurement; and

(5) Perform such other functions and duties as he may deem necessary.

(c) The County Administrator shall establish policies and procedures to support County procurement in accordance with applicable law. Any procurement shall be done in accordance with the applicable provisions in the State code with such competition as may be practical under the circumstances. As allowed by the Code of Virginia, the County may enter into contracts without competition for the following:

(1) Procurement of goods or services which are produced by or are available through State contracts or the State warehouse, or which are produced by nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped, or Virginia Correctional Enterprises;

(2) Procurement of legal services, expert witnesses, and other services associated with litigation or regulatory proceedings;

(3) Procurement involving small purchase contracts;

(4) Procurement done under a cooperative procurement agreement, pursuant to Code of Virginia, § 2.2-4304;

(5) Procurement in emergency situations; and

(6) Procurement where only a single source is practicably available for that which is to be procured.

(d) The County Administrator may delegate authority to purchase goods, services, insurance, or construction to other County officials if such delegation is deemed necessary for the effective and efficient procurement of those items.

Sec. 2-25. Review of criminal history record information of applicants for County employment.

(a) The County Administrator or his designee shall, in the interest of public welfare and safety, conduct investigations of all applicants to whom a conditional offer of employment is made to determine if the past criminal conduct of an applicant with a conviction record would be compatible with the nature of the employment under consideration, in accordance with Virginia Code § 15.2-1505.1, as amended.

(b) Except as set forth in subsection (c) of this section, the County Administrator or his designee shall require such applicants to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the central criminal records exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information.

(c) Applicants for the position of Officer of Election with the County's Office of the General Registrar shall not be required to submit to fingerprinting but shall be required to provide personal descriptive information to be forwarded through the central criminal records exchange for the purpose of obtaining criminal history record information.

(d) Criminal history record information shall be confidential.

(e) If an applicant is denied employment because of information appearing in his criminal history record, the County Administrator or designee shall notify the applicant that information obtained from the central criminal records exchange contributed to such denial.
(Ord. No. 2019-14, 11-26-2016)

Secs. 2-26—2-51. Reserved.

DIVISION 2. MISCELLANEOUS PROVISIONS

Sec. 2-52. Fee for passing bad check to County.

The Board of Supervisors establishes and sets a fee of $50.00 for the uttering, publishing or passing of any check or draft for payment of taxes or any other sums due, which is subsequently returned for insufficient funds or because there is no account or the account has been closed. The aforesaid fee shall be due and payable to the Treasurer of the County in addition to the amount of such check or draft.
(Ord. of 10-9-1984)

State law reference—Authority for above section, Code of Virginia, § 15.2-106.

Sec. 2-53. Bonds of officers, employees and agents.

All officers, employees and agents of the County who are required to give bond shall give bond with corporate surety, and the County shall pay the premium therefor, except as to the Treasurer, who may give bond as provided in Code of Virginia, § 15.2-1529.

State law reference—Authority to pay for premium of surety on bonds, Code of Virginia, § 15.2-1527.

Sec. 2-54. Protection of records and other papers.

(a) No book, record, document or paper belonging to the County or any department, office, board, commission or other agency of the County shall be removed from the office of the custodian thereof without his permission, and then only upon the giving of a receipt therefor, except as may be provided otherwise by law in any case, or except upon order of the Board of Supervisors or its Chairperson, or except in compliance with a valid subpoena duces tecum issued by a court or officer having jurisdiction over such matters.

(b) No person shall, without proper authority, destroy, tamper with, deface or otherwise damage or alter any book, record, document or paper belonging to the County or to any department, office, board, commission or other agency of the County, or fail to return any such item of property to its proper custodian after having taken it from its place of custody as authorized in subsection (a) of this section.

State law reference—Reproduction of records, destruction of originals, Code of Virginia, § 15.2-1412.

Secs. 2-55—2-80. Reserved.

ARTICLE III. BOARDS, COMMISSIONS, AUTHORITIES AND COMMITTEES

DIVISION 1. GENERALLY

Sec. 2-81. Committees generally.

A listing of all County boards, commissions, authorities, and committees (hereinafter "committees"), individuals appointed by the Board of Supervisors to specific offices, and individuals appointed as Board representatives to other external organizations shall be maintained and published by the County Administrator or his designee. The County Administrator or his designee shall notify the Board of pending vacancies or expiration of terms and is authorized to advise anticipated openings and collect and compile applications for appointment.

Sec. 2-82. Term of office.

Unless required by the Code of Virginia or clearly articulated below, the terms of office for all standing or permanent committee members shall expire as of December 31 of each calendar year. Unless the expiration of a term is specified when a member of a temporary County committee is appointed, all terms for temporary committees shall expire as of December 31 of each calendar year.

Sec. 2-83. Compliance with laws; bylaws.

It is the responsibility of every individual appointed to County committees to comply with all laws, including the Virginia Freedom of Information Act, the State and Local Government Conflict of Interests Act, and the Virginia Public Records Act. The County Administrator, or his designee, shall be responsible for periodically arranging for training on these areas to appointed individuals and for providing appropriate staff support for each committee appointed by the Board of Supervisors. All County committees are authorized to develop and maintain bylaws and rules of procedure consistent with all laws, regulations and county policy.

Sec. 2-84. Agendas; minutes.

The agenda for each meeting of County committees shall be posted on the County web site immediately upon creation; minutes for each such meeting shall be posted on the county web site immediately following approval.

Sec. 2-85. Removal.

Unless otherwise regulated, the Board of Supervisors may, in its sole discretion, remove any member of any committee for cause or for no cause.

Secs. 2-86—2-100. Reserved.

DIVISION 2. BOARD OF ZONING APPEALS

Sec. 2-101. Board of Zoning Appeals.

Madison County hereby establishes a Board of Zoning Appeals with duties and responsibilities as established in the code of Virginia and the Zoning Ordinance. The Board of Supervisors may recommend qualified individuals for appointment by the Circuit Court.

State law reference—Similar law, Code of Virginia, § 15.2-2308.

Secs. 2-102—2-110. Reserved.

DIVISION 3. BOARD OF BUILDING CODE APPEALS

Sec. 2-111. Board of Building Code Appeals.

Madison County hereby establishes a Board of Building Code Appeals with duties and responsibilities as established in the Code of Virginia and State administrative regulations. Qualified members shall be appointed by the Board of Supervisors.

State law reference—Similar law, Code of Virginia, § 36-105 and 13VAC5-63-500, Section 107.

Secs. 2-112—2-120. Reserved.

DIVISION 4. COMMUNITY POLICY AND MANAGEMENT TEAM

Sec. 2-121. Community Policy and Management Team.

Madison County hereby establishes a Community Policy and Management Team with duties and responsibilities as established in the Code of Virginia and State administrative regulations. Membership shall be as required by the Code of Virginia. Qualified members shall be appointed by the Board of Supervisors.

State law reference—Similar law, Code of Virginia, § 2.2-5204 and 2.2-5205.

Secs. 2-122—2-130. Reserved.

DIVISION 5. INDUSTRIAL DEVELOPMENT AUTHORITY

Sec. 2-131. Industrial Development Authority of Madison County, Virginia.

Madison County hereby establishes an Industrial Development Authority, to be known as the Industrial Development Authority of Madison County, Virginia, with duties and responsibilities as established in the Code of Virginia. Membership and terms of office shall be as required by the Code of Virginia. Qualified members shall be appointed by the Board of Supervisors.

State law references—Similar law, Code of Virginia, § 15.2-4904; original charter approved April 11, 1978.

Sec. 2-132. Oath of office.

Before entering upon the duties of a member of the authority, an appointee shall not be eligible to be seated until an oath of office is administered by the Clerk of the Circuit Court or other qualified official.

Secs. 2-133—2-140. Reserved.

DIVISION 6. PARKS AND RECREATION AUTHORITY

Sec. 2-141. Madison Park and Recreation Authority.

Madison County hereby establishes a Madison Park and Recreation Authority with duties and responsibilities as established in the Code of Virginia. Membership and terms of office shall be as required by the Code of Virginia. Qualified members shall be appointed by the Board of Supervisors. The authority shall only acquire and operate those additional parks and recreation areas as may be specified from time to time by resolution of the Board of Supervisors.

Sec. 2-142. Oath of office.

Before entering upon the duties of a member of the authority, an appointee shall not be eligible to be seated until an oath of office is administered by the Clerk of the Circuit Court or other qualified official.

State law references—Similar law, Code of Virginia, § 15.2-5703; original charter approved December 14, 1982.

Secs. 2-143—2-151. Reserved.

DIVISION 7. PLANNING COMMISSION

Sec. 2-152. Created.

A Planning Commission is hereby created for the county. The Planning Commission shall have all the powers and authority of planning commissions prescribed by State law.

State law references—Duty to create planning commission, Code of Virginia, § 15.2-2210; duties of commission, Code of Virginia, §§ 15.2-2221, 15.2-2224.

Sec. 2-153. Members; qualifications; appointment; terms; etc.

(a) The Planning Commission shall consist of a number of members determined by the Board of Supervisors and appointed by the Board of Supervisors. Members of the Planning Commission shall be qualified as required by the Code of Virginia.

(b) One member of the Commission may be a member of the Board of Supervisors, and one member may be a member of the administrative branch of government of the County. The term of each of these two members shall be coterminous with the term of office to which he has been elected or appointed, unless the Board of Supervisors, at the first regular meeting each year, appoints others to serve as their representatives. Neither of these members shall be voting members.

(c) Members may serve for only two consecutive terms unless the Board of Supervisors determines that unusual circumstances exist such that this policy should be waived.

(d) Vacancies shall be filled by appointment for the unexpired term only. Members may be removed for malfeasance in office.

State law reference—Composition of planning commission and appointment of members, Code of Virginia, § 15.2-2212.

Sec. 2-154. Oath of office.

Before entering upon the duties of a member of the commission, an appointee shall not be eligible to be seated until an oath of office is administered by the Clerk of the Circuit Court or other qualified official.

Secs. 2-155—2-160. Reserved.

DIVISION 8. SOCIAL SERVICES BOARD

Sec. 2-161. Social Services Board.

There is hereby created a Social Services Board with duties and responsibilities as established in the Code of Virginia and State administrative regulations. Membership shall be as required by the Code of Virginia. Qualified members shall be appointed by the Board of Supervisors.

State law reference—Similar law, Code of Virginia, § 63.2-301 and § 63.2-302.

Sec. 2-162. Oath of office.

Before entering upon the duties of a member of the Board, an appointee shall not be eligible to be seated until an oath of office is administered by the Clerk of the Circuit Court or other qualified official.

Secs. 2-163—2-170. Reserved.

DIVISION 9. TOPPING FUND COMMITTEE

Sec. 2-171. Topping Fund Committee.

A Topping Fund Committee is hereby created to advise the Board of Supervisors on the appropriate and best use of funds that have been donated to the county for the support of the Madison County Animal Shelter by The Harry Thomas Topping, Jr. Revocable Trust. Membership of the committee shall consist of five members, two of which shall be current members of the Board of Supervisors. Other appointees may be County employees. The Board of Supervisors may, in its sole discretion, remove any member of the Topping Fund Committee for cause or for no cause.

Note—Reference—The Harry Thomas Topping, Jr. Revocable Trust Agreement (May 13, 2004) and August 12, 2012 Board of Supervisors action.

Secs. 2-172—2-180. Reserved.

DIVISION 10. TOURISM ADVISORY COMMITTEE

Sec. 2-181. Tourism Advisory Committee.

A Tourism Advisory Committee is hereby created. The purposes of the Tourism Advisory Committee are:

(1) To advise the Madison County Board of Supervisors and County staff on tourism issues.

(2) Encourage travelers to visit Madison County so as to increase occupancy at lodging properties and generate tourism revenues in Madison County.

(3) To advise the Board of Supervisors on the appropriate and best use of restricted funds that have been generated by transient occupancy taxes.

State law reference—Similar law, Code of Virginia, § 58.1-3819.

Sec. 2-182. Membership; qualification of members.

(a) The members of the Tourism Advisory Committee shall be appointed by the Board of Supervisors. The Tourism Advisory Committee shall have between 3 and 5 voting members for three-year terms that begin on January 1 and staggered to the extent practical. Members shall be eligible for reappointment for sequential terms with no limitation on the number of terms.

(b) At least two members of the Tourism Advisory Committee shall be representatives of lodging properties located in Madison County. A member of the Board of Supervisors may be appointed to the Tourism Advisory Committee. No County employee may serve as a member of the Tourism Advisory Committee.

(c) The Board of Supervisors may, in its sole discretion, remove any member of the Tourism Advisory Committee for cause or for no cause.

State law reference—Similar law, Code of Virginia, § 15.2-2308.

Chapter 3

RESERVED

Chapter 4

AMUSEMENTS AND ENTERTAINMENT

Article I. In General

Secs. 4-1—4-18. Reserved.

Article II. Outdoor Musical or Entertainment Festivals

Sec. 4-19. Purpose.
Sec. 4-20. Definitions.
Sec. 4-21. Construction.
Sec. 4-22. Violations.
Sec. 4-23. Permit required.
Sec. 4-24. Application generally.
Sec. 4-25. Applicant to furnish right of entry.
Sec. 4-26. Action on application; granting or denial of permits.
Sec. 4-27. Conditions precedent to granting of permits; plans, statements, approvals, etc., to accompany application of permit.
Sec. 4-28. Restrictions as to music and entertainment.
Sec. 4-29. Revocation.

ARTICLE I. IN GENERAL

Secs. 4-1—4-18. Reserved.

ARTICLE II. OUTDOOR MUSICAL OR ENTERTAINMENT FESTIVALS

Sec. 4-19. Purpose.

This article is enacted pursuant to Code of Virginia, § 15.2-1200 for the purpose of providing necessary regulation for the conduct of musical or entertainment festivals in the interest of the public health, safety and welfare of the citizens and residents of the County.

Sec. 4-20. Definitions.

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

Musical or entertainment festival means any gathering of individuals, open to the public, with or without admission charge, for the purpose of listening to or participating in entertainment which consists primarily of musical renditions conducted in open spaces not within an enclosed structure.
(Ord. of 5-9-1978, § 1)

Sec. 4-21. Construction.

The provisions of this article shall be liberally construed in order to effectively carry out the purposes of this article in the interest of the public health, welfare and safety of the citizens and residents of the County.

Sec. 4-22. Violations.

Any person who violates any provision of this article, and upon conviction thereof, shall be punished by a fine not exceeding $1,000.00 or by confinement in jail not exceeding 30 days, or by both such fine and imprisonment. Each violation shall constitute a separate offense. The Board of Supervisors may bring suit in the circuit court of the County to restrain, enjoin or otherwise prevent violation of this article.
(Ord. of 5-9-1978, § 8)

Sec. 4-23. Permit required.

No person shall stage, promote or conduct any music or entertainment festival in the unincorporated areas of the County or on lands owned by the County, the County School Board, the County Parks and Recreation Authority, the State, or the United States of America, unless there shall first be obtained a permit from the Board of Supervisors a special entertainment permit for such festival.
(Ord. of 5-9-1978, § 2)

Sec. 4-24. Application generally.

Application for special entertainment permits shall be in writing, on forms provided for the purpose, and filed, in duplicate, with the County Administrator, at least 30 days before the date of the proposed festival and at least 21 days prior to a meeting of the Board of Supervisors, along with a filing fee of $100.00. Such applications shall have attached thereto and made a part thereof the plans, statements, approvals and other documents required by this article. The County Administrator shall, without delay, notify each member of the Board of Supervisors of the filing of each application.
(Ord. of 5-9-1978, § 3)

Sec. 4-25. Applicant to furnish right of entry.

No permit shall be issued under this article unless the applicant shall furnish to the board written permission for the board, its lawful agents and duly constituted law enforcement officers to go upon the property at any time and make an inspection for the purpose of determining compliance with the provisions of this article.
(Ord. of 5-9-1978, § 7)

Sec. 4-26. Action on application; granting or denial of permits.

The Board of Supervisors shall act on such applications within 21 days from filing thereof; the Board retains the prerogative to defer to the next regular meeting. The Board of Supervisors may grant a permit upon those conditions which it deems necessary and proper to promote the public health, safety and general welfare, including, but not limited to, the posting of bond by the applicant in an amount established by the Board of Supervisors to ensure compliance with this article, cleaning of the premises used so as to restore said premises to the same condition as they existed prior to the festival, and to ensure payment of any and all damages and legitimate nuisance claims which might arise from the conduct of said festival. If granted, the permit shall be issued in writing, on a form for the purpose, and mailed by the County Administrator to the applicant at the address indicated. If denied, the refusal shall be in writing and the reasons for such denial stated therein, and mailed by the County Administrator to the applicant at the address indicated.
(Ord. of 5-9-1978, § 4)

Sec. 4-27. Conditions precedent to granting of permits; plans, statements, approvals, etc., to accompany application of permit.

No permit shall be issued under this article unless the following conditions are met and the following plans, statements and approvals are submitted to the Board of Supervisors with the application for permit:

(1) The application for a special entertainment permit shall have attached to it a copy of the ticket or badge of admission to such festival, containing the date and the time of the festival, together with a statement by the applicant of the total number of tickets to be offered for sale, the best reasonable estimate by the applicant of the number of persons expected to be in attendance, and the maximum number of persons who will be granted admission to such festival.

(2) A statement of the name and address of the promoters of the festival, the financial backing of the festival, and the names of all persons or groups who will perform at the festival.

(3) A statement of the location of the proposed festival, the name and address of the owner of the property on which the festival is to be held, and the nature and interest of the applicant therein.

(4) A statement of written permission from the owner of the property on which the festival is to be held.

(5) A plan for adequate sanitation facilities and garbage, trash and sewage disposal for persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and shall be approved by the County Health Officer.

(6) A plan for providing food, water and lodging for the persons at the festival. This plan shall meet the requirements of all state and local statutes, ordinances and regulations, and shall be approved by the County Health Officer.

(7) A plan for adequate medical facilities for persons at the festival, approved by the County Health Officer.

(8) A plan for adequate parking facilities and traffic control in and around the festival area.

(9) A plan for adequate fire protection. This plan shall meet the requirements of all state and local statutes, ordinances and regulations.

(10) A statement specifying whether any outdoor lights or lighting is to be utilized, and if so, a plan showing the location of such lights and shielding devices or other equipment to prevent unreasonable glow beyond the property on which the festival is located.

(11) A statement that no music shall be played, either by mechanical device or live performance, in such a manner that the sound emanating therefrom shall be unreasonably audible beyond the property on which the festival is located.

(Ord. of 5-9-1978, § 5)

Sec. 4-28. Restrictions as to music and entertainment.

Music shall not be rendered nor entertainment provided for more than eight hours in any 24-hour period, such 24-hour periods to be measured from the beginning of the first performance at any festival, and further, no music nor entertainment shall be provided between the hours of 1:00 a.m. and 10:00 a.m.
(Ord. of 5-9-1978, § 6)

Sec. 4-29. Revocation.

The Board of Supervisors shall have the right to revoke any permit issued under this article upon noncompliance with any of the provisions and conditions of the permit or the provisions of this article.
(Ord. of 5-9-1978, § 7)

Chapter 5

RESERVED

Chapter 6

ANIMALS AND FOWL*

Article I. In General

Sec. 6-1. Short title.
Sec. 6-2. Definitions.
Sec. 6-3. Violations.
Sec. 6-4. Position of Animal Control Officer.
Sec. 6-5. Disposition of taxes and fees collected.
Secs. 6-6—6-28. Reserved.

Article II. Licensing of Dogs

Sec. 6-29. Unlicensed dogs prohibited.
Sec. 6-30. How to obtain a license.
Sec. 6-31. Amount of license tax.
Sec. 6-32. Term of license; when license tax is payable.
Sec. 6-33. What a dog license shall consist of.
Sec. 6-34. Effect of dog not wearing collar as evidence of license.
Sec. 6-35. Duplicate license tags.
Sec. 6-36. Displaying receipts; dogs to wear tags.
Secs. 6-37—6-60. Reserved.

Article III. Rabies Inoculation of Dogs and Domesticated Cats

Sec. 6-61. Requirement of rabies inoculation; availability of certificate.
Sec. 6-62. Evidence showing inoculation for rabies prerequisite to obtaining dog license; rabies clinics.
Sec. 6-63. Rabid animals at large, emergency ordinances.
Secs. 6-64—6-84. Reserved.

Article IV. County Public Animal Shelter

Sec. 6-85. Maintenance.
Sec. 6-86. Seizure and confinement of stray animals.
Sec. 6-87. Redemptions.
Sec. 6-88. Fees for seizure and confinement.
Secs. 6-89—6-119. Reserved.

***State law references**—Comprehensive animal laws, Code of Virginia, § 3.2-6500 et seq.; authority of Board of Supervisors to adopt certain ordinances, Code of Virginia, §§ 3.2-6537, 3.2-6543; ordinances prohibiting cruelty to animals, Code of Virginia, §§ 3.2-6543, 3.2-6544; regulation of keeping animals and fowl other than dogs and cats, Code of Virginia, § 3.2-6544; regulation of sale of animals procured from animal shelters, Code of Virginia, § 3.2-6545; power of county to adopt animal health regulations, Code of Virginia, § 15.2-1200.

Article V. Control of Dogs Generally

Sec. 6-120. Unlicensed dogs running at large.
Sec. 6-121. Confinement of female dogs in season.
Sec. 6-122. Dogs destroying property.
Sec. 6-123. Dogs killing livestock or poultry.
Sec. 6-124. Compensation for livestock or poultry killed by dogs.
Secs. 6-125—6-146. Reserved.

Article VI. Control of Dangerous or Vicious Dogs

Sec. 6-147. Definitions, control, and penalties.
Secs. 6-148—6-177. Reserved.

Article VII. Control of Stray or Dead Animals

Sec. 6-178. Confinement and disposition of stray animals.
Sec. 6-179. Abandonment of domesticated animals or fowl in public place or on property of another.
Sec. 6-180. Disposal of dead animals.
Secs. 6-181—6-198. Reserved.

Article VIII. Control of Livestock, Horses, and Fowl

Sec. 6-199. Maintenance of premises where animals and fowl are kept.
Sec. 6-200. Fence out.

ARTICLE I. IN GENERAL

Sec. 6-1. Short title.

This chapter may be cited as the "Madison County Animal Control Ordinance."
(Ord. No. 2006-4, art. 1, § I, 10-4-2006)

Sec. 6-2. Definitions.

The definitions of terms used in this chapter shall have the same meaning as those set forth in State law. Such definitions are hereby adopted and incorporated in this chapter by reference. In addition, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal Control Officer means the Animal Control Officer of the County.

Animal pound means a facility maintained by the County Board of Supervisors for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted animals; or a facility maintained for the same purpose under a contract with any County, city, town, or incorporated society for the prevention of cruelty to animals.

Dog means every dog four months of age or older, regardless of sex.

Domesticated cat means every domesticated cat, regardless of age or sex.

Owner means any person who:

(1) Has a right of property in an animal;

(2) Keeps or harbors an animal;

(3) Has an animal in their care; or

(4) Acts as a custodian of an animal.

Running at large. A dog shall be deemed to run at large while roaming, running, or self-hunting off the property of its owner and not under its owner's immediate control.

Stray animal means any unlicensed animal running at large and not under the control of an owner.

Treasurer means the Treasurer of the County.
(Ord. No. 2006-4, art. 1, § II, 10-4-2006)
State law reference—Similar provisions, Code of Virginia, § 3.2-6500)

Sec. 6-3. Violations.

A violation of this chapter shall be punishable as a Class 4 misdemeanor; provided, however, if a dog has been declared a dangerous or vicious dog in accordance with article VI of this chapter, a violation of this chapter shall be punishable as set forth in Code of Virginia, § 3.2-6540.
(Ord. No. 2006-4, art. 1, § III, 10-4-2006)

Sec. 6-4. Position of Animal Control Officer.

The Animal Control Officer of the County shall complete the required training as set forth in State law The Animal Control Officer of the County shall discharge the duties and responsibilities of the position of Animal Control Officer as set forth in State law.
(Ord. No. 2006-4, art. 1, § IV, 10-4-2006)

Sec. 6-5. Disposition of taxes and fees collected.

(a) The Treasurer shall keep all money collected under this chapter, except as provided below, in the general fund and such funds shall be used for the purposes designated by Code of Virginia, § 3.2-6534.

(b) The Treasurer shall keep all money collected pursuant to article VI of this chapter, less the costs incurred by the Animal Control Officer in producing and distributing the certificates and tags required by article VI of this chapter, in a special dedicated fund in the County treasury and such funds shall be used for paying the expenses of any training course required under Code of Virginia, § 3.2-6556.
(Ord. No. 2006-4, art. 1, § V, 10-4-2006)

Secs. 6-6—6-28. Reserved.

ARTICLE II. LICENSING OF DOGS

Sec. 6-29. Unlicensed dogs prohibited.

It shall be unlawful for any person to own a dog four months of age or older in the County unless such dog is licensed, as required by the provisions of this article.
(Ord. No. 2006-4, art. 2, § 1, 10-4-2006; Ord. No. 2018-3, § I, 4-24-2018)

Sec. 6-30. How to obtain a license.

(a) Any owners of a dog in the County shall obtain a dog license from the Treasurer or a designated agent by making written application, accompanied by the amount of license tax and a current certificate of vaccination against rabies for each dog as required under article III of this chapter.

(b) The Treasurer shall have the authority to license dogs of owners who reside within the limits of the County, and may require information to this effect from any applicant. The Treasurer may establish substations in convenient locations in the County and appoint agents for the collection of the license tax and issuance of such license tags and receipts. Upon receipt of proper application and current certificate of vaccination against rabies, the Treasurer or a designated agent shall issue a license receipt for the amount of license tax on which he shall record the name and address of the owner, the date of payment, the year for which issued, the serial number of the license tag, whether male, unsexed male, female, or unsexed female, and deliver the metal license tags or plates provided for herein. The above listed information received by the Treasurer or a designated agent shall be retained and shall be open to public inspection during the period for which the license is valid.
(Ord. No. 2006-4, art. 2, § 2, 10-4-2006; Ord. No. 2018-3, § II, 4-24-2018)

Sec. 6-31. Amount of license tax.

Any person licensing a dog in the County shall pay an annual license tax on the ownership of the dog in an amount set by ordinance of the County Board of Supervisors.
(Ord. No. 2006-4, art. 2, § 3, 10-4-2006; Ord. No. 2018-3, § III, 4-24-2018)

Sec. 6-32. Term of license; when license tax is payable.

The term of a dog license shall be for the lifetime of the dog or as long as the owner resides in the County. The owner of any dog four months of age or older shall pay a license tax, as set forth in section 6-31, no later than 30 days of the dog turning four months of age or within 30 days after the dog comes into possession of the owner. Such license shall be valid as long as the dog's owner resides in the County and the dog's rabies vaccination is kept current.
(Ord. No. 2006-4, art. 2, § 4, 10-4-2006; Ord. No. 2018-3, § IV, 4-24-2018)

Sec. 6-33. What a dog license shall consist of.

The County dog license shall consist of a license receipt and a metal tag. The metal tag shall be stamped or otherwise permanently marked to identify the tag as a dog licensed for the County, and shall include the calendar year for which issued, and a serial number assigned to the dog.
(Ord. No. 2006-4, art. 2, § 5, 10-4-2006; Ord. No. 2018-3, § V, 4-24-2018)

Sec. 6-34. Effect of dog not wearing collar as evidence of license.

Any dog not wearing a collar bearing a license tag for the current calendar year shall be prima facie deemed to be unlicensed; and in any proceeding under this article, the burden of proof that such dog has been licensed or is otherwise not required to wear a tag at all times shall be on the owner of the dog.
(Ord. No. 2006-4, art. 2, § 6, 10-4-2006; Ord. No. 2018-3, § VI, 4-24-2018)

Sec. 6-35. Duplicate license tags.

If a dog license is lost, destroyed, or stolen, the owner shall immediately apply to the Treasurer or a designated agent for a duplicate tag, presenting the original license receipt. Upon affidavit of the owner that the original license tag has been lost, destroyed, or stolen, the Treasurer or a designated agent shall issue a duplicate license tag, which the owner shall immediately affix on the collar of the dog. The Treasurer or a designated agent shall endorse the number of the duplicate and the date issued in the face of the original receipt. The fee for a duplicate tag shall be $1.00.
(Ord. No. 2006-4, art. 2, § 7, 10-4-2006; Ord. No. 2018-3, § VII, 4-24-2018)

Sec. 6-36. Displaying receipts; dogs to wear tags.

Pursuant to Code of Virginia, § 3.2-6531, dog license receipts shall be carefully preserved by the licensees and exhibited promptly on request for inspection by the Animal Control Officer or other law enforcement officer. Dog license tags shall be securely fastened to a substantial dog collar by the owner

and worn by such dog. It shall be unlawful for the owner to permit any licensed dog four months old or older to run or roam at large at any time without a license tag. The owner of the dog may remove the collar and license tag:

(1) When the dog is engaged in lawful hunting;

(2) When the dog is competing in a dog show;

(3) When the dog has a skin condition which would be exacerbated by the wearing of a collar;

(4) When the dog is confined; or

(5) When the dog is under the immediate control of its owner.

(Ord. No. 2006-4, art. 2, § 8, 10-4-2006; Ord. No. 2018-3, § VIII, 4-24-2018)

Secs. 6-37—6-60. Reserved.

ARTICLE III. RABIES INOCULATION OF DOGS AND DOMESTICATED CATS

Sec. 6-61. Requirement of rabies inoculation; availability of certificate.

Pursuant to Code of Virginia, § 3.2-6521, the owner of all dogs and domesticated cats four months of age or older shall have them vaccinated for rabies by a currently licensed veterinarian or currently licensed veterinary technician who is under the immediate and direct supervision of a licensed veterinarian on the premises. The veterinarian shall provide the owner of the dog or domesticated cat with a certificate of vaccination. Upon the request of the Animal Control Officer or other law enforcement official, the owner of the dog or domesticated cat shall furnish, within a reasonable period of time, the certificate of vaccination for such dog or domesticated cat.

(Ord. No. 2006-4, art. 3, § 1, 10-4-2006)

Sec. 6-62. Evidence showing inoculation for rabies prerequisite to obtaining dog license; rabies clinics.

(a) Pursuant to Code of Virginia, § 3.2-6526(B), no license tag shall be issued for any dog or cat unless there is presented, to the Treasurer or other officer of the locality, or other agent charged by law with the duty of issuing, at the time application for license is made, evidence satisfactory to the Treasurer or a designated agent showing that such dog has been inoculated or vaccinated against rabies by a currently licensed veterinarian or currently licensed veterinary technician who was under the immediate and direct supervision of a licensed veterinarian on the premises within three years of the date of such application for the license.

(b) Pursuant to Code of Virginia, § 3.2-6521, rabies clinics, approved by the County Health Department and the County Board of Supervisors, shall be held at least once per year when the County Board of Supervisors finds that the number of resident veterinarians is otherwise inadequate to meet the need.

(Ord. No. 2006-4, art. 3, § 2, 10-4-2006)

Sec. 6-63. Rabid animals at large, emergency ordinances.

(a) Pursuant to Code of Virginia, § 3.2-6522, when there is sufficient reason to believe that a rabid animal is at large, the County Board of Supervisors shall have the power to pass, and the local Health Director may recommend, an emergency ordinance which shall become effective immediately upon passage, requiring owners of all dogs and domesticated cats therein to keep the same confined on their premises unless leashed under restraint of the owner in such manner that persons or animals will not be subject to the danger of being bitten by the rabid animal. Any such emergency ordinance enacted pursuant to the provisions of this section shall be operative for a period not to exceed 30 days unless renewed by the Board of Supervisors.

(b) Dogs or cats showing active signs of rabies or suspected of having rabies that is not known to have exposed a person, companion animal, or livestock to rabies shall be confined under competent observation for such a time as may be necessary to determine a diagnosis. If, in the discretion of the local Health Director, confinement is impossible or impracticable, such dog or cat shall be humanely euthanized by one of the methods approved by the State Veterinarian as provided in Code of Virginia, § 3.2-6546. The disposition of other animals showing active signs of rabies shall be determined by the local Health Director and may include euthanasia and testing.

(c) Every person having knowledge of the existence of an animal that is suspected to be rabid and that may have exposed a person, companion animal, or livestock to rabies shall report immediately to the local health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

(d) Any dog or cat, for which no proof of current rabies vaccination is available, and which is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal believed to be afflicted with rabies, shall be confined in a public animal shelter, kennel or enclosure approved by the County Board of Supervisors for a period not to exceed six months at the expense of the owner or custodian in a manner and by a date certain as determined by the local Health Director. Inactivated rabies vaccine may be administered at the beginning of confinement and a rabies vaccination shall be administered prior to release. Any dog or cat so bitten, or exposed to rabies through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, with proof of a valid rabies vaccination, shall be revaccinated immediately following the bite and shall be confined to the premises of the owner or custodian, or other site as may be approved by the local health department, for a period of 45 days. If the local Health Director determines that isolation is feasible or maintained, the dog or cat shall be humanely euthanized by one of the methods approved by the State veterinarian as provided in Code of Virginia, § 3.2-6546. The disposition of such dogs and cats not so confined shall be at the discretion of the local Health Director.

(e) At the discretion of the local Health Director, any animal that has bitten a person shall be confined under competent observation for ten days at the expense of the owner or custodian, unless the animal develops active symptoms of rabies, expires, or is euthanized before that time. A seriously injured or sick animal may be humanely euthanized as provided in Code of Virginia, § 3.2-6546.

(f) When any suspected rabid animal, other than a dog or cat, exposes or may have exposed a person to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, decisions regarding the disposition of that animal shall be at the discretion of the

local Health Director and may include euthanasia as provided in Code of Virginia, § 3.2-6546, or as directed by the State agency with jurisdiction over that species. When any animal, other than a dog or cat, is exposed to rabies through a bite, or through saliva or central nervous system tissue, in a fresh open wound or mucous membrane, by an animal suspected to be rabid, decisions regarding that newly exposed animal shall be at the discretion of the local Health Director.

(g) When any animal may have exposed a person to rabies and subsequently expires due to illness or euthanasia, either within an observation period, where applicable, or as part of a public health investigation, its head or brain shall be sent to the division of consolidated laboratory services of the department of general services or to be tested as directed by the local health department.
(Ord. No. 2006-4, art. 3, § 3, 10-4-2006)

Secs. 6-64—6-84. Reserved.

ARTICLE IV. COUNTY PUBLIC ANIMAL SHELTER

Sec. 6-85. Maintenance.

The County Board of Supervisors shall maintain a pound or enclosure as required by Code of Virginia, § 3.2-6546. This pound or enclosure shall be known as the County Animal Shelter.
(Ord. No. 2006-4, art. 4, § 1, 10-4-2006)

Sec. 6-86. Seizure and confinement of stray animals.

The Animal Control Officer is hereby authorized to seize, deliver, and confine dogs and cats within the pound during normal business hours or in emergency situations in accordance with Code of Virginia, § 3.2-6546 and this article.
(Ord. No. 2006-4, art. 4, § 2, 10-4-2006)

Sec. 6-87. Redemptions.

One of the goals of animal control is to reunite as many animals as possible with their owner. The procedure for redemption of an animal by its owner shall be as follows:

(1) Only the owner of an animal shall be permitted to redeem an animal unless a person other than the owner has written authorization from the owner.

(2) A person who seeks to redeem an animal must present some proof of identification and ownership.

(3) A person who seeks to redeem an animal must be 18 years of age or older.

(4) A person who seeks to redeem an animal must pay all fees for licensure, seizure, and confinement of that animal.

(5) A person who redeems an animal must complete and sign a redemption form.
(Ord. No. 2006-4, art. 4, § 3, 10-4-2006)

Sec. 6-88. Fees for seizure and confinement.

The owner of an animal that has been seized and confined shall pay to the Treasurer or a designated agent fees for seizure, confinement and adoption in an amount set by resolution of the County Board of Supervisors.
(Ord. No. 2006-4, art. 4, § 4, 10-4-2006)

Secs. 6-89—6-119. Reserved.

ARTICLE V. CONTROL OF DOGS GENERALLY

Sec. 6-120. Unlicensed dogs running at large.

(a) Pursuant to Code of Virginia, §§ 3.2-6538 and 3.2-6546, the Animal Control Officer may seize and confine any dog of unknown ownership found running at large without a license tag. If such animal has not been claimed upon the expiration of the holding period of not less than five days, and is not delivered to a person in the County, the Animal Control Officer may humanely euthanize such dog by one of the methods approved by the State veterinarian as provided in Code of Virginia, § 3.2-6546. The Animal Control Officer or other law enforcement officer may deliver such dog to any person in the County who will pay the required license fee on such dog and the charge assessed for seizure and confinement as required by this chapter, with the understanding that should the owner therefore claim the dog and prove ownership, such owner may recover the dog by paying to the person to whom such animal was delivered, the cost of the license and a reasonable charge for the keep of the dog.

(b) If the Animal Control Officer or other law enforcement officer delivers a dog to any person in the County who will pay the required license fee and cost on such dog as provided herein, the person accepting the delivery of such dog shall within five days after such delivery furnish to the Animal Control Officer evidence of the rabies inoculation and licensing of such dog as required by this chapter. The failure to provide such evidence shall be a violation of this article.
(Ord. No. 2006-4, art. 5, § 1, 10-4-2006)

Sec. 6-121. Confinement of female dogs in season.

Pursuant to Code of Virginia, § 3.2-6538, the running at large of a female dog in season is prohibited, and such dog shall be confined in a place inaccessible to a male dog unless the owner is breeding said female dog to a specific male dog.
(Ord. No. 2006-4, art. 5, § 2, 10-4-2006)

Sec. 6-122. Dogs destroying property.

Pursuant to Code of Virginia, § 3.2-6538, no owner of a dog shall permit it to go upon the land of any other person and damage or destroy any garden, shrub, grass or other property thereon. Any person owning property, which is damaged or destroyed by any violation described in this section, may enter a complaint by warrant issued against the owner of the animal involved. The District Court shall hear the complaint.
(Ord. No. 2006-4, art. 5, § 3, 10-4-2006)

Sec. 6-123. Dogs killing livestock or poultry.

(a) Pursuant to Code of Virginia, § 3.2-6552, it shall be the duty of any Animal Control Officer or other officer who may find a dog in the act of killing or injuring livestock or poultry to kill such dog forthwith whether such dog bears a tag or not. Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight as shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. Any court shall have the power to order the Animal Control Officer or other officer to kill any dog known to be a confirmed livestock or poultry killer, and any dog killing poultry for the third time shall be considered a confirmed poultry killer. The court, through its contempt powers, may compel the owner, custodian, or harborer of the dog to produce the dog.

(b) Any Animal Control Officer who has reason to believe that any dog is killing livestock or poultry shall be empowered to seize such dog solely for the purpose of examining such dog in order to determine whether it committed any of the depredations mentioned herein. Any Animal Control Officer or other person who has reason to believe that any dog is killing livestock or committing any of the depredations mentioned in this section shall apply to a Magistrate of the County, who shall issue a warrant requiring the owner or custodian, if known, to appear before the County General District Court at a time and place named therein, at which time evidence shall be heard. If it shall appear that the dog is a livestock killer or has committed any of the depredations mentioned in this section, the County General District Court shall order that the dog be:

(1) Killed immediately by the Animal Control Officer or other officer designated by the court; or

(2) Removed to another state which does not border on the State and prohibited from returning to the State. Any dog ordered removed from the State which is later found in the State shall be ordered by a court to be killed immediately.

(c) Notwithstanding the provisions of subsection (b) of this section, if it is determined that the dog has killed or injured only poultry, the District Court may, instead of ordering killing, euthanasia, or removal to another state pursuant to this section, order either:

(1) That the dog be transferred to another owner whom the court deems appropriate and permanently fitted with an identifying microchip registered to that owner; or

(2) That the dog be fitted with an identifying microchip registered to the owner and confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent the dog's escape; direct contact with the dog by minors, adults, or other animals; or entry by minors, adults, or other animals. The structure shall be designed to provide the dog with shelter from the elements of nature.

When off its owner's property, any dog found to be a poultry killer shall be kept on a leash and muzzled in such a manner as not to cause injury to the dog or interfere with its vision or respiration, but so as to prevent it from biting a person or another animal.
(Ord. No. 2006-4, art. 5, § 4, 10-4-2006)

Sec. 6-124. Compensation for livestock or poultry killed by dogs.

(a) Any person who has any livestock or poultry killed or injured by any dog not his own shall be entitled to receive as compensation the fair market value of such livestock or poultry not to exceed $750.00 per animal or $10.00 per fowl, provided that:

(1) The claimant has furnished evidence within 60 days of discovery of the quantity and value of the dead or injured livestock and the reasons the claimant believes that death or injury was caused by a dog;

(2) The Animal Control Officer or other officer shall have been notified of the incident within 72 hours of its discovery; and

(3) The claimant first has exhausted his legal remedies against the owner, if known, of the dog doing the damage for which compensation under this section is sought. Exhaustion shall mean a judgment against the owner of the dog upon which an execution has been returned unsatisfied.

(b) Any claims for compensation made as set forth above shall be paid only if there are sufficient monies in the general fund of the County budgeted to pay those claims approved by the County Board of Supervisors. If there are not sufficient monies in the general fund budgeted to pay a claim, the claim shall be paid in the order it is received when monies become available. Upon payment under this section, the County Board of Supervisors shall be subrogated to the extent of compensation paid to the owner of the livestock or poultry against the owner of the dog and may enforce the same in an appropriate action at law.
(Ord. No. 2006-4, art. 5, § 5, 10-4-2006)

Secs. 6-125—6-146. Reserved.

ARTICLE VI. CONTROL OF DANGEROUS OR VICIOUS DOGS

Sec. 6-147. Definitions, control, and penalties.

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

Dangerous dog means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. However, when a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous:

(1) If no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite;

(2) If both animals are owned by the same person;

(3) If such attack occurs on the property of the attacking or biting dog's owner or custodian; or

(4) For other good cause as determined by the court.

No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

Vicious dog means a canine or canine crossbreed that has:

(1) Killed a person;

(2) Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or

(3) Continued to exhibit the behavior that resulted in a previous finding by a court or, on or before July 1, 2006, by an Animal Control Officer as authorized by this article, that it is a dangerous dog, provided that its owner has been given notice of that finding.

(b) Any law enforcement officer or Animal Control Officer who has reason to believe that a canine or canine crossbreed within the County is a dangerous dog or vicious dog shall apply to a Magistrate of the County for the issuance of a summons requiring the owner or custodian, if known, to appear before the County General District Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local Animal Control Officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous or vicious. The Animal Control Officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the Animal Control Officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harborer of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Code of Virginia, § 3.2-6562. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Code of Virginia, § 3.2-6521. The State shall be required to prove its case beyond a reasonable doubt.

(c) No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was:

(1) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2) Committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or

(3) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

No police dog that was engaged in the performance of its duties as such, at the time of the acts complained of, shall be found to be a dangerous dog or a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog or a vicious dog.

(d) If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(e) The owner of any animal found to be a dangerous dog shall, within 30days of such finding, obtain a dangerous dog registration certificate from the local Animal Control Officer or Treasurer for a fee as required by Code of Virginia, § 3.2-6540g, in addition to other fees that may be authorized by law. The local Animal Control Officer or Treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subsection shall be renewed annually for a fee required by Code of Virginia, § 3.2-6540g and in the same manner as the initial certificate was obtained. The Animal Control Officer shall provide a copy of the dangerous dog registration certificate and verification of compliance to the State veterinarian.

(f) Dangerous dog registration certificates; renewals.

(1) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence:

a. Of the animal's current rabies vaccination, if applicable;

b. That the animal has been neutered or spayed; and

c. That the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed.

(2) In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

a. Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and

b. The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

(3) All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least $100,000.00, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least $100,000.00.

(g) While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal

found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(h) The owner of any dog found to be dangerous shall register the animal with the State dangerous dog registry, as established under Code of Virginia, § 3.2-6542, within 30 days of such a finding by a court of competent jurisdiction. The owner shall also cause the local Animal Control Officer to be promptly notified of:

(1) The names, addresses, and telephone numbers of all owners;

(2) All of the means necessary to locate the owner and the dog at any time;

(3) Any complaints or incidents of attack by the dog upon any person or cat or dog;

(4) Any claims made or lawsuits brought as a result of any attack;

(5) Tattoo or chip identification information, or both;

(6) Proof of insurance or surety bond; and

(7) The death of the dog.

(i) After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal:

(1) Is loose or unconfined;

(2) Bites a person or attacks another animal; or

(3) Is sold, given away, or dies.

Any owner of a dangerous dog who relocates to a new address shall, within ten days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

(j) Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

(1) Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person; or

(2) Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

(k) The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

(l) All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under Code of Virginia, § 3.2-6556.
(Ord. No. 2006-4, art. 6, § 1, 10-4-2006)

Secs. 6-148—6-177. Reserved.

ARTICLE VII. CONTROL OF STRAY OR DEAD ANIMALS

Sec. 6-178. Confinement and disposition of stray animals.

Pursuant to State law, the Animal Control Officer may seize and confine any stray animals found running at large.

(1) Upon receipt of a complaint about a stray animal, it shall be the duty of the Animal Control Officer, upon locating such animal, to seize and confine it in the County animal pound, or an appropriate facility.

(2) Any animal confined pursuant to this article shall be kept for a period of not less than five days if not wearing a collar, tag, license, tattoo, micro-chipping device, or other form of identification; or kept for a period of not less than ten days if wearing a collar, tag, license, tattoo, micro-chipping device or other form of identification, such period to commence on the day immediately following the day the animal is initially confined, unless sooner claimed by the owner thereof.

(3) If any animal confined pursuant to this section bears identification of the owner, the Animal Control Officer shall make a reasonable effort to notify the owner within a reasonable time after the animal is seized and confined.

(4) If the animal has not been claimed within such period of time, it may be humanely euthanized or, after having been spayed or neutered, disposed of in accordance with Code of Virginia, § 3.2-6546 by:

a. Sale or gift to a Federal agency or State-supported institution, agency of the State, agency of another state, or licensed federal dealer, provided that such agency, institution or dealer agrees to confine the animal for an additional period of not less than five days;

b. Delivery to any local humane society or animal shelter within the State;

c. Adoption by any person who is a resident of the County who will pay the required license fee, if any, on such animal;

d. Adoption by any person who is not a resident of the County; or

e. Delivery, for the purposes of adoption or euthanasia only, to a humane society or animal shelter located in and lawfully operating under the laws of another state, provided that such humane society or animal shelter:

1. Maintains records which would comply with Code of Virginia, § 3.2-6557;

2. Requires that adopted dogs and domesticated cats be spayed or neutered; and

3. Has been approved by the State veterinarian or a designated agent as a facility which maintains such records, requires adopted dogs and domesticated cats to be spayed or neutered, and provides adequate care and euthanasia.

(5) The County animal shelter shall not adopt more than two animals or a family of animals during any 30-day period to any one person in accordance with State law.

(6) No provision herein shall prohibit the destruction of a critically injured or critically ill animal for humane purposes.

(7) Any animal destroyed pursuant to this section shall be humanely euthanized by one of the methods approved by the State veterinarian as provided in Code of Virginia, § 3.2-6546.

(Ord. No. 2006-4, art. 7, § 1, 10-4-2006)

State law reference—Disposition of animal when holding period expires, Code of Virginia, § 3.2-6546d.

Sec. 6-179. Abandonment of domesticated animals or fowl in public place or on property of another.

Pursuant to Code of Virginia, § 3.2-6504, any person who knowingly abandons or deserts, forsakes, or absolutely gives up without having secured another owner or custodian any cat, dog, or other companion animal or fowl in any public place, including the right-of-way of any public highway, road, or street, or on any property of another shall be guilty of a Class 1 misdemeanor.

(Ord. No. 2006-4, art. 7, § 2, 10-4-2006)

Sec. 6-180. Disposal of dead animals.

Pursuant to Code of Virginia, § 3.2-6554, the owner of any companion animal shall forthwith cremate, bury or sanitarily dispose or render the animal upon its death. If, after notice, any owner fails to do so, the Animal Control Officer or other law enforcement officer shall bury or cremate the animal and then may recover from the owner, on behalf of the County, the cost for this service.

(Ord. No. 2006-4, art. 7, § 3, 10-4-2006)

Secs. 6-181—6-198. Reserved.

ARTICLE VIII. CONTROL OF LIVESTOCK, HORSES, AND FOWL

Sec. 6-199. Maintenance of premises where animals and fowl are kept.

Each stable, pen, coop, or other place where any animal or fowl is kept shall be maintained at all times in a safe and sanitary condition.

(Ord. No. 2006-4, art. 8, § 1, 10-4-2006)

Sec. 6-200. Fence out.

The boundary line of each lot or parcel of land in Madison County, Virginia, is declared a lawful fence.

(Ord. of 9-9-1946)

State law reference—Procedure of county to make fence law, Code of Virginia, § 55.1-2814.

Chapter 7

RESERVED

Chapter 8

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

Sec. 8-1. Building Inspection Department; Code Official.
Secs. 8-2—8-20. Reserved.

Article II. Building Code

Sec. 8-21. Adoption.
Sec. 8-22. Definitions.
Secs. 8-23—8-47. Reserved.

Article III. Construction Fees

Sec. 8-48. Permit fees.
Sec. 8-49. Violations.
Secs. 8-50—8-71. Reserved.

Article IV. Unsafe Buildings and Structures

Sec. 8-72. Definitions.
Sec. 8-73. State Building Code Provisions adopted and enforced.
Sec. 8-74. Appeals; Board and procedure.
Sec. 8-75. Violations and notice.

***State law references**—Authority of county to regulate construction, maintenance and repair of buildings and plumbing, electrical, etc., installations therein, Code of Virginia, § 15.2-906; Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

ARTICLE I. IN GENERAL

Sec. 8-1. Building Inspection Department; Code Official.

(a) Madison County hereby establishes a Building Inspection Department for the County which shall be responsible for enforcement of the provisions of the Virginia Uniform Statewide Building Code and this chapter.

(b) The department shall have a Code Official who shall be appointed by the Board of Supervisors. The Code Official shall be responsible for the organization and operation of the department.

(c) Inspections of buildings and structures under construction, other than State-owned buildings and structures, review and approval of building plans for buildings and structures, and enforcement of the Uniform Statewide Building Code shall be the sole responsibility of the Code Official.

State law reference—Similar provisions, Code of Virginia, §§ 36-105, 36-105.1.

Secs. 8-2—8-20. Reserved.

ARTICLE II. BUILDING CODE

Sec. 8-21. Adoption.

There is hereby adopted by reference thereto the Virginia Uniform Statewide Building Code, as described and defined in Code of Virginia, § 36-97 et seq., as amended. The provisions of the Virginia Uniform Statewide Building Code shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use location, occupancy and maintenance of all buildings and all other functions which pertain to the installation of such systems vital to buildings and structures and their service equipment, as defined by said code, and shall apply to existing and proposed buildings or structures in the County.

Sec. 8-22. Definitions.

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

Blighted or deteriorated property means a property with a building or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, is detrimental to the safety, health, morals or welfare of the community.

Board of Building Code Appeals means the five-member board appointed by the Board of Supervisors operating and having duties and responsibilities described in the Virginia Uniform Statewide Building Code.

Building means a combination of any materials, whether portable or fixed, having a roof to form a structure for the use or occupancy by persons, or property; however, farm buildings not used for residential purposes and frequented generally by the owner, members of his family, and farm employees shall be exempt from the provisions of the Virginia Uniform Statewide Building Code, but such buildings

lying within a floodplain or in a mudslide- prone area shall be subject to floodproofing regulations or mudslide regulations, as applicable. The term "building" shall not include roadway tunnels and bridges owned by the State Department of Transportation, which shall be governed by construction and design standards approved by the State Transportation Board. The term "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning, and shall include, but not be limited to, walls, floors, roofs, water and sewer lines, electrical lines and other component parts of said building as well as equipment appertaining thereto.

Building Code, as used in this article or elsewhere in this Code, means the Virginia Uniform Statewide Building Code as defined in Code of Virginia, § 36-97.

Building Inspection Department means the department charged with the administration, supervision, or enforcement of building codes and regulations, approval of plans, inspection of buildings, or issuance of permits, licenses, certificates or similar documents prescribed or required by state or local building regulations.

Building regulations means any law, rule, resolution, regulation, ordinance or code, general or special, or compilation thereof, heretofore or hereafter enacted or adopted by the State or the County, including departments, boards, bureaus, commissions, or other agencies thereof, relating to construction, reconstruction, alteration, conversion, repair, maintenance or use of structures and buildings and installation of equipment therein. The term "building regulations" does not include zoning ordinances or other land use controls that do not affect the manner of construction or materials to be used in the erection, alteration or repair of a building or structure.

Code Official means the individual or office appointed by the Board of Supervisors to be responsible for the organization and operation of the Building Inspection Department.

Code provisions means the provisions of the Virginia Uniform Statewide Building Code, as adopted and promulgated by the Virginia Board of Housing and Community Development, and the amendments thereof as adopted and promulgated by such board from time to time.

Construction means the construction, reconstruction, alteration, repair or conversion of buildings and structures.

Equipment means plumbing, heating, electrical, ventilating, air conditioning and refrigeration equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

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

(1) Storage, handling, production, display, sampling or sale of agricultural, horticultural, floricultural or silvicultural products produced on the farm;

(2) Sheltering, raising, handling, processing or sale of agricultural animals or agricultural animal products;

(3) Business or office uses relating to the farm operations;

(4) Use of farm machinery or equipment or maintenance or storage of vehicles, machinery or equipment on the farm;

(5) Storage or use of supplies and materials used on the farm; or

(6) Implementation of best management practices associated with farm operations.

Nuisance includes, but is not limited to, dangerous or unhealthy substances which have escaped, spilled, been released, or which have been allowed to accumulate in or on any place, and all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures which constitute a menace to the health and safety of the occupants thereof or the public.

Owner means the owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, or lessee in control of a building.

Responsible party includes, but is not limited to, the owner, occupier, or possessor of the premises where a nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused a public nuisance.

Review Board means the State Building Code Technical Review Board.

Structure means an assembly of materials forming a construction for occupancy or use, including stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks, storage tanks (underground and aboveground), trestles, piers, wharves, swimming pools, amusement devices, storage bins, and other structures of this general nature, but excluding water wells. The term "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning. The term "structure" shall not include roadway tunnels and bridges owned by the State Department of Transportation, which shall be governed by construction and design standards approved by the State Transportation Board.

State law reference—Virginia Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.

Secs. 8-23—8-47. Reserved.

ARTICLE III. CONSTRUCTION FEES

Sec. 8-48. Permit fees.

In order that building permit applicants conform with County Code Regulations regarding permits for new construction, renovations, remodeling, repairs and demolition, etc., and that permit applicants provide an affidavit to the Building Official to appropriately dispose of the construction waste from new construction, renovations, remodeling, repairs and demolition, etc., and demolition projects, no permit required by the Virginia Uniform Statewide Building Code to begin work for new construction or any other building operation shall be issued until the fees prescribed by this section have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, has been paid. The fees shall be as established from time to time.

Sec. 8-49. Violations.

Violations of the Virginia Uniform Statewide Building Code are a misdemeanor, subject to fines and imprisonment as permitted in Code of Virginia, § 36-106, or substantially similar provisions as may be adopted from time to time.

State law reference—Authority of county to levy above fees, Code of Virginia, § 36-105.

Secs. 8-50—8-71. Reserved.

ARTICLE IV. UNSAFE BUILDINGS AND STRUCTURES

Sec. 8-72. Definitions.

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

USBC refers to the Virginia Uniform State Building Code.

VAC refers to the Virginia Administrative Code.

Sec. 8-73. State Building Code Provisions adopted and enforced.

The County adopts, by reference, and shall enforce the standards and procedures as established in USBC § 118.1—118.8, as set forth in 13VAC5-63-180.

Sec. 8-74. Appeals; Board and procedure.

Appeals shall be administered by the Board established under, and pursuant to the appeal procedures set forth, in USBC § 119, as set forth in 13VAC5-63-190.

Sec. 8-75. Violations and notice.

Violations of this article, notices, penalties, and abatement shall be done pursuant to USBC § 115, as set forth in 13VAC5-63-150, and penalties shall be established and enforced in accordance with Code of Virginia, § 36-106.

Chapter 9

RESERVED

Chapter 10

BUSINESSES AND BUSINESS REGULATIONS*

Article I. In General

Secs. 10-1—10-18. Reserved.

Article II. Peddling and Soliciting

Sec. 10-19. Definitions.
Sec. 10-20. Registration; information required.
Sec. 10-21. Issuance of permit.
Sec. 10-22. Term of validity; display.
Sec. 10-23. Fees.
Sec. 10-24. Prohibited acts.
Sec. 10-25. Exemptions.
Sec. 10-26. Violations and penalties.
Secs. 10-27—10-55. Reserved.

Article III. Itinerant Dealers in Precious Metals and Jewels

Sec. 10-56. License required.
Sec. 10-57. Definitions.
Sec. 10-58. Issuance of license.
Sec. 10-59. License requirements.
Sec. 10-60. False statement and license.
Sec. 10-61. Seller information required.
Sec. 10-62. Retention period.
Sec. 10-63. Purchases by minors.
Sec. 10-64. Sureties required.
Sec. 10-65. Misconduct of licensee.
Sec. 10-66. Violation.

***State law reference**—Authority of county to levy license taxes, Code of Virginia, § 58.1-3702.

ARTICLE I. IN GENERAL

Secs. 10-1—10-18. Reserved.

ARTICLE II. PEDDLING AND SOLICITING*

Sec. 10-19. Definitions.

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

Solicitor means a person, not exempt under this article, who enters into or upon a residential property located in the County for the purpose of selling any goods, wares, merchandise or service, or accepting subscriptions or orders.
(Ord. No. 2006-6, § A, 10-4-2006)

Sec. 10-20. Registration; information required.

Each solicitor shall register with the County Administrator or the administrator's designee and furnish the following information:

(1) The name, local and permanent address, age, race, weight, height, color of hair and eyes and any other distinguishing characteristics of the solicitor.

(2) The nature or purpose for which solicitations will be made and the nature of the goods, wares, merchandise and services offered for sale.

(3) The name and permanent address of the employer or organization represented, a copy of a business card or license, and a current phone number.

(4) A statement as to whether the solicitor has been convicted of any felony or misdemeanor; and, if so, the nature of the offense, when and where convicted and the penalty or punishment assessed therefor.

(5) A copy of the solicitor's driver's license.
(Ord. No. 2006-6, § B, 10-4-2006)

Sec. 10-21. Issuance of permit.

Unless the information furnished in compliance with section 10-20(4) shows that the applicant has been convicted of a crime involving moral turpitude, a permit shall be issued to the solicitor upon furnishing the information required.
(Ord. No. 2006-6, § C, 10-4-2006)

***State law references**—Local ordinances regulating soliciting, Code of Virginia, § 57-63; solicitation of contributions, Code of Virginia, § 57-48 et seq.

Sec. 10-22. Term of validity; display.

A permit issued under this article shall be valid for the remaining period of the calendar year in which the permit was issued. Such permit shall include a photograph of the solicitor and shall state the term of the validity of the permit. The solicitor shall display such permit on his person in plain view at all times while engaged in soliciting and shall allow such permit to be inspected by any person if demand is made for such inspection while the person is engaged in soliciting.
(Ord. No. 2006-6, § D, 10-4-2006)

Sec. 10-23. Fees.

Each solicitor shall pay a permit fee to the County Treasurer in an amount set by resolution of the County Board of Supervisors.
(Ord. No. 2006-6, § E, 10-4-2006)

Sec. 10-24. Prohibited acts.

No solicitor shall:

(1) Enter into or upon a residential premises in the County under false pretenses to solicit for any purpose or for the purpose of soliciting orders for the sale of goods, wares or merchandise.

(2) Remain in or on any residential premises after the owner or occupant has requested any such person to leave.

(3) Enter upon any residential premises for soliciting when the owner or occupant has displayed a "No Soliciting" sign on such premises.

(4) Engage in the practice of soliciting in the County without a permit as provided for in this article.

(5) Knowingly give false information or withhold correct information in obtaining a permit.
(Ord. No. 2006-6, § F, 10-4-2006)

Sec. 10-25. Exemptions.

The provisions of this article shall not apply to:

(1) Any person who visits any residence or apartment at the request or invitation of the owner or occupant thereof.

(2) Members of any nonprofit civic or charitable organization who display identification provided by such organization.

(3) Newsboys soliciting subscriptions to any newspaper for home delivery.

(4) Route deliverymen who make deliveries on a schedule to regular customers and whose solicitation is only incidental to their regular deliveries.

(5) A farmer or producer of agricultural or nursery products who sells only those products produced or grown by him.

(6) A distributor or vendor of seafood who catches seafood and sells only seafood caught by him.

(7) Any insurance agent licensed under Code of Virginia, § 38.2-1819 et seq.
(Ord. No. 2006-6, § G, 10-4-2006)

Sec. 10-26. Violations and penalties.

If any person violates and provision of this article, such person shall be guilty of a Class 1 misdemeanor which shall be punishable by confinement in jail for not more than 12 months and fine of not more than $2,500.00, either or both.
(Ord. No. 2006-6, § H, 10-4-2006)

Secs. 10-27—10-55. Reserved.

ARTICLE III. ITINERANT DEALERS IN PRECIOUS METALS AND JEWELS

Sec. 10-56. License required.

No itinerant dealer may purchase gold, silver, platinum, gems, or semiprecious stones without a license as provided herein.
(Ord. of 11-12-1980, § 1)

Sec. 10-57. Definitions.

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

Itinerant dealer means a person, firm, or corporation, who shall engage in any temporary or transient business in the County for the purchase of gold, silver, platinum, gems, or semiprecious stones.
(Ord. of 11-12-1980, § 2)

Sec. 10-58. Issuance of license.

Licenses shall be issued by the Commissioner of Revenue to any person able to produce satisfactory evidence of good character, which license shall designate the premises on which the licensee shall conduct his business and specify the date upon which the business may be conducted. A fee, as established from time to time, shall be charged.
(Ord. of 11-12-1980, § 3)

Sec. 10-59. License requirements.

The license issued hereunder shall be a personal privilege and shall not be transferable, nor shall there be any abatement of the tax upon such license by reason of the fact that the licensee shall have exercised the privilege for any period of less than for which it was granted. The license shall at all times be kept publicly exposed by the licensee on his business premises.
(Ord. of 11-12-1980, § 4)

Sec. 10-60. False statement and license.

Any false statement made on the application form voids the license ab initio.
(Ord. of 11-12-1980, § 5)

Sec. 10-61. Seller information required.

Licensees shall ascertain the name, address, and age of sellers by requiring an identifier issued by a governmental agency with a picture of the subject and one other corroborating means of identification. Licensees shall record the items purchased, the price paid, and the seller's identity. Such records shall be delivered to the sheriff on the day of purchase.
(Ord. of 11-12-1980, § 6)

Sec. 10-62. Retention period.

The dealer shall retain all precious metals or gems purchased for a minimum of five days from the time of filing the bill of sale of their purchases with the sheriff. During said period of time, no change of any nature shall be made to any item containing precious metals or gems.
(Ord. of 11-12-1980, § 7)

Sec. 10-63. Purchases by minors.

No purchase may be made from anyone under age 18.
(Ord. of 11-12-1980, § 8)

Sec. 10-64. Sureties required.

Every person so licensed shall at the time of license and before the same shall be operative, enter with either one corporate or two personal sufficient sureties into a joint and several recognizance to the County in the penal sum of $5,000.00 conditioned upon due observance of the terms of this article.
(Ord. of 11-12-1980, § 9)

Sec. 10-65. Misconduct of licensee.

If any person shall be aggrieved by the misconduct of any licensee and shall recover against him therefor, such person may, after the return unsatisfied, either in whole or in part of any execution upon such judgment, maintain actions in his own name upon the bond.
(Ord. of 11-12-1980, § 10)

Sec. 10-66. Violation.

Violation of the terms of this article shall be a misdemeanor.
(Ord. of 11-12-1980, § 11)

Chapter 11

RESERVED

Chapter 12

EMERGENCY SERVICES

Article I. In General

Secs. 12-1—12-18. Reserved.

Article II. EMS Cost Recovery

Sec. 12-19. Definitions.
Sec. 12-20. Permits required.
Sec. 12-21. Fees for emergency medical services vehicle transports.

ARTICLE I. IN GENERAL

Secs. 12-1—12-18. Reserved.

ARTICLE II. EMS COST RECOVERY

Sec. 12-19. Definitions.

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

Agency means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

Ambulance means any vehicle, vessel or aircraft, which holds a valid permit issued by the Office of Emergency Medical Services, that is specially constructed, equipped, maintained and operated, and is intended to be used for emergency medical care and the transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless. The term "ambulance" may not appear on any vehicle, vessel or aircraft that does not hold a valid permit.

Emergency medical services vehicle means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services vehicle permit issued by the Office of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.
(Ord. No. 2010-6, § 1, 6-8-2010)

Sec. 12-20. Permits required.

No agency shall charge fees for transport services provided by a private emergency medical services vehicle within the County in response to a call for service originating from the County without first obtaining a permit pursuant to this section. Permits shall be issued in accordance with Code of Virginia, § 32.1-111.14, by the County Administrator or his designee, upon such terms and conditions as may be needed to ensure the public health, safety and welfare. No permit shall be required for any person acting pursuant to a mutual aid agreement with the County or while assisting the County during a state of emergency. Agencies permitted pursuant to this article shall comply with all terms and conditions of their permits.
(Ord. No. 2010-6, § 2, 6-8-2010)

Sec. 12-21. Fees for emergency medical services vehicle transports.

(a) Reasonable fees shall be charged for transport services provided by emergency medical services vehicles operated by the County EMS Department, or by any private agency permitted under this article. The schedule of fees shall be established by resolution of the Board of Supervisors of the County. In no event shall a person be denied transport for emergency medical services due to his inability to pay.

(b) The County Administrator shall establish policies and procedures to implement this article in accordance with applicable law, including payment standards for persons demonstrating economic hardship.

(Ord. No. 2010-6, § 3, 6-8-2010)

Chapter 13

RESERVED

Chapter 14

ENVIRONMENT

Article I. In General

Secs. 14-1—14-18. Reserved.

Article II. Erosion and Sediment Control

Sec. 14-19. Title.
Sec. 14-20. Purpose.
Sec. 14-21. Authorization.
Sec. 14-22. Definitions.
Sec. 14-23. Erosion and sedimentation control plan required; applicability of ordinance.
Sec. 14-24. Erosion and sedimentation control plan standards and techniques.
Sec. 14-25. Approval of erosion and sediment control plans.
Sec. 14-26. Variances.
Sec. 14-27. Procedures for plan review and administration.
Sec. 14-28. Preconstruction conference.
Sec. 14-29. Inspection and enforcement.
Sec. 14-30. Approval, expiration and extension.
Sec. 14-31. Fees.
Sec. 14-32. Administrative appeal; judicial review.
Sec. 14-33. Violations and penalties.
Secs. 14-34—14-54. Reserved.

Article III. Stormwater Control

Sec. 14-55. State program for stormwater management.

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. EROSION AND SEDIMENT CONTROL*

Sec. 14-19. Title.

This article shall be known as the "Erosion and Sediment Control Ordinance of Madison County, Virginia."
(Ord. No. 2014-7, § 1, 7-1-2014)

Sec. 14-20. Purpose.

The purpose of this article is to conserve the land, water, air and other natural resources of the County and promote the public health and welfare of the people of the County by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.
(Ord. No. 2014-7, § 2, 7-1-2014)

Sec. 14-21. Authorization.

This article is authorized by the Code of Virginia, title 62.1, ch. 3.1, art. 2.4, (Code of Virginia, § 62.1-44.15.54.A), known as the "Virginia Erosion and Sediment Control Law." This article provides for a comprehensive statewide program, with standards and guidelines to control soil erosion and sedimentation, which is to be implemented on the local level.
(Ord. No. 2014-7, § 3, 7-1-2014)

Sec. 14-22. Definitions.

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

Agreement in lieu of a plan means a contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residential structure; this contract may be executed by the VESCP authority in lieu of a formal site plan.

Applicant means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land disturbing activities to commence.

Board means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land disturbing activities to commence.

***State law references**—Local governments must establish erosion and sediment control programs, Code of Virginia, § 62.1-44.15:54.A; regulation of land disturbing activities, Code of Virginia, § 62.1-44.15:55; certification of local program personnel, Code of Virginia, § 62.1-44.15.53; authority of local government to impose more stringent erosion and sediment control regulations, Code of Virginia, § 62.1-44.15:65; judicial appeals, Code of Virginia, § 62.1-44.15:62.A.

Certified inspector means an employee or agent of a VESCP authority who:

(1) Holds a certificate of competence from the board in the area of project inspection; or

(2) Is enrolled in the board's training program for project inspection and successfully completes such program within one year after enrollment.

Certified Plan Reviewer or *Plan Reviewer* means an employee or agent of a VESCP authority who:

(1) Holds a certification from the Board in the area of plan review;

(2) Is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment; or

(3) Is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to article 1 of chapter 4 of title 54.1 (Code of Virginia, § 54.1-400 et seq.).

Certified program administrator or *administrator* means the erosion and sediment administrator of the County or his agent who:

(1) Holds a certificate of competence from the board in the area of program administration; or

(2) Is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.

Clearing means any activity which removes the vegetative ground cover, including, but not limited to, tree removal, root mat removal and/or topsoil removal.

Conservation Plan, Erosion and Sedimentation Control Plan, or *Plan* means a document containing material for the conservation of soil and water resources of a unit or a group of units of land. The term "conservation plan, erosion and sedimentation control plan" or "plan" may include appropriate maps, an appropriate soil and water plan inventory and management inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit of land will be so treated to achieve the conservation objectives.

Denuded means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

Department means the department of environmental quality.

Development means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

District or *Soil Water Conservation District* means a political subdivision of the Commonwealth organized in accordance with the provisions of article 3 (Code of Virginia, § 10.1-506 et seq.) of chapter 5 of title 10.1.

Erosion and Sediment Control Plan or *Plan* means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations,

and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion Impact Area means an area of land that is not associated with a current land disturbing activity but is 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 means any digging, scooping or other methods of removing earthen materials.

Filling means any depositing or stockpiling of earthen materials.

Grading means any excavating or filling of earthen material or any combination thereof, including the land in its excavated or filled condition.

Land disturbing activity means 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 "land disturbing activity" 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 that 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 Code of Virginia, title 10.1, ch. 11 (Code of Virginia, § 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, § 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, Code of Virginia, title 10.1, ch. 6, art. 2 (Code of Virginia, § 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;

(10) Disturbed land areas of less than 10,000 square feet in size;

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

(12) 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.

Owner is defined as the Commonwealth or any of its political subdivisions, including, but not limited to, Sanitation District Commissions and authorities and any public or private institution, corporation, association, firm, or company organized or existing under the laws of this or any other State or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes to state waters or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of Code of Virginia, § 62.1-44.5. For a land disturbing activity that is regulated under this article, the term "owner" also includes 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, firm or corporation in control of the property.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the state, governmental body, including a Federal or State entity as applicable, any interstate body, or any other legal entity.

Plan-approving authority. The Program Administrator shall be responsible for considering review comments from the Culpeper Soil and Water Conservation District and for approving plans located in the following zoning districts, as defined in the Madison County Zoning Ordinance: Conservation, C-1; Agricultural, A-1; Residential, Limited R-1; and Residential, General R-2. The County Board of Supervisors shall be responsible for considering review comments from the County Planning Commission, the Program Administrator, and the Culpeper Soil and Water Conservation District and for approving plans located in the following zoning districts, as defined in the Madison County Zoning Ordinance: Residential, Multiple Family R-3; Business, General B-1; Industrial, Limited M-1; and Industrial, General M-2.

Responsible land disturber means an individual from the project or development team, who will be in charge of and responsible for carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who:

(1) Holds a responsible land disturber certificate of competence;

(2) Holds a current certificate of competence from the Board in the areas of combined administration, program administration, inspection, or plan review;

(3) Holds a current contractor certificate of competence for erosion and sediment control; or

(4) Is licensed in the state as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, title 54.1, chapter 4, article 1 (§ 54.1-400 et seq.).

Single-family residence means a noncommercial dwelling that is occupied exclusively by one family.

State erosion and sediment control program or *state program* means the program administered by the board pursuant to Code of Virginia, title 10.1, ch. 5, art. 4 (Code of Virginia, §§ 10.1 560—10.1-571) of the state code, including regulations designed to minimize erosion and sedimentation.

State waters means all waters on the surface and under the ground wholly or partially within or bordering the state or within its jurisdiction.

SWCB or *Board* means the State Water Control Board.

Transporting means any movement of earthen 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 buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Virginia erosion and sediment control program authority or *VESCP authority* means a locality approved by the board to operate a state erosion and sediment control program. A locality that has chosen not to establish a state erosion and stormwater management program pursuant to Code of Virginia, § 62.1-44.15:27(B)(3) is required to become a VESCP authority in accordance with this article.

Virginia Erosion and Sediment Control Program or *VESCP* means a program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of the Erosion and Sediment Control Act and its attendant regulations, and evaluation consistent with the requirements of the Erosion and Sediment Control Act and its attendant regulations.

Virginia Erosion and Sediment Control Program authority or *VESCP authority* means an authority approved by the Board to operate a Virginia Erosion and Sediment Control Program.
(Ord. No. 2014-7, § 4, 7-1-2014)

Sec. 14-23. Erosion and sedimentation control plan required; applicability of ordinance.

Except as provided for in section 14-22, no person may engage in any land disturbing activity until such person has submitted to the administrator an erosion and sedimentation control plan for such land disturbing activity and until that plan for such land disturbing activity has been reviewed and approved by the plan-approving authority. 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. 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.
(Ord. No. 2014-7, § 5, 7-1-2014)

Sec. 14-24. Erosion and sedimentation control plan standards and techniques.

Pursuant to Code of Virginia, § 62.1-44.15:54.A, the County hereby adopts the regulations and guidelines of the State Department of Environmental Quality for the management of erosion and sedimentation, as modified herein and amended from time to time. These regulations and guidelines are included in, but not limited to, the Virginia Stormwater Management Handbook and the Virginia Erosion and Sediment Control Handbook.
(Ord. No. 2014-7, § 6, 7-1-2014)

Sec. 14-25. Approval of erosion and sediment control plans.

(a) The plan-approving authority shall, within 60 days, approve any erosion and sediment control plan submitted from receipt to it, if it is determined that the plans meet the conservation standards of the local program and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this article. In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved site plan and in accordance with Code of Virginia, § 62.1-44.15:55.B, as amended, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate to the VESCP authority, as provided by Code of Virginia, § 62.1-44.15:52, who will be in charge of and responsible for carrying out the land disturbing activity.

(b) When a plan is determined to be inadequate, the plan-approving authority, within 45 days from receipt, shall give written notice of disapproval stating the specific reasons for this disapproval. The plan-approving authority shall specify such modifications, terms and conditions as will permit approval of the plan and shall communicate these requirements to the applicant. If no action is taken by the plan-approving authority within the time specified above, the plan shall be deemed approved.

(c) An approved plan may be changed by the plan-approving authority, in the following cases:

(1) Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objectives of this article, plan changes can be required without approval or agreement of the person responsible for carrying out the plan; or

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

(d) State agency projects are exempt from the provisions of this article except as provided for in Code of Virginia, § 62.1-44.15:55.

(e) 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.
(Ord. No. 2014-7, § 7, 7-1-2014)

Sec. 14-26. Variances.

The Plan-Approving Authority may waive or modify any of the regulations that are deemed inappropriate or too restrictive for site conditions, by granting a variance in accordance with 9VAC25-840-50 of the Virginia Erosion and Sediment Control Regulations.
(Ord. No. 2014-7, § 8, 7-1-2014)

Sec. 14-27. Procedures for plan review and administration.

(a) *Plan review.*

(1) All final plans shall be approved by the County's Plan-Approving Authority, after recommendation by the County's Certified Program Reviewer, which is the Commonwealth of Virginia Department of Environmental Quality, for purposes of this article.

(2) In reviewing plans, the plan-approving authority and the district may seek or receive recommendations or comments from the State Division of Environmental Quality, the State Department of Transportation, the Health Department, and such other agencies that are deemed to have some responsibility in this area.

(3) The preparation and submission of an erosion and sediment control plan to be administered shall be the responsibility of the owner, lessee, or duly authorized agent of either the owner or lessee.

(4) In determining the adequacy of the plan, the Culpeper Soil and Water Conservation District shall be guided by the recommendations contained in the Virginia Erosion and Sediment Control Handbook and/or the Virginia Erosion and Sediment Control Regulations.

(b) *Performance guarantees.* The plan-approving authority, as a condition of approval of any erosion and sediment control plan, may require of the applicant a reasonable performance bond with surety, cash escrow, letter of credit, or combination thereof, or such other legal arrangement as is acceptable to the plan-approving authority to ensure that measures could be taken by the County at the expense of the person conducting the land disturbing activity should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him in order to be in compliance with this article.

(1) If the County takes such measures upon such failure by the person conducting the land disturbing activity and the costs of required corrective action exceed the security held, the County Board of Supervisors may collect from such person the difference between the cost of the corrective action required and the amount of security held.

(2) Within 60 days of the achievement of adequate stabilization of the land disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded by the plan-approving authority to the owner or his agent or terminated, as the case may be.

(3) The amount of performance guarantee shall be set by the plan-approving authority in accordance with Code of Virginia, § 62.1-44.15:57.

(Ord. No. 2014-7, § 9, 7-1-2014)

Sec. 14-28. Preconstruction conference.

No land disturbing activity under an approved erosion and sediment control plan shall commence until the owner and/or his agent has met with the Administrator and/or his agent on site for a preconstruction conference to review the requirements of said plan. The owner or his agent may request a preconstruction conference at any time after the plan is approved, and the Administrator and/or his agent shall schedule such conference within 15 days of such request. The requirement for a preconstruction conference may be waived by the County Administrator at the time the plan is approved.

(Ord. No. 2014-7, § 10, 7-1-2014)

Sec. 14-29. Inspection and enforcement.

(a) Inspection and enforcement of this article shall rest with the administrator or his designated agent.

(b) No permit that authorizes land disturbing activities shall be issued until the applicant has obtained an approved erosion and sediment control plan.

(c) The administrator or his agent shall periodically inspect the land disturbing activity in accordance with 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations 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. The administrator may require monitoring and reports from the person responsible for carrying out the plan. The right of entry to conduct such inspections shall be expressly reserved in the permit. The person responsible for carrying out the plan, or his designated representative, shall be afforded the opportunity to accompany the inspectors, but does not have to be present for an inspection provided prior notification of inspection was given.

(d) If the administrator or his agent determines that the person responsible for carrying out the plan has failed to do so, the administrator or his agent shall serve the landowner with a notice to comply by personal delivery, registered or certified mail, or process by the Sheriff of the County. Such service of notice shall set forth specifically the measures needed in order for the site to come into compliance with such plan and shall specify the time within such measures shall be completed. If such person fails to comply within the time specified, the permit may be revoked or the permittee or the person responsible for carrying out the plan shall be deemed to be in violation of this article and upon correction shall be subject to the penalties provided for herein.

(e) Upon receipt of a complaint of a substantial violation of this article, the administrator may, in conjunction with or subsequent to a notice to comply as specified above, issue an order requiring that all or part of the land disturbing activity permitted on the site be stopped until the specified noncompliance corrective measures have been taken. Where the alleged is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watershed of the state, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court. If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the administrator or his agent 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 administrator. The owner may appeal the issuance of an order to the circuit court of the County. Any person violating or failing, neglecting or refusing to obey an order issued by the program authority or his agent may be compelled in a proceeding instituted in the circuit court of the County to obey the same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion of corrective action, the order shall immediately be lifted. The remedies provided for in this section are cumulative and shall not be constructed to prevent the administrator from taking any other action allowed by law.
(Ord. No. 2014-7, § 11, 7-1-2014)

Sec. 14-30. Approval, expiration and extension.

Approval of an Erosion and Sediment Control Plan under the provisions of this article shall expire 12 months after the date of such approval. A single one-year extension may be granted by the County Board of Supervisors upon a written request by the applicant to the administrator. Such request shall be made no more than 60 days nor less than 30 days before the expiration date of the approved Erosion and Sediment Control Plan. The administrator shall acknowledge the request upon receipt, and the County Board of Supervisors shall make a decision on the requested extension within 30 days of the request receipt. If such extension is granted, the County Board of Supervisors may require that performance guarantees as set forth herein be given or extended by the applicant as a condition of the extension approval.
(Ord. No. 2014-7, § 12, 7-1-2014)

Sec. 14-31. Fees.

Each applicant shall submit a fee with an application for an Erosion and Sediment Control Plan. The fee shall be set by the County Board of Supervisors, and its purpose is to defray the costs of program administration, including costs associated with the issuance of grading or land disturbing permits, plan review, and periodic inspection for compliance with erosion and sediment control plans.
(Ord. No. 2014-7, § 13, 7-1-2014)

Sec. 14-32. Administrative appeal; judicial review.

(a) Any decision of the Administrator under this article shall be subject to review by the County Board of Supervisors, provided an appeal is filed within 30 days from the date of any written decision by the Administrator.

(b) Final decision of the County Board of Supervisors under this article shall be subject to review by the Court of record of the County, provided an appeal is filed within 30 days from the date of the final decision.
(Ord. No. 2014-7, § 14, 7-1-2014)

Sec. 14-33. Violations and penalties.

(a) Any person who violates any provision of this article shall, upon a finding of the District Court of the County, be assessed a civil penalty. The civil penalty for any one violation shall be $100.00, except that the civil penalty for commencement of land disturbing activities without an approved plan shall be $1,000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of $10,000.00, 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 which exceed a total of $10,000.00.

(b) The County Board of Supervisors, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of the County for injunctive relief to enjoin a violation or a threatened violation of this article, without the necessity of showing that there does not exist an adequate remedy at law. However, an owner of property shall not apply for injunctive relief unless:

(1) He has notified in writing the person who has violated the local program, and the Plan-Approving Authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property; and

(2) Neither the person who has violated the local program nor the Plan-Approving Authority has taken corrective action within 15 days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(Ord. No. 2014-7, § 15, 7-1-2014)

Secs. 14-34—14-54. Reserved.

ARTICLE III. STORMWATER CONTROL

Sec. 14-55. State program for stormwater management.

The Virginia Department of Environmental Quality, on behalf of the State Water Control Board, administers the Virginia Stormwater Management Program in Madison County.

State law reference—Similar law at 4VAC50-60 et seq.

Chapter 15

RESERVED

Chapter 16

LAW ENFORCEMENT

Sec. 16-1. Disposition of unclaimed personal property.
Sec. 16-2. Off-duty employment.

Sec. 16-1. Disposition of unclaimed personal property.

The Sheriff of the County is authorized to dispose of, by public sale, any unclaimed personal property, including bicycles and mopeds, in the possession of law enforcement agencies located in the County. Any such public sale shall be advertised and the proceeds therefrom disbursed as set forth in state law, except that no County license, plate or tag shall be required in the County for bicycles or mopeds.
(Ord. of 9-13-1988)

Sec. 16-2. Off-duty employment.

Pursuant to Code of Virginia, § 15.2-1712, law enforcement officers and deputy sheriffs in the County may engage in off-duty employment which may occasionally require the use of their police powers in the performance of such employment; provided, however, that the Sheriff of the County may promulgate from time to time such rules and regulations as he may deem reasonable and necessary for such employment.
(Ord. of 10-8-2002)

Chapter 17

RESERVED

Chapter 18

OFFENSES AND MISCELLANEOUS PROVISIONS

Article I. In General

Secs. 18-1—18-18. Reserved.

Article II. False Alarms

Sec. 18-19. Findings and policy.
Sec. 18-20. Definitions.
Sec. 18-21. False alarms; penalty.
Sec. 18-22. Registration of alarm system required; penalty.
Secs. 18-23—18-47. Reserved.

Article III. Firearms and Hunting

Sec. 18-48. Definitions.
Sec. 18-49. Carrying loaded firearms on public highways.
Sec. 18-50. Transportation of loaded rifle or shotgun.
Sec. 18-51. Hunting prohibited near highways.
Sec. 18-52. Enforcement of article.

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

ARTICLE II. FALSE ALARMS*

Sec. 18-19. Findings and policy.

The Board of Supervisors of the County hereby finds that sub-standard alarm systems, and the false alarms associated with them, constitute a hazard to emergency responders and to the public in general. The regulation of alarm systems and false alarms is necessary to promote the health, safety and welfare of the citizens of the County. False alerts of intrusions, burglaries, or other emergencies increase responders' operational costs, divert resources from other critical areas, and increase the opportunities for automobile collisions and other incidents en route to the site of false alarms. Toward the end of preserving the safety and efficiency of the County emergency response services, it is the policy of the County that those who utilize automatic alarm systems must be required to maintain those systems in good working order.
(Ord. No. 2007-2, § 1, 3-13-2007)

Sec. 18-20. Definitions.

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

Alarm company operator means and includes any business operated for profit, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. The term "alarm company operator" shall not include alarm systems maintained by governmental agencies or departments, nor shall it include a business which merely sells from a fixed location or manufactures' alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

Alarm system means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police or firefighters are expected to respond. Such system may be installed, maintained, altered or serviced by an alarm company operator in both commercial and residential premises.

Alarm user means any person or entity (except the state, its agencies, political subdivisions or agencies of its political subdivisions) that owns or leases an alarm system or the premises on which such alarm system is maintained.

Automatic communication device means any device or combination of devices that will, upon activation, either mechanically, electrically, automatically or by any other means initiate the intrastate calling, dialing or connection to a telephone number, line or other instrument assigned to the County, the Sheriff's Department, or the County Emergency Communications Center.

***State law reference**—Regulation of alarm company operators Code of Virginia, § 15.2-911.

False alarm means the activation of any alarm system, eliciting a response from the County's law enforcement and/or emergency service providers when, in fact, a situation requiring such response (i.e., a situation involving actual or threatened criminal activity, or constituting an immediate danger to life or property) does not exist, and such activation results from mechanical or electronic failure, malfunction, or improper installation or maintenance of the alarm system and/or the neglect of the alarm user, his employees, tenants or agents. The term "false alarm" shall not include alarms caused by electrical power disruption or failure, or alarms occurring during electrical storms, hurricanes, tornados, blizzards or other unusually violent acts of God.
(Ord. No. 2007-2, § 2, 3-13-2007)

Sec. 18-21. False alarms; penalty.

(a) In the event that more than three false alarms are generated by its alarm system within any 90-day period, an alarm user shall be charged, and shall pay, a penalty of $100.00 for the fourth and each subsequent false alarm that results in any emergency response during that 90-day period.

(b) The County Director of Emergency Communications shall notify each alarm user in writing of the imposition of the appropriate penalty as set forth above. A penalty owed by an alarm user pursuant to this section shall be made payable to the County Treasurer, and shall be paid within ten days from the date of the notice of imposition. Thereafter, a late payment penalty in the amount of $10.00 shall be applied in addition to the penalty that is due and owing.
(Ord. No. 2007-2, § 3, 3-13-2007)

Sec. 18-22. Registration of alarm system required; penalty.

(a) Prior to installing, using or maintaining any alarm system on any premises within the County, an alarm user shall provide the following information, in writing, to the County Director of Emergency Communications:

(1) The emergency (E-911) address of the premises at which the alarm system is to be installed or used ("premises"); the name, mailing address and telephone number of the owner of such premises; and the name and mailing address of an individual (alarm user or alarm user's designee) to whom notices regarding the alarm system may be sent;

(2) The name, address and telephone number of at least one individual who will have day-to-day responsibility for the premises and alarm system, who will be immediately available to be contacted in the event an alarm is activated, and who is authorized and able to deactivate the alarm system; and

(3) A description of the specific type of alarm system, manufacturer's name, and the name and telephone number of the alarm company monitoring, responding to or maintaining the alarm system.

(b) When possession of the premises at which an alarm system is maintained is transferred, the person or entity obtaining possession of the premises shall be required to comply with the registration requirements of subsection (a) of this section.

(c) Whenever any of the information provided by an alarm user pursuant to subsection (a) or (b) of this section changes, the correct information must be provided by the alarm user to the County Director of Emergency Communications within 30 days of the change.

(d) Any alarm user who fails to comply with the registration requirements set forth within this section shall be charged, and shall pay, a penalty of $100.00. The County Director of Emergency Communications shall notify each alarm user in writing of the imposition of this penalty. A penalty owed by an alarm user pursuant to this section shall be made payable to the County Treasurer, and shall be paid within ten days from the date of the notice of imposition. Thereafter, a late payment penalty in the amount of $10.00 shall be applied in addition to the penalty that is due and owing.
(Ord. No. 2007-2, § 4, 3-13-2007)

Secs. 18-23—18-47. Reserved.

ARTICLE III. FIREARMS AND HUNTING

Sec. 18-48. Definitions.

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

Loaded shotgun or *loaded rifle* means a shotgun or rifle with ammunition within the action chamber, magazine or clip which is within or on the shotgun or rifle.
(Ord. of 4-12-1983, § 4)

Sec. 18-49. Carrying loaded firearms on public highways.

(a) Under the authority of Code of Virginia, § 15.2-1209.1, as amended, it shall be unlawful for any person to carry or have in his possession while on any part of a public highway within the County a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking; provided, however, that this section shall not apply to persons carrying loaded firearms in moving vehicles, nor to persons acting at the time in defense of persons or property.

(b) Any person violating this section shall be guilty of a misdemeanor and shall be subject to a fine not exceeding $100.00 for each violation.
(Ord. of 4-12-1983, § 1)

Sec. 18-50. Transportation of loaded rifle or shotgun.

(a) Under the authority of Code of Virginia, § 15.2-915.2, as amended, it shall be unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road or highway within the County; provided, however, that this section shall not apply to duly authorized law enforcement officers or military personnel in the performance of their lawful duties, nor to any person who reasonably believes that a loaded shotgun or loaded rifle is necessary for his personal safety in the course of his employment or business.

(b) Any person violating this section shall be guilty of a misdemeanor and shall be subject to a fine not exceeding $100.00 for each such violation.
(Ord. of 4-12-1983, § 2)

Sec. 18-51. Hunting prohibited near highways.

(a) Under the authority of Code of Virginia, § 29.1-526, as amended, it shall be unlawful to hunt or attempt to hunt with a firearm any game bird or game animal while the hunting or attempting to hunt is on or within 100 yards of any primary or secondary highway in the County. For the purpose of this section, the term "hunt" or "attempt to hunt" shall not include the necessary crossing of such highways for the bona fide purpose of going into or leaving a lawful hunting area.

(b) Any person violating this section shall be guilty of a misdemeanor and shall be subject to a fine not exceeding $100.00 for each such violation.
(Ord. of 4-12-1983, § 3)

Sec. 18-52. Enforcement of article.

All Game Wardens, Sheriffs and other law enforcement officers authorized to act as such within the County shall have the power to enforce each section of this article.
(Ord. of 4-12-1983, § 5)

Chapter 19

RESERVED

Chapter 20

ROADS, BRIDGES, AND STREETS

Article I. In General

Secs. 20-1—20-18. Reserved.

Article II. Assignment of Names to Streets and Roads and Posting of Street Signs and Building Numbers

Sec. 20-19. Road name index.
Sec. 20-20. Authority to assign names.
Sec. 20-21. Authority to change names.
Sec. 20-22. Registration of name required.
Sec. 20-23. Registration of name required for showing on subdivision plat.
Sec. 20-24. Street sign requirements.
Sec. 20-25. Directing placement of street signs.
Sec. 20-26. Required sign placement.
Sec. 20-27. Land parcels and uniform numbering system.
Sec. 20-28. Assignment of building numbers.
Sec. 20-29. Required placement of building numbers.
Sec. 20-30. Address number requirements.
Sec. 20-31. Address numbers for nonresidential structures.
Sec. 20-32. Address number requirements for apartments and trailer parks.
Sec. 20-33. Duty to procure and place numbers on property.
Sec. 20-34. Numbering of unoccupied structures and reassignment of street addresses.
Sec. 20-35. Power to make minor adjustments.
Sec. 20-36. Applicability of article.
Sec. 20-37. Notice of violation; corrective measures.
Sec. 20-38. Violation, penalty.

ARTICLE I. IN GENERAL

Secs. 20-1—20-18. Reserved.

ARTICLE II. ASSIGNMENT OF NAMES TO STREETS AND ROADS AND POSTING OF STREET SIGNS AND BUILDING NUMBERS

Sec. 20-19. Road name index.

The "Madison County Road Name Index" filed in the Office of the County Administrator or his designee shall be the official listing of names for streets and roads in the County, and such streets and roads are hereby assigned the names listed therein. As used in this article, the terms "street" and "road" shall have the same meaning and shall also include avenues, boulevards, highways, lanes, ways, and similar street types.
(Ord. of 3-27-2002, § 1)

Sec. 20-20. Authority to assign names.

The County Administrator, or his duly authorized agent, is hereby authorized to assign names to any public or private road or street in the County which provides access to four or more occupied buildings.
(Ord. of 3-27-2002, § 2)

Sec. 20-21. Authority to change names.

The County Administrator, or his duly authorized agent, is hereby authorized to negotiate with residents along streets or roads bearing duplicate or confusingly similar names in the County and to change the names of such roads or streets to eliminate such duplication.
(Ord. of 3-27-2002, § 3)

Sec. 20-22. Registration of name required.

No street or road within the County shall be assigned a name on a subdivision plat or otherwise until such name is registered with the County Administrator, or his duly authorized agent, approved, and added to the "Madison County Road Name Index." The County Administrator, or his duly authorized agent, shall have the authority to refuse registration of any name already in use, confusingly similar to a name already registered, or deemed confusing for purposes of emergency response.
(Ord. of 3-27-2002, § 4)

Sec. 20-23. Registration of name required for showing on subdivision plat.

No street or road named currently shown on a subdivision plat filed with the County or otherwise shall be implemented by a subdivision owner until such name has been registered with the County Administrator, or his duly authorized agent, approved and added to the "Madison County Road Name Index;" provided, however, that this section shall not apply to any road or street presently constructed on which street signs have been placed prior to the effective date of the ordinance from which this article is

derived. The County Administrator, or his duly authorized agent, shall have the right to refuse registration of any name already in use, confusingly similar to a name already registered, or deemed confusing for purposes of emergency response.
(Ord. of 3-27-2002, § 5)

Sec. 20-24. Street sign requirements.

(a) All new street signs erected within the County shall be in conformance with the specifications of this section unless a variance is granted by the State Department of Transportation (VDOT) or the County Board of Supervisors. Street name signs for use on primary routes and collector secondary roads shall have a minimum height of nine inches, a minimum width of 30 inches and a maximum width of 48 inches. Widths greater than 48 inches may be allowed in special cases upon approval of the VDOT District Traffic Engineer. The standard letter height shall be six-inch series C letters for the street name. The standard letter height of the suffix and prefix (if any) shall be three-inch series C letters. Non-standard letter height may be allowed in special cases upon approval of the VDOT District Traffic Engineer.

(b) Street name signs for use on local secondary roads, subdivision streets and private roads assigned names under this article shall have a minimum height of six inches, a minimum width of 24 inches and a maximum width of 42 inches. Widths greater than 42 inches may be allowed in special cases upon approval of the VDOT District Traffic Engineer. The standard letter height shall be four-inch series C letters for the street name. The standard letter height of the suffix and prefix (if any) shall be two-inch series C letters. Non-standard letter heights may be allowed in special cases upon approval from the VDOT District Traffic Engineer.

(c) All street name signs in the County shall be fabricated with high intensity reflectorized sign sheeting. All sign text and numerals shall be white, and the background of signs shall be brown for private and subdivision roads and blue for state roads. Signs at intersections of all public and private roads assigned names under this article shall be mounted atop 2⅜-inch galvanized pipes with the signs appearing at a height of not less than seven feet above grade.
(Ord. of 3-27-2002, § 6)

Sec. 20-25. Directing placement of street signs.

The County Administrator, or his duly authorized agent, is hereby authorized to direct the placement of street signs at intersections within the County.
(Ord. of 3-27-2002, § 7)

Sec. 20-26. Required sign placement.

The owner of any subdivision or other development shall erect or cause to be erected street signs in conformance with this article at any and all intersections within such subdivision or development upon the construction of any street on or after the effective date of the ordinance from which this article is derived. Where any subdivision owner is currently required to erect street signs but has failed to do so, the future erection of street signs shall be in conformance with this article.
(Ord. of 3-27-2002, § 8)

Sec. 20-27. Land parcels and uniform numbering system.

All properties or parcels of land within the County shall hereafter be identified by reference to a uniform numbering system, as shown on maps filed in the Office of the County Administrator. Said maps and the explanatory matter thereon are hereby adopted and made a part of this article.
(Ord. of 3-27-2002, § 9)

Sec. 20-28. Assignment of building numbers.

A house or building number shall be assigned to each dwelling or other building in the County. The combination of such numbers and the road or street name shall be the official address of such dwelling or building. Such location shall serve as the official mailing address for postal patrons receiving home or rural delivery.
(Ord. of 3-27-2002, § 10)

Sec. 20-29. Required placement of building numbers.

When each house or building has been assigned its respective address, the owner, occupant, or agent shall place or cause to be placed upon each house or building controlled by him the number assigned under the uniform numbering system. Such numbers shall be placed on existing buildings within 60 days of notification of the assigned address. Such numbers shall be placed on new buildings prior to occupancy. The cost of posting the address shall be the responsibility of the property owner.
(Ord. of 3-27-2002, § 11)

Sec. 20-30. Address number requirements.

Street address numbers for residences shall be at least three inches in height and shall be of a durable and clearly visible material. The numbers shall be conspicuously placed on, above, or at the side of the main entrance so that the number is discernible from the street. Whenever a residence is more than 75 feet from the street, or when the entrance is not visible from the street, the number shall be placed along a walk, driveway, or other suitable location so that address numbers shall be of a contrasting color to the background on which they are mounted.
(Ord. of 3-27-2002, § 12)

Sec. 20-31. Address numbers for nonresidential structures.

Street address numbers for commercial and industrial structures shall be at least four inches in height if located within 75 feet of a roadway or at least ten inches in height if located greater than 75 feet from the street. The number shall be placed above or on the main entrance to the structure when possible. If such number is not visible from the street, the number shall be placed along a driveway or on a sign visible from the street.
(Ord. of 3-27-2002, § 13)

Sec. 20-32. Address number requirements for apartments and trailer parks.

Apartments and similar complexes assigned a single building number shall display address numbers on each assigned structure using numbers having a minimum height of eight inches. Trailer parks and

similar complexes assigned a single building number shall display the assigned number at the main entranceway using numbers having a minimum height of eight inches. Numbers or letters from individuals' apartments, trailers, or units within these complexes shall be displayed on, above, or to the side of the main doorway of each apartment, trailer, or unit, and shall be at least three inches in height.
(Ord. of 3-27-2002, § 14)

Sec. 20-33. Duty to procure and place numbers on property.

Whenever any house, building, or structure shall be erected or located after the initial establishment of the uniform numbering system as provided herein, it shall be the duty of the property owner to procure the correct numbers for the said property and to affix said numbers to said building in accordance with this article. An application for a building permit for a new building shall be considered an application for an address assignment. The building official shall coordinate the application with the designated agent of the County responsible for the assignment of addresses, and forward the assigned address to the applicant not later than 60 days following issuance of said permit. The applicant shall be required to furnish such measurements in relation to other properties or required to furnish such measurements in relation to intersections or other landmarks as shall be deemed necessary for assignment of a valid address.
(Ord. of 3-27-2002, § 15)

Sec. 20-34. Numbering of unoccupied structures and reassignment of street addresses.

By Resolution, the Board of Supervisors may provide that structures which are not occupied and do not have telephone numbers and other locations may be assigned a number subject to certain terms and conditions as may be set forth in said resolution. Any number assigned pursuant to such resolution shall bear the same effect as a house or building number otherwise assigned hereunder. Also, by Resolution, the Board of Supervisors may provide for the change, adjustment, revision, relocation or reassignment of any numbers assigned pursuant to this section.
(Ord. No. 2018-6, 9-25-2018)

Sec. 20-35. Power to make minor adjustments.

In applying the guidelines specified herein, the County Administrator, or his duly authorized agent, shall have the authority to make minor adjustments and modifications to ensure a logical and efficient street address system.
(Ord. of 3-27-2002, § 16)

Sec. 20-36. Applicability of article.

The provisions of this article shall be applicable in all areas of the County outside the incorporated County. The provisions of this article shall be applicable within the Town of Madison if the Madison Town Council has adopted and endorsed this article by resolution.
(Ord. of 3-27-2002, § 17)

Sec. 20-37. Notice of violation; corrective measures.

Whenever the County Administrator, or his duly authorized agent, has reason to believe there has been or there exists a violation of this article, he shall give written notice of such violation to the person failing to comply, and order said person to take corrective measures within 30 days from the date of notification. If such person fails to comply with the duly issued order, the County Administrator, or his duly authorized agent, shall initiate necessary actions to terminate the violation through criminal or civil measures.
(Ord. of 3-27-2002, § 18)

Sec. 20-38. Violation, penalty.

Any violation of this article shall constitute a Class 1 misdemeanor. Subsequent to the 30-day period following notification of violation, each day of violation shall constitute a separate violation.
(Ord. of 3-27-2002, § 19)

Chapter 21

RESERVED

Chapter 22

SOLID WASTE*

Article I. In General

Sec. 22-1. Definitions.
Sec. 22-2. Unlawful accumulations; receptacles for organic materials.
Sec. 22-3. Unlawful disposal.
Sec. 22-4. Conduct of solid waste collection operations generally.
Sec. 22-5. Maintenance of vehicles used for solid waste collection or transportation.
Sec. 22-6. Covering the loads to be transported.
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Article II. Madison County Transfer Station

Sec. 22-31. Access restrictions.
Sec. 22-32. County transfer station use charges.
Sec. 22-33. Hours of operation.
Sec. 22-34. Required use of designated areas at the County transfer station.
Sec. 22-35. Prohibited deposits generally.
Sec. 22-36. Ashes to be extinguished prior to deposit.
Sec. 22-37. Transfer station.
Sec. 22-38. Airtight snap lock to be removed from certain containers before deposit.
Sec. 22-39. Scavenging prohibited.
Secs. 22-40—22-66. Reserved.

Article III. Penalty

Sec. 22-67. Violation of chapter.

***State law references**—Solid waste management, Code of Virginia, § 10.1-1408 et seq.; regulation of garbage and refuse pickup and disposal services, Code of Virginia, § 15.2-940.

ARTICLE I. IN GENERAL

Sec. 22-1. Definitions.

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

Brush means tree and shrubbery trimmings, including tree branches, tree limbs, parts of tree, bushes and shrubbery.

Disposal means accumulation, storage, collection, transportation and disposal of solid waste.

Hazardous solid or liquid waste means a solid or liquid waste or combination thereof which, because of quantity, concentration or physical, chemical or infectious characteristics, may:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Impervious cover means a cover that cannot be penetrated by the load being covered.

Litter means garbage, refuse, waste materials or any other discarded, used or unconsumed substance which is not disposed as specified in this chapter.

Solid waste means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from residential, industrial, commercial, mining or agricultural operations or from community activities, but does not include:

(1) Solid or dissolved material in domestic sewage;

(2) Solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board; or

(3) Source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended.

Solid waste receptacle means a metal or plastic container or plastic bag of substantial construction, with a tightfitting lid or tightly sealed with a wire tie or a drawstring.

Transfer station means a transfer station for solid waste that is operated in accordance with regulations of the State Department of Environmental Quality.
(Ord. of 6-18-1997, § 1.1)

Sec. 22-2. Unlawful accumulations; receptacles for organic materials.

It shall be unlawful for any person to place or allow to remain out of doors or on any lot or parcel of land within the County any solid waste in an unsanitary manner or so as to create a nuisance. Organic materials must be kept enclosed in solid waste receptacles, except for the handling and use of such materials in a normal agricultural operation.
(Ord. of 6-18-1997, § 1.2)

Sec. 22-3. Unlawful disposal.

It shall be unlawful for any person to:

(1) Cast, throw, sweep, dump, dispose of, or deposit anywhere in the County any solid waste or litter on property of another or of the public; or

(2) Dispose of any solid waste on his own property in any manner not in conformance with the regulations of the State Department of Environmental Quality.

(Ord. of 6-18-1997, § 1.3)

Sec. 22-4. Conduct of solid waste collection operations generally.

All solid waste collection operations shall be made in such manner that they do not create a nuisance or adversely affect public health.

(Ord. of 6-18-1997, § 1.4)

Sec. 22-5. Maintenance of vehicles used for solid waste collection or transportation.

Each vehicle used for solid waste removal or transportation shall be maintained so as to prevent the spillage of solid waste or litter on property of another or of the public during transportation.

(Ord. of 6-18-1997, § 1.5)

Sec. 22-6. Covering the loads to be transported.

No person shall transport any solid waste without an impervious cover completely surrounding the load being transported; provided, however, that if the material or substance is enclosed in metal or plastic containers with tightly secured covers or in plastic garbage bags that have been tightly closed, no such cover shall be required.

(Ord. of 6-18-1997, § 1.6)

Secs. 22-7—22-30. Reserved.

ARTICLE II. MADISON COUNTY TRANSFER STATION

Sec. 22-31. Access restrictions.

(a) The County Transfer Station shall be operated for the disposal of solid waste generated from property, residences, businesses, industries and institutions located in the County, including the Town of Madison. No one shall be permitted to dispose of solid waste at the County Transfer Station unless he is able to document his eligibility to do so. Individuals shall document their eligibility by display of:

(1) A valid County landfill/transfer station decal;

(2) A valid County landfill/transfer station commercial permit; or

(3) A valid identification of a State Department of Transportation vehicle with solid waste generated from the County.

(b) The County Administrator shall develop, administer and issue the necessary application and permit forms to provide for the proper administration and enforcement of this section.
(Ord. of 6-18-1997, § 2.1; Ord. No. 2008-8, 12-17-2008)

Sec. 22-32. County transfer station use charges.

Disposal, tipping and access permit fees for use of the County Sanitary Landfill or Transfer Station shall be established from time to time by resolution or ordinance of the Board of Supervisors of the County.
(Ord. of 6-18-1997, § 2.2; Ord. No. 2012-2, 4-17-2012)

Sec. 22-33. Hours of operation.

The Board of Supervisors of the County shall establish the hours of operation for the County Transfer Station and shall post notice of such hours at the County office building and at the County Transfer Station. It shall be unlawful for any person to cast, throw, sweep, dump, dispose of or deposit solid waste or litter at the County Sanitary Landfill or Transfer Station at any time other than during the established hours of operation.
(Ord. of 6-18-1997, § 2.3)

Sec. 22-34. Required use of designated areas at the County transfer station.

Solid waste shall be categorized and deposited at the County Transfer Station in designated areas only. The County Administrator shall designate such areas in accordance with the solid waste management permit and regulations issued by the State Department of Environmental Quality.
(Ord. of 6-18-1997, § 2.4)

Sec. 22-35. Prohibited deposits generally.

The following items will not be accepted and shall not be deposited at the County Transfer Station:

(1) Tree stumps and logs with a diameter exceeding two inches;

(2) Masonry, concrete, stone or other demolition solid waste with a weight exceeding 40 pounds per piece;

(3) Motor vehicles;

(4) Hazardous solid or liquid waste;

(5) Containers with liquid therein;

(6) Tires with a rim size exceeding 28 inches;

(7) Batteries;

(8) Unbound wire; and

(9) Sawdust, chips or shavings.

(Ord. of 6-18-1997, § 2.5; Ord. of 10-21-2005)

Sec. 22-36. Ashes to be extinguished prior to deposit.

Ashes must be extinguished prior to depositing them in the County Transfer Station.
(Ord. of 6-18-1997, § 2.6)

Sec. 22-37. Transfer station.

Any person disposing of boxes, cartons, crates, barrels or liquid containers shall collapse the same prior to depositing them in the County Transfer Station.
(Ord. of 6-18-1997, § 2.7)

Sec. 22-38. Airtight snap lock to be removed from certain containers before deposit.

It shall be unlawful for any person to deliver to the County Transfer Station any appliance, refrigerator or other container of any kind which has an airtight snap lock closing device (or similar closing device) without first removing the snap lock, closing device, or door from such appliance, refrigerator, or container.
(Ord. of 6-18-1997, § 2.8)

Sec. 22-39. Scavenging prohibited.

It shall be unlawful for any person to scavenge or remove any items or materials from the County Transfer Station.
(Ord. of 6-18-1997, § 2.9)

Secs. 22-40—22-66. Reserved.

ARTICLE III. PENALTY

Sec. 22-67. Violation of chapter.

(a) Any person violating or failing, refusing or neglecting to comply with any provision or requirement of this chapter shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than $500.00. Each continued day of violation shall constitute a separate offense hereunder.

(b) Any person violating or failing, refusing or neglecting to comply with any provision or requirement of this chapter shall be issued a warrant or summons requiring such person to appear in the General District Court of the County. Such warrant or summons may be issued by any law enforcement officer or deputized employee of the County.

(c) All fines collected under this chapter shall be paid into the County Treasury.
(Ord. of 6-18-1997, § 3.1)

Chapter 23

RESERVED

Chapter 24

TAXATION*

Article I. In General

Sec. 24-1. Semi-annual installment payment of real estate taxes.
Sec. 24-2. Fee for cost recovery for collection of delinquent taxes.
Sec. 24-3. Penalty for delinquent tax payments.
Sec. 24-4. Real estate tax; exemption for elderly and disabled.
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Article II. Special Assessments for Designated Property Uses

Sec. 24-27. Preservation in public interest.
Sec. 24-28. Application for use classification.
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Article III. Sales Tax

Sec. 24-57. General retail sales tax.
Sec. 24-58. Administration and collection.
Sec. 24-59. Exemption from sales and use tax.
Secs. 24-60—24-76. Reserved.

Article IV. County Recordation Tax

Sec. 24-77. County recordation tax imposed.
Sec. 24-78. Administration of tax collection.
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Article V. Gross Receipts Tax

Sec. 24-100. Gross receipts tax on entities providing heat, light and power.
Secs. 24-101—24-128. Reserved.

Article VI. Transient Occupancy Tax

Sec. 24-129. Levy of tax; rate; definitions.
Sec. 24-130. Payment and collection.

***State law references**—Local taxation, Code of Virginia, § 58.1-3000 et seq.; when county boards of supervisors to fix and order county taxes, Code of Virginia, § 58.1-3001; power of county to establish filing dates, penalties, interest, etc., Code of Virginia, § 58.1-3916.

Sec. 24-131. Reports and remittances, generally.
Sec. 24-132. Preservation of records.
Sec. 24-133. Advertising payment of absorption of tax.
Sec. 24-134. Duty when going out of business.
Sec. 24-135. Administration and enforcement.
Sec. 24-136. Procedure upon failure to collect tax, make reports and remittances.
Sec. 24-137. Duty of County Treasurer.
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Sec. 24-139. Violation a misdemeanor.
Secs. 24-140—24-161. Reserved.

Article VII. County Food and Beverage Tax

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Sec. 24-163. Levy.
Sec. 24-164. Collection of tax by seller.
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Sec. 24-168. Penalty for violation of article.
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Secs. 24-170—24-189. Reserved.

Article VIII. Utility License Tax

Sec. 24-190. Tax levied.
Sec. 24-191. Definition and ascertainment of gross receipts.
Sec. 24-192. Tax assessment date.
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Article IX. Utility Consumer Taxes

Sec. 24-212. Definitions.
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Article X. Vehicle License Fee

Sec. 24-239. Imposition.
Sec. 24-240. License fee amounts.
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Article XI. Taxation of Certain Tangible Personal Property

Sec. 24-275. Required filing of return for taxation of certain tangible property.
Sec. 24-276. Penalty for failure to file return and for nonpayment.
Sec. 24-277. Waiver of filing for certain vehicles.
Sec. 24-278. Interest imposed on delinquent tax payment.

ARTICLE I. IN GENERAL

Sec. 24-1. Semi-annual installment payment of real estate taxes.

The County real estate taxes shall be due and payable to the County Treasurer in two equal installments, the first installment to be paid no later than June 5 of each year and the second installment to be paid no later than December 5 of each year.
(Ord. No. 2008-9, 12-17-2008)

Sec. 24-2. Fee for cost recovery for collection of delinquent taxes.

There is hereby levied and imposed upon each person chargeable with delinquent taxes or other delinquent charges, a fee to cover the administrative costs and reasonable attorneys' or collection agency's fees contracted for by the County to collect such taxes or charges. The administrative costs shall be in addition to all penalties and interest, and shall not exceed $30.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia, § 58.1-3919, but prior to the taking of any judgment with respect to such delinquent taxes or charges, and $35.00 for taxes or other charges collected subsequent to judgment. No tax assessment or tax bill shall be deemed delinquent and subject to the fee prescribed herein during the pendency of any administrative appeal under Code of Virginia, § 58.1-3980, so long as the appeal is filed within 90 days of the assessment and for 30 days after the date of the final determination of the appeal, provided that nothing in this section shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.
(Ord. No. 2011-8, 4-12-2011)

Sec. 24-3. Penalty for delinquent tax payments.

Any person failing to pay any County taxes or levies on or before December 5 shall incur a penalty thereon of ten percent, which shall be added to the amount of taxes or levies due from such taxpayer, which, when collected by the Treasurer, shall be accounted for in his settlements. No penalty shall be imposed for failure to pay any taxes if such failure was not in any way the fault of the taxpayer.
(Ord. of 6-18-1980)

Sec. 24-4. Real estate tax; exemption for elderly and disabled.

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

Commissioner of Revenue means the Commissioner of Revenue of the County.

Deferral means deferral of the County real estate taxes pursuant to the provisions of this chapter.

Permanently and totally disabled means a County taxpayer who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity, which can be expected to result in death or can be expected to last for the duration of such person's life.

Tax means the annual real estate tax of the County.

Taxpayer means a person who owns and occupies real property as his sole dwelling which is subject to the real estate tax of the County.

(b) *Prerequisites for deferral.*

(1) Tax deferral is authorized for taxpayers who are not less than 65 years of age, or who are permanently and totally disabled, and who are eligible under the provisions of this section. A dwelling jointly held by a husband and wife may qualify if either spouse is 65 or over or is permanently and totally disabled.

(2) Deferral is authorized only if:

a. The total combined gross income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed $30,000.00; and

b. The gross combined financial worth, including equitable interests, as of December 31 of the immediately preceding calendar year of the owner and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding three acres, upon which it is situated, does not exceed $75,000.00.

(c) *Deferral applies only to residential property.* The real estate deferral under this section applies only to residential real property, and no income producing residential property or combination of business and residential property shall be entitled to real estate tax deferral.

(d) *Taxpayer's affidavit; certificate of disability.*

(1) To qualify for deferral, a taxpayer must file annually prior to April 1 with the commissioner of revenue an affidavit under oath setting forth:

a. The location and description of property sought for tax deferral;

b. The names, ages, combined financial worth and gross income for the preceding calendar year of the owners of the property; and

c. The names and income for the preceding calendar year of related persons occupying the property.

(2) If a taxpayer is under 65 years of age, such affidavit shall have attached thereto a certification by the Veterans Administration or the Railroad Retirement Board, or if the taxpayer is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in the state, that the taxpayer is permanently and totally disabled, as defined in subsection (a) of this section.

(e) *Commissioner of Revenue may request documents and make inquiry.* In administering this section, the Commissioner of Revenue may request certified tax returns or other documents of the taxpayer necessary to establish the income or financial worth of the taxpayer. The Commissioner may make reasonably necessary inquiries of the taxpayer, requiring answers under oath, to determine qualifications specified in this section, including qualification as permanently and totally disabled.

(f) *Taxpayer's residency in hospital, etc.* The fact that a taxpayer who is otherwise qualified for deferral pursuant to this section is residing in a hospital, nursing home, convalescent home or other facility for physical or mental care for extended periods of time shall not be construed to mean that the property for which tax deferral is sought does not continue to be the sole dwelling of such taxpayer during such extended periods of other residence, so long as such property is not used by or leased to others for consideration.

(g) *Amount of deferral.* A taxpayer who qualifies for deferral shall be entitled to have his total real estate tax deferred until the taxpayer no longer qualifies for deferral.

(h) *Roll-back of deferral.*

(1) If a taxpayer who elects deferral of the tax under this section ceases to qualify for deferral, such taxpayer shall pay to the County as a roll-back of such deferral, an amount equal to the sum of the deferral tax for the most recent past tax years, not to exceed five past tax years. Such roll-back shall be paid prior to the time real estate tax payment is due for the year when a taxpayer ceases to qualify.

(2) If a taxpayer who elects deferral of tax under this section sells his residential real estate, such taxpayer shall pay to the County as a roll-back of such deferral, an amount equal to the sum of the deferred tax for the most recent past tax years, not to exceed five past tax years. Such roll-back shall be paid at the time of sale.

(3) If a taxpayer who elects deferral of tax under this section dies and his residential real estate is not thereafter owned by a taxpayer who elects deferral of tax under this section, the estate of such deceased taxpayer or the successor to title of such deceased taxpayer's residential real estate shall pay to the County as a roll-back of such deferral, an amount equal to the sum of the deferred tax for the most recent past tax years, not to exceed five past tax years. Such roll-back shall be paid within one year after the death of said taxpayer.

(4) The amount of deferred real estate tax shall be a lien upon the real estate of a taxpayer who elects deferral of tax under this section.

(Ord. No. 2013-2, §§ 1—8, 3-7-2013)

State law references—Authority to exempt elderly and handicapped persons from real estate taxes, Code of Virginia, § 58.1-3210 et seq.; restrictions and exemptions, Code of Virginia, § 58.1-3211; change in income, Code of Virginia, § 58.1-3215; definition of "permanently and totally disabled," Code of Virginia, § 58.1-3217.

Secs. 24-5—24-26. Reserved.

ARTICLE II. SPECIAL ASSESSMENTS FOR DESIGNATED PROPERTY USES

Sec. 24-27. Preservation in public interest.

The County finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, title 58.1, ch. 32, art. 4, as amended, and this article.
(Ord. of 6-9-1987(01), § 1)

Sec. 24-28. Application for use classification.

(a) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233(2), as amended, may, at least 60 days preceding the tax year for which such taxation is sought, apply to the Commissioner of Revenue of the County for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in Code of Virginia, § 58.1-3236, as amended. (In any year in which a general reassessment is being made such application may be submitted until 30 days have elapsed after the notice of increase in assessment is mailed.) Such application shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of Revenue of the County and shall include such additional schedules, photographs, and drawings as may be required by the Commissioner of Revenue of the County. An individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes, except when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. An application fee of $50.00 shall accompany each application.

(b) A separate application shall be filed for each parcel on the land book.

(c) Applications may be filed within no more than 60 days after the filing deadline specified in subsection (a) of this section, upon the payment of a late filing fee of $50.00, payable in addition to the aforesaid application fee.

(d) No application for assessment based on use shall be accepted or approved if at the time the application is filed the tax on the land affected is delinquent; provided, however, upon payment of all delinquent taxes, interest and penalties relating to such parcel, the application shall be treated in accordance with the provisions of this section.

(e) Such property owner must revalidate annually with the Commissioner of Revenue of the County any application previously approved. A revalidation fee of $50.00 shall accompany each application for revalidation every sixth year. Late filing of a revalidation form must be made on or before the effective date of the assessment and accompanied with a late filing fee of $50.00, payable in addition to the aforesaid revalidation fee.
(Ord. of 6-9-1987(01), § 2)

Sec. 24-29. Determination of property use criteria.

(a) Promptly upon receipt of any application, the Commissioner of Revenue of the County shall determine whether the subject property meets the criteria for taxation hereunder. If the Commissioner of Revenue of the County determines that the subject property does meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value.

(b) In determining whether the subject property meets the criteria for agricultural use or horticultural use, the Commissioner of Revenue of the County may request an opinion from the Commissioner of Agricultural and Consumer Services; in determining whether the subject property meets the criteria for forest use, he may request an opinion from the Director of the Department of Conservation and Economic Development; and in determining whether the subject property meets the criteria for open space use he may request an opinion from the Director of the Commission of Outdoor Recreation. Upon the refusal of the Commissioner of Agriculture and Consumer Services, the Director of the Department of Conservation and Economic Development or the Director of the Commission of Outdoor Recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective director, the party aggrieved may seek relief from any Court of record wherein the real estate in question is located. If the Court finds in his favor it may issue an order which shall serve in lieu of an opinion for the purposes of this section.
(Ord. of 6-9-1987(01), § 3)

Sec. 24-30. Continuance of property use.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the Treasurer and the tax for the next succeeding tax year shall be extended from the use value. Continuation of valuation, assessment and taxation based upon land use shall depend on continuance of the real estate in the use for which classification is granted, continued payment of taxes as required in Code of Virginia, § 58.1-3235 and compliance with the other requirements of Code of Virginia, title 58.1, ch. 32, art. 4, as amended, and this article, and not upon continuance in the same owner of title to the land.
(Ord. of 6-9-1987(01), § 4)

Sec. 24-31. Protocol concerning delinquent payments.

If on June 1 of any year the taxes for any prior year on any parcel of real property which has a special assessment as provided for in this article are delinquent, the Treasurer of the County shall send notice of that fact and the general provisions of Code of Virginia, § 58.1-3235, as amended, to the property owner by first class mail. If after sending such notice, such delinquent taxes remain unpaid on November 1, the Treasurer shall notify the Commissioner of Revenue of the County who shall remove such parcel from the land use program.
(Ord. of 6-9-1987(01), § 5)

Sec. 24-32. Imposition of roll-back tax.

When real estate which has been taxed according to special assessment changes to a non-qualifying use as outlined in Code of Virginia, §§ 58.1-3237 and/or 58.1-3241, as amended, there is hereby imposed a roll-back tax, and interest thereon, in such amounts as may be determined under Code of Virginia, § 58.1-3237, as amended.
(Ord. of 6-9-1987(01), § 6)

Sec. 24-33. Duty of owner to report change in use.

(a) The owner of any real estate liable for roll-back taxes shall, within 60 days following a change in use, report such change to the Commissioner of Revenue or other assessing officer on such forms as may be prescribed. The Commissioner shall forthwith determine and assess the roll-back tax, which shall be paid to the Treasurer within 30 days of assessment. On failure to report within 60 days following such change in use and/or failure to pay within 30 days of assessment such owner shall be liable for an additional penalty equal to ten percent of the amount of the roll back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty for failure to make the required report, there is hereby imposed interest of one-half percent of the amount of the roll-back tax, interest and penalty, for each month or fraction thereof during which the failure continues.

(b) Any person making a material misstatement of fact other than a clerical error in any application filed pursuant hereto shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.
(Ord. of 6-9-1987(01), § 7)

Sec. 24-34. Applicable state law.

The provisions of Code of Virginia, title 58.1 as applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutandis, including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.
(Ord. of 6-9-1987(01), § 8)

Secs. 24-35—24-56. Reserved.

ARTICLE III. SALES TAX*

Sec. 24-57. General retail sales tax.

Pursuant to Code of Virginia, § 58.1-605(B), a local general retail sales tax at the rate of one percent to provide revenue for the general fund for the County is hereby levied. Said tax shall be added to the rate

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***State law reference**—Condition for local government levying of sales taxes, Code of Virginia, § 58.1-605.

of the State sales tax imposed by Code of Virginia, §§ 58.1-603 and 58.1-604. It shall be subject to all provisions of Code of Virginia, title 58.1, chapter 6, all the amendments thereto and the rules and regulations published with respect thereto.

Sec. 24-58. Administration and collection.

All local sales tax levied pursuant to this article shall be administered and collected by the State Tax Commissioner in the same manner, subject to the same penalties as provided for the state sales tax, with the adjustments required by Code of Virginia, § 58.1-628.

Sec. 24-59. Exemption from sales and use tax.

Pursuant to Code of Virginia, § 58.1-609.10, as amended, purchases of artificial or propane gas, firewood, coal or heating oil for domestic consumption shall be exempt from the one percent local sales and use tax.

Secs. 24-60—24-76. Reserved.

ARTICLE IV. COUNTY RECORDATION TAX*

Sec. 24-77. County recordation tax imposed.

The County imposes a County recordation tax in an amount equal to one-third of the amount of the State recordation tax collectible for the State on the first recordation of each taxable instrument in said County.
(Ord. of 7-1-1976)

Sec. 24-78. Administration of tax collection.

The Clerk of the Circuit Court shall collect the taxes hereby imposed and pay the same over to the County treasury at least once each month, and for his services in collecting this tax shall be compensated out of the County treasury at the rate of five percent of the tax collected on each instrument under this article.
(Ord. of 7-1-1976)

Secs. 24-79—24-99. Reserved.

ARTICLE V. GROSS RECEIPTS TAX†

Sec. 24-100. Gross receipts tax on entities providing heat, light and power.

There is hereby levied upon every corporation or other entity providing heat, light and power within the County, for the privilege of doing business within the County, a license tax equal to one-half of one percent of the gross receipts, as defined in Code of Virginia, §§ 58.1-3702 and 58.1-3732, accruing from sales to the ultimate consumer in the County.

***State law references**—Recordation tax generally, Code of Virginia, § 58.1-800 et seq.; authority to impose recordation tax, Code of Virginia, §§ 58.1-814, 58.1-3800 et seq.

†**State law reference**—Gross receipts license tax, Code of Virginia, § 58.1-3731.

Secs. 24-101—24-128. Reserved.

ARTICLE VI. TRANSIENT OCCUPANCY TAX*

Sec. 24-129. Levy of tax; rate; definitions.

(a) A tax is hereby levied and imposed on the occupancy of all rooms or spaces in hotels, motels, boardinghouses, travel campgrounds, and other facilities offering any guest room rented out for occupancy within the County. Such tax shall be assessed at the rate of five percent of the amount charged for such occupancy. Revenues received by the County from that portion of the tax over two percent shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, attract travelers to the County and generate tourism revenues in the County.

(b) The taxes imposed by this article shall be in addition to the sales tax currently imposed by the County and shall be in addition to all other taxes and fees of any kind now or hereafter imposed by the County.

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

Camping unit means and includes a tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home, and any other device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.

Campsite means and includes any plot of ground within a campground used or intended for occupation by the camping unit.

Lodging provider means any person who operates a hotel, motel, boardinghouse, travel campground or other facility located in the County, wherein any guest room or space is rented out for occupancy.

Person means and includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

Purchaser means any person who rents a room or space in a hotel, motel, boardinghouse or travel campground located in the County for fewer than 30 consecutive days of continuous occupancy.

Travel campground means and includes, but is not necessarily limited to, a travel trailer camp, recreation camp, family campground, camping resort, camping community, or any other area, place, parcel, or tract of land, by whatever name called, on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease, or conditional sale, or by covenants, restrictions, and easements. The term "campground" does not include a summer camp, migrant labor camp, or park for mobile homes as defined in this section and in Code of Virginia, §§ 32.1-203 and 35.1-1, or a construction

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***State law reference**—Transient occupancy tax, Code of Virginia, § 58.1-3819.

camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions from providing his sanitary facilities within his property lines.

(d) The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding-houses, travel campgrounds, and other facilities offering guest rooms or other spaces for occupancy.

(e) The following are exempt from the tax imposed by this article:

(1) Facilities owned and operated by churches or religious bodies, including:

a. Any incorporated church or religious body; and

b. Any corporation mentioned in Code of Virginia, § 57-16.1; and

(2) Facilities owned and operated by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities.

(Ord. No. 2011-7, § 1, 4-12-2011)

Sec. 24-130. Payment and collection.

All lodging providers liable for collection of taxes imposed by this article shall collect the amount of tax imposed from the purchaser on whom the same is levied at the time payment for such lodging becomes due and payable, whether payment is made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the room or space by the lodging provider, who shall pay the taxes collected to the County as provided in this article. All transient occupancy tax collections for facilities and accommodations situated in the County shall be deemed to be held in trust for the County, and shall be remitted to the County by the lodging provider without regard for the location at which payment is made by the purchaser or received by the lodging provider.

(Ord. No. 2011-7, § 2, 4-12-2011)

Sec. 24-131. Reports and remittances, generally.

(a) Every lodging provider liable for collection of taxes under this article shall make out a report, upon such forms and setting forth such information as the County may prescribe and require, showing the amount of receipts collected and the tax required to be collected thereon, and shall sign and deliver such report to the County along with a remittance of such tax. Such reports and remittance shall be made on or before the 15th day of each month, covering the amount of tax collected during the preceding calendar month.

(b) For the purpose of compensating lodging providers for the collection of the tax imposed by this article, every lodging provider shall be allowed three percent of the amount of tax due and accounted for in each monthly report, in the form of a deduction on his monthly remittance of payment, not to exceed $100.00 per monthly remittance; provided, however, that no deduction shall be allowed if any portion of a payment is delinquent at the time of payment.

(Ord. No. 2011-7, § 3, 4-12-2011)

Sec. 24-132. Preservation of records.

It shall be the duty of every lodging provider liable for collection and remittance of the taxes imposed by this article to keep and preserve, for a period of three years, records showing gross rental receipts, the amount charged to the purchaser for each stay, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The County, through its designated officials and agents, shall have the authority to examine and copy such records at reasonable times, for the purpose of administering and enforcing the provisions of this article.
(Ord. No. 2011-7, § 4, 4-12-2011)

Sec. 24-133. Advertising payment of absorption of tax.

No person shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed by this article will be paid or absorbed by such person or anyone else, or that the seller or anyone else will relieve the purchaser of payment of all or any part of the tax.
(Ord. No. 2011-7, § 5, 4-12-2011)

Sec. 24-134. Duty when going out of business.

Whenever any lodging provider required to collect or pay to the County any tax under this article shall cease to operate, or shall otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due.
(Ord. No. 2011-7, § 6, 4-12-2011)

Sec. 24-135. Administration and enforcement.

It shall be the duty of the Commissioner of Revenue to ascertain the name of every lodging provider liable for the collection of the tax imposed by this article, and the name of every such lodging provider who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The Commissioner of Revenue shall have all of the enforcement powers as authorized by the Code of Virginia, including, without limitation, Code of Virginia, §§ 58.1-3100 to 58.1-3122.1, as amended.
(Ord. No. 2011-7, §7, 4-12-2011)

Sec. 24-136. Procedure upon failure to collect tax, make reports and remittances.

If any lodging provider whose duty it is to do so shall fail or refuse to collect the tax imposed under this article, or to make, within the time provided in this article, the reports and remittances required by this article, the Commissioner of Revenue shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due and thereafter, the Commissioner shall proceed to determine and assess against such lodging provider the taxes and penalties provided for by this article and shall notify such lodging provider, by certified mail sent to his last-known place of address, of the total amount of such taxes and penalties. The total amount of taxes and penalties shall be payable to the County ten days from the date such notice is sent.
(Ord. No. 2011-7, § 8, 4-12-2011)

Sec. 24-137. Duty of County Treasurer.

The Treasurer of the County shall have the power and the duty of collecting the taxes and penalties levied and imposed under this article and shall cause the taxes to be paid into the general treasury of the County.
(Ord. No. 2011-7, § 9, 4-12-2011)

Sec. 24-138. Penalty for late remittance or false return.

(a) If any lodging provider whose duty it is to do so shall fail or refuse to remit to the Treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer a penalty in the amount of ten percent of the total amount of the tax owed, if the failure is not for more than 30 days, with an additional ten percent of the total amount of the tax owed for each additional 30 days or fraction thereof during which the failure continues, not to exceed 25 percent of the taxes collected but not remitted; provided, however, that the minimum penalty shall be $10.00 or the amount of the tax assessable, whichever is less.

(b) It shall be unlawful for any person to willfully fail or refuse to file any return or report required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is $1,000.00 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than $1,000.00.
(Ord. No. 2011-7, § 10, 4-12-2011)

Sec. 24-139. Violation a misdemeanor.

(a) Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for and pay over a tax under this article, who willfully fails to collect or truthfully account for and pay over such tax, and any such person who willfully evades or attempts to evade any such tax or payment thereof, shall be guilty of a Class 1 misdemeanor. Conviction under this section shall not relieve any person from the payment, collection or remittance of the taxes or penalties provided for in this article. Any agreement by any person to pay the taxes or penalties provided for in this article by a series of installment payments shall not relieve any person or criminal liability for violation of this article until the full amount of taxes and penalties agreed to be paid by such person is received by the Treasurer.

(b) Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.
(Ord. No. 2011-7, § 11, 4-12-2011)

Secs. 24-140—24-161. Reserved.

ARTICLE VII. COUNTY FOOD AND BEVERAGE TAX*

Sec. 24-162. Definitions.

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

Beverage means alcoholic beverages as defined in Code of Virginia, § 4.1-100 and nonalcoholic beverages served as a part of a meal and purchased in and from a food establishment.

Cater means the furnishing of food, beverages, or both on the premises of another, for compensation.

Collector means the Commissioner of Revenue of the County or designee.

Commissioner means the Commissioner of Revenue of the County and any duly designated deputies, assistants, inspector, or other employees.

Food means all food purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time, or place of service.

Food establishment means any place where food is prepared for service to the public on or off the premises, or any place where food is served, including, but not limited to, lunch rooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private corporations, dining accommodations of public and private schools and colleges, mobile points of food service, such as push cart operations, hot dog stands, and similar operations, and grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter.

Meal means any prepared food and beverage as defined herein, offered or held out for sale by a food establishment, for the purpose of being consumed by any person to satisfy the appetite, and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein, shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper, or by some other name, and without regard to the manner, time, or place of service.
(Ord. of 6-15-2000(02), § 1)

Sec. 24-163. Levy.

There is hereby imposed and levied by the County on each person, a tax at the rate of four percent on the amount paid for food and beverages purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.
(Ord. of 6-15-2000(02), § 2)

Sec. 24-164. Collection of tax by seller.

Every person receiving any payment for food and beverages with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food and beverages at the time payment for such

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***State law reference**—County food and beverage tax, Code of Virginia, § 58.1-3833.

food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. All tax collections shall be deemed to be held in trust for the County.
(Ord. of 6-15-2000(02), § 3)

Sec. 24-165. Exemptions; limits on application.

(a) The tax imposed under this article shall not be levied on the following items when served for off-premises consumption:

(1) Factory-prepackaged candy, gum, nuts, and other items of essentially the same nature.

(2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature.

(3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary, and usual portion sold for a premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(4) Alcoholic and non-alcoholic beverages sold in factory-sealed containers.

(5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the State Special Supplemental Food Program for Women, Infants, and Children.

(6) Any food or food product purchased for home consumption as defined in the Federal Food Stamp Act of 1977, 7 USC 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory-sealed beverages. This subsection shall not affect provisions set forth in subsections (c)(3),(4), and (5) of this section.

(b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(3) Food and beverages for use or consumption and which are paid for directly by the State, any political subdivision of the State or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics, or other extended care facility to patients or residents thereof.

(5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the State to offer meals at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

(Ord. of 6-15-2000(02), § 4)

Sec. 24-166. Gratuities and service charges.

(a) Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

(b) An amount or percent, whether designated as gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages is subject to the tax imposed by this article.

(Ord. of 6-15-2000(02), § 5)

Sec. 24-167. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay the County the taxes imposed by this article, to make a report thereof setting forth such information as the Commissioner may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon, and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The Commissioner or any duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Ord. of 6-15-2000(02), § 6)

Sec. 24-168. Penalty for violation of article.

(a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is $1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a Class 1 misdemeanor.

(b) Except as provided in subsection (a) of this section, any corporate or partnership officer, as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

(c) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax provided in this article.
(Ord. of 6-15-2000(02), § 7)

Sec. 24-169. Penalty for failure to file or remit.

(a) If any seller whose duty to do so shall fail or refuse to file any report required by this article or to remit to the Treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer a penalty in the amount of ten percent of the total amount of the tax owed if the failure is not for more than 30 days, with an additional ten percent of the total amount of the tax owed for each additional 30 days or fraction thereof during which the failure continues, not to exceed 30 percent in the aggregate, with a minimum penalty of $10.00.

(b) In the case of a false or fraudulent return with intent to defraud the County of any tax due under this article, a penalty of 50 percent of the tax shall be assessed against the person required to collect such tax.

Secs. 24-170—24-189. Reserved.

ARTICLE VIII. UTILITY LICENSE TAX

Sec. 24-190. Tax levied.

Pursuant to Code of Virginia, § 58.1-3731, as amended, there is hereby levied upon:

(1) Any telephone and telegraph company;

(2) Water companies; and

(3) Heat, light, and power companies (except electric suppliers, gas utilities and gas suppliers);

doing business within the County a license tax equal to one-half of one percent of the gross receipts of such company accruing from business in the County; provided, however, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of this license tax.
(Ord. of 6-13-2005(02), ¶ 2)

Sec. 24-191. Definition and ascertainment of gross receipts.

(a) For the purpose of this article, the term "gross receipts" means the gross receipts derived from business within the County included in the total gross receipts utilized by the State Corporation Commission in making assessments under Code of Virginia, § 58.1-2633, as amended.

(b) Gross receipts shall be ascertained as of December 31 of each year, and the tax for the current calendar year shall be based on receipts for the previous calendar year.
(Ord. of 6-13-2005(02), §§ A, B)

Sec. 24-192. Tax assessment date.

The tax due hereunder shall be assessed on January 1 of each calendar year.
(Ord. of 6-13-2005(02), § C)

Sec. 24-193. Tax payment due date.

The tax assessed hereunder shall be due and payable to the Treasurer of the County on or before June 1 following the date on which the taxes are assessed.
(Ord. of 6-13-2005(02), § D)

Sec. 24-194. Violation and penalty.

Any company, person, or corporation failing to pay such taxes into the County treasury within the time prescribed herein shall incur a penalty thereon as provided by Code of Virginia, § 58.1-3915, as amended, and interest thereon, as provided by Code of Virginia, § 58.1-3918, as amended.
(Ord. of 6-13-2005(02), § F)

Secs. 24-195—24-211. Reserved.

ARTICLE IX. UTILITY CONSUMER TAXES

Sec. 24-212. Definitions.

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

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in the County.

Gas utility means a public utility authorized to furnish natural gas service in the State.

Kilowatt hours (kWh) delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Code of Virginia, § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person means an individual, corporation, company or other entity.

Pipeline distribution company means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including, but not limited to, apartment houses and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.
(Ord. of 10-25-2000, § A)

Sec. 24-213. Penalty.

Any consumer of electricity or natural gas failing, refusing, or neglecting to pay the tax imposed and levied under this article, and any officer, agent, or employee of any service provider violating the provisions of this article shall, upon conviction thereof, be guilty of a Class 3 misdemeanor and be punished by a fine of not more than $500.00. Each such failure, refusal, neglect, or violation shall constitute a separate offense. Such conviction shall not relieve any person from payment, collection, and remittance of the tax as provided in this article.
(Ord. of 10-25-2000, § D)

Secs. 24-214—24-238. Reserved.

ARTICLE X. VEHICLE LICENSE FEE

Sec. 24-239. Imposition.

(a) Pursuant to Code of Virginia, § 46.2-752, as amended, the Board of Supervisors of the County hereby imposes a license fee upon all motor vehicles, trailers, and semitrailers, subject to state registration licensure and normally garaged, stored, or parked in the County.

(b) If it cannot be determined where a motor vehicle, trailer and semitrailer is normally garaged, stored, or parked, the situs shall be the domicile of its owner. If the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.
(Ord. No. 2010-5, § 1, 4-13-2010)

Sec. 24-240. License fee amounts.

(a) The annual license fee shall be $30.00 on each licensed motor vehicle.

(b) The annual license fee shall be $15.00 on each licensed motorcycle and motor-scooter.

(c) The annual license fee shall be $10.00 on each licensed trailer or semitrailer.
(Ord. No. 2010-5, § 2, 4-13-2010)

Sec. 24-241. License year and payment.

The initial license year under terms of this article shall commence on January 1, 2010, and shall expire on December 31, 2010; and thereafter the license year shall commence on January 1 and shall expire on December 31 each calendar year. Payment of the motor vehicle license fee shall be due on December 5 of each year. Partial payments of personal property tax bills for a motor vehicle, trailer or semitrailer shall first be applied to the license fee imposed under this article.
(Ord. No. 2010-5, § 3, 4-13-2010)

Sec. 24-242. License fees—Billing.

License fees imposed by this article shall be added to the personal property tax bill for each motor vehicle, trailer or semitrailer.
(Ord. No. 2010-5, § 4, 4-13-2010)

Sec. 24-243. License fees—Disposition.

All fees collected pursuant to this article shall be deposited by the Treasurer of the County in the general revenue fund of the County. All fees collected by any agent shall be deposited with the Treasurer of the County within seven days from the date of collection.
(Ord. No. 2010-5, § 5, 4-13-2010)

Sec. 24-244. Transfer of motor vehicle license fees, refunds.

The license fee imposed herein under this article shall not be transferable between persons or vehicles, and no refund of a license fee shall be made for vehicles sold or otherwise disposed of during the license year.
(Ord. No. 2010-5, § 6, 4-13-2010)

Sec. 24-245. Exempted vehicles.

The provisions of this article shall not apply to any vehicle, trailer or semitrailer exempted by the provisions of Code of Virginia, §§ 46.2-662 through 46.2-683, 46.2-752, and 46.2-755, as amended.
(Ord. No. 2010-5, § 8, 4-13-2010)

Sec. 24-246. Disabled veterans.

No license fee shall be assessed for any vehicle owned by persons, or spouses of persons, qualified to receive special license plates under Code of Virginia, § 46.2-739, as amended, so long as the licensee has fully complied with section 24-245.
(Ord. No. 2010-5, § 9, 4-13-2010)

Sec. 24-247. Penalty.

Any person, firm, or corporation who shall fail to pay the license fee imposed by this article or who shall violate any of the provisions of this article shall, upon conviction, be guilty of a Class 4 misdemeanor and be punished by a fine not more than $250.00.
(Ord. No. 2010-5, § 10, 4-13-2010)

Secs. 24-248—24-274. Reserved.

ARTICLE XI. TAXATION OF CERTAIN TANGIBLE PERSONAL PROPERTY

Sec. 24-275. Required filing of return for taxation of certain tangible property.

Pursuant to Code of Virginia, § 58.1-3916, as amended, the County Board of Supervisors hereby ordains that every person owning taxable tangible personal property, machinery and tools, and merchants' capital in the County shall file a return declaring the same with the Commissioner of Revenue of the County on or before May 1 in the year in which such property is subject to taxation by the County.
(Ord. No. 2018-2, 4-24-2018)

Sec. 24-276. Penalty for failure to file return and for nonpayment.

(a) A penalty for failure to file such returns and for nonpayment of any tax assessed thereon in time is hereby set, said penalty to be ten percent of the tax past due on such property or the sum of $10.00, whichever is greater; provided, however, the penalty shall in no case exceed the amount of tax due. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failing to make return of taxable property as may be required by law or ordinance. Penalty for failure to file an application or return shall be assessed on the day after such return or application is due; penalty for failure to pay any tax shall be assessed on the day after the first installment is due. Any such penalty when so assessed shall become a part of the tax. No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local official, and if such assessment is paid within two weeks after notice thereof is mailed.

(b) Notwithstanding the provisions of this section, any person who has previously filed a property return on any motor vehicle, trailer, semitrailer, boat, or watercraft, for which there has been no change in situs or status as hereinafter set forth in this section, shall not be required to file another personal property tax return on such property. The assessment and taxation of property shall be based on the most recent tax return previously filed with the County.

(c) Furthermore, a taxpayer who failed to file a personal property tax return on such property in any previous tax year, but who pays a personal property tax for such tax year based on information supplied to the taxpayer by the Commissioner of Revenue, shall be deemed for purpose of this subsection to have filed a return on such property for subsequent tax years.
(Ord. No. 2018-2, 4-24-2018)

Sec. 24-277. Waiver of filing for certain vehicles.

Notwithstanding the foregoing, the Commissioner of Revenue shall waive the requirement for the filing of tax returns for motor vehicles, trailers, semitrailers, or boats and pursuant to Code of Virginia, §§ 58.1-3518.1 and 58.1-3519, assess such property based upon information received from the State Department of Motor Vehicles, the State Department of Game and Inland Fisheries, or other public agency or private entity required by law to report the presence of such property within the County, and the tax shall be assessed and levied on such information.
(Ord. No. 2018-2, 4-24-2018)

Sec. 24-278. Interest imposed on delinquent tax payment.

(a) Interest at the rate of ten percent per year shall commence on delinquent taxes on the first day following the day such taxes are due to be paid.

(b) Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer. The Treasurer of the County shall make determinations of fault relating exclusively to failure to pay a tax, and the Commissioner of Revenue of the County shall make determinations of fault relating exclusively to failure to file a return.
(Ord. No. 2018-2, 4-24-2018)

Chapter 25

RESERVED

Chapter 26

TRAFFIC AND VEHICLES

Sec. 26-1. State motor vehicle code adopted.

Sec. 26-1. State motor vehicle code adopted.

Pursuant to the provisions of Code of Virginia, § 46.2-1313, as amended, all of the provisions and requirements of the laws of the State contained in Code of Virginia, title 46.2, as amended, as in force and effect on the date of adoption of this Code of Ordinances, and as amended or re-enacted thereafter, except those provisions and requirements which by their very nature can have no application to or within the County are hereby adopted and incorporated in this chapter by reference and are hereby made applicable within the County. References herein to "highways of the State" shall be deemed to refer to the streets, highways, roads, alleys, parking lots, and other public ways within the County. Such provisions and requirements are hereby adopted mutatis mutandis, and made a part of this chapter as though set forth in full herein. It shall be unlawful and punishable as therein provided for any person within the County to violate, fail, neglect, or refuse to comply with any provision of the Code of Virginia which is adopted by the ordinance from which this chapter is derived, provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Code of Virginia, title 46.2, as amended.
(Ord. of 1-14-1997)

Chapter 27

RESERVED

Chapter 28

UTILITIES*

(RESERVED)

***State law references**—General authority of counties relative to public utilities, Code of Virginia, § 15.2-2109; sewage disposal, Code of Virginia, §§ 32.1-163, 32.1-166; localities/powers to acquire waterworks systems, Code of Virginia, § 15.2-2146; drought response and contingency plans, 9VAC25-780-120.

CODE COMPARATIVE TABLE

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This is a chronological listing of the ordinances of the County of Madison, Virginia, used in this Code. Repealed or superseded laws at the time of the Codification and any omitted materials are not reflected in the table.

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ZONING*

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***Note**—Set forth below are the zoning provisions of Madison County, Virginia. The document contains the original zoning ordinance adopted on March 29, 1974, as amended (multiple times) through June 5, 2013. Additions made for clarity are indicated by brackets.

State law references—Preservation of local zoning authority concerning wireless telecommunications facilities, 47 USC 332(c)(7); limited Federal preemption of state and local zoning laws affecting amateur radio facilities, Memorandum Opinion and Order, PRB-1, 101 FCC 2d 952 (1985) and 47 CFR 97.15(b); Religious Land Use and Institutionalized Persons Act, 42 USC 2000cc et seq.

State law references—Zoning, Code of Virginia, § 15.2-2280 et seq.; regulations to be uniform, Code of Virginia, § 15.2-2282; model airport safety zoning ordinance, 24 VAC 5-20-400, Appendix A.

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ZONING

Zoning Ordinance Madison County, Virginia

ARTICLE 1. STATEMENT OF INTENT AND PURPOSE

Whereas, by act of the General Assembly of Virginia, as provided in Code of Virginia, §§ 15.1-427 through 15.1-503, as amended, the governing body of any county or municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purpose of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

a) The use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential, and other specific uses;

b) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;

c) The areas and dimensions of land, water, and air space to be occupied by buildings, structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used or not;

d) The excavation or mining of soil or other natural resources.

Therefore, be it ordained by the governing body of the County of Madison, Virginia, for the purpose of promoting the health, safety, and general welfare of the public and of further accomplishing the objectives of Code of Virginia, § 15.1-427 that the following be adopted as the Zoning Ordinance of the County of Madison, Virginia, together with the accompanying maps made a part of this ordinance. This ordinance has been designed:

(1) to provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;

(2) to reduce and prevent congestion in the public streets;

(3) to facilitate the creation of a convenient, attractive, and harmonious community;

(4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;

(5) to protect against destruction of or encroachment upon historic areas; and/or

(6) to protect against over-crowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers.

(Ord. of 3-4-2020)

ARTICLE 2. ZONES - DISTRICTS

2-1. For the purpose of this ordinance, the unincorporated area of Madison County, Virginia, is hereby divided into the following zones:

Article 3 - Conservation, C-1.

Article 4 - Agricultural, A-1.

Article 5 - Residential, Limited R-1.

Article 6 - Residential, General R-2.

Article 7 - Residential, Multiple Family R-3.

Article 8 - Business, General B-1.

Article 9 - Industrial, Limited M-1.

Article 10 - Industrial, General M-2.

2-2. No building shall hereafter 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 is included among the uses listed in this ordinance 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 ordinance.

2-3. The regulations listed in this ordinance for each district shall be deemed to be the minimum requirements in every instance of their application, subject to the provisions of other sections of this ordinance.

2-4. Any use not specifically permitted as a matter by right or by special use permit is prohibited. Requests for such prohibited uses shall be governed by the terms of this ordinance specified in section 14-7 (Uses Not Provided For) and Article 18 (Amendments).

ARTICLE 3. CONSERVATION, C-1

Statement of Intent

This district is established for the specific purpose of facilitating the conservation of water, timber, and other natural resources, reducing soil erosion, protecting upland watersheds, lessening the hazards of flood and fire, and enhancing existing and future farming operations. The district covers steep slopes, hardwood forests, areas of erosive soils, and those portions of the County which are occupied by various open spaces such as parklands, farms, lakes, or mountains. Because of the fragile nature of the district, intensive residential or urban development and uses not consistent with the existing character of the district are inappropriate.

This district shall contain land that predominantly conforms to the following criteria for elevation, soil type, and slope as shown on appropriate reference maps:

(1) elevation of greater than 800 feet above sea level;

(2) soil type of Class 4 or greater; and

(3) slope of greater than 15 percent.

In addition to the zoning ordinance, uses in this zone may be subject to the requirements of Madison County Subdivision Ordinance, Site Plan Ordinance, Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance.

Use Regulations

3-1. In the Conservation District C-1 no building shall be erected or altered and no building or premises shall be used for any purpose except the following:

Uses Permitted by Right

3-1-1. Single family detached dwelling (including mobile home).

3-1-2. General farming, agriculture, horticulture, dairy, and forestry.

3-1-3. Public school, public park, and public playground.

3-1-4. Preserve and conservation area.

3-1-5. Hunting or fishing club.

3-1-6. Farm Sawmill.

3-1-7. Small boat dock (with repair).

3-1-8. Cemetery and graveyard.

3-1-9. Church, parish hall, and rectory.

3-1-10. Accessory use and building.

3-1-11. Public Service Corporation transmission lines, poles, pipes, meters, transformers and other facilities necessary for the transmission and maintenance of public service utilities. Subject to Code of Virginia, § 15.1-456, as amended.

3-1-12. Farm Winery.

3-1-13. Intensive livestock, dairy or poultry facility subject to Article 3-10.

3-1-14. Home occupation as defined.

3-1-15. Sorghum syrup production with wholesale sales.

3-1-16. Small wind energy system.

3-1-17. Farm market.

3-1-18. Processing farm and food products if 51 percent or more of the products are grown on the property and if applicable state and federal regulations are implemented.

3-1-19. Wild game processing.

3-1-20. Biodiesel fuel production for use exclusively by the landowner.

3-1-21. Residential/business solar energy systems. See Article 14, section 14-17.
(Ord. No. 2019-5, 1-2-2019)

3-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided in Article 14-3:

3-2-1. Summer camp.

3-2-2. Travel trailer or camper camp as provided in Article 15.

3-2-3. Public Service Corporation generating, booster, or relay station (Main).

3-2-4. General store as defined.

3-2-5. Antique craft and gift shop.

3-2-6. Animal show ground.

3-2-7. Temporary carnival, fair, or show with a non-profit local sponsor.

3-2-8. Temporary wayside stand.

3-2-9. Private park and playground.

3-2-10. Temporary construction yard.

3-2-11. Private school or day care center.

3-2-12. Commercial riding stable and ring.

3-2-13. Lodge, inn, or hotel with interior eating facilities or overnight lodging.

3-2-14. Public building.

3-2-15. Firearm or archery club and/or range.

3-2-16. Kennel.

3-2-17. Veterinary clinic and building.

3-2-18. Home occupation as defined.

3-2-19. Restaurant/Caterer.

3-2-20. Sorghum syrup production with retail sales.

3-2-21. Golf course.

3-2-22. Golf driving range.

3-2-23. Country club.

3-2-24. Showroom.

3-2-25. Small wind energy system with a tower height of greater than 60 feet to 100 feet.

3-2-26. Event venue.
(Ord. No. 2020-1, 3-4-2020)

3-3. *Area Regulations.*

The minimum lot area for permitted uses shall be ten acres, except for an outdoor archery range, which shall be three acres. All dwellings located on a single parcel shall require a minimum of ten acres per dwelling.

(Ord. No. 2020-8, 3-4-2020)

3-4. *Setback Regulations.*

3-4-1. Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width, or 100 feet or more from the center line of any street right-of-way less than 50 feet in width.

3-4-2. All buildings must be located at or beyond the front setback line. All accessory buildings must be located ten feet or more from a side or rear property line.

(Ord. No. 2011-4, § 1, 4-12-2011)

3-5. *Frontage Regulations.*

The minimum lot width for permitted uses shall be 300 feet at the setback line, or measured at the location of the foundation of the subject parcel's principal dwelling or accessory building. The minimum distance which the building is required to be located from the street right-of-way or center line shall be known as the setback line.

(Ord. No. 2020-9, 3-4-2020)

3-6. *Yard Regulations.*

3-6-1. *Side.* Each main structure shall have side yards of 25 feet or more.

3-6-2. *Rear.* Each main structure shall have a rear yard of 50 feet or more.

3-7. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

3-8. *Height Regulations.*

The height regulations for the Conservation, C-1, district shall conform to the height regulations for the Residential Limited, R-1 District, as detailed in section 5-8. All agricultural uses are exempt from height restrictions.

3-9. *Off-street Parking.*

Off-street parking is subject to section 14-9 of this ordinance.

3-10. *Intensive Livestock, Dairy or Poultry Facilities.*

SECTION 1.

1.1. Intent.

It is the intent of this Article of this Zoning Ordinance to encourage economic development and to preserve farmland by providing for the viability of Madison County's agricultural sector by encouraging orderly and responsible growth of its livestock, dairy, and poultry industry.

Within the Conservation, C-1, or Agricultural, A-1, Zoning Districts of Madison County, all agricultural production activities (e.g., tillage, crop production, harvesting, pasturing of animals, etc.) related best management practices, and minor processing shall be uses by right to which the provisions of Articles 3 and 4 of the Madison County Zoning Ordinance apply. In addition, any agriculture production activity that is described in Articles 3 and 4 of the Madison County Zoning Ordinance and that is undertaken in accordance with the provisions of this chapter within the Conservation, C-1, or Agricultural, A-1, Zoning Districts of Madison County shall also be a use by right.

SECTION 2.

2.1. Definitions.

Intensive livestock facility, (hereafter, "livestock facility"): A livestock operation with accessory uses or structures, as defined below, which at any one time has at least 300 animal units as referenced in the below chart where:

1. Such animals are or will be stabled or confined and fed or maintained for a total of 45 consecutive days or more in any 12-month period; and
2. Crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

Intensive dairy facility, (hereafter "dairy facility"): A dairy operation with accessory uses or structures, as defined below, which at any one time has at least 300 animal units as referenced in the below chart where:

1. Such animals are or will be stabled or confined and fed or maintained for a total of 45 consecutive days or more in any 12-month period; and
2. Crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

Intensive poultry facility, (hereafter, "poultry facility"): A poultry operation with accessory uses or structures, as defined below, which at any one time has at least 500 turkeys or 1,000 laying hens or broilers as referenced in the chart below where:

1. Such animals are or will be stabled or confined and fed or maintained for a total of 45 consecutive days or more in any 12-month period; and
2. Crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the operation of the lot or facility.

TYPE OF FACILITY		*Equivalent of 300 animal units:*
A.	Livestock	300 slaughter and feeder cattle
	Livestock	750 swine each weighing over 55 lbs
	Livestock	150 horses
	Livestock	3,000 sheep or lambs
B.	Dairy	200 mature dairy cattle (whether milked or dry cows)
C.	Poultry	500 turkeys
	Poultry	1,000 laying hens or broilers

Livestock: includes all domestic or domesticated: Bovine animals, including but not limited to cattle, equine animals, including but not limited to horses; ovine animals, including but not limited to sheep; porcine animals, including but not limited to hogs.

Livestock, dairy, poultry structure: Any building, structure, installation, storage container or storage site used in the operations of an intensive livestock, dairy, or poultry facility, including but not limited to, feed storage bins, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, and dead poultry cold storage chests.

Livestock raiser, dairy operator, poultry grower, (hereafter, "operator"): The owner or operator of the livestock facility, dairy facility, or poultry facility or the land on which the livestock, dairy, or poultry facility is located.

Parcel of land: A measured portion of land separated from other portions of land by a metes and bounds description, or described as separate, discrete tract in an instrument of conveyance or devise, and recorded in the offices of the Clerk of the Circuit Court of Madison County, and shown on tax maps of Madison County located in the office of the Madison County Commissioner of Revenue.

SECTION 3.

3.1. *Acreage requirements.*

The minimum number of acres on which an intensive livestock, dairy, or poultry facility may be established shall be as follows:

1. For an intensive facility in which beef or dairy cattle are confined and fed, 60 acres or the number of acres required by the nutrient management plan, whichever is less, and which has been approved pursuant to section 5 herein;
2. For an intensive facility in which swine are confined and fed, 20 acres or the number of acres required by the nutrient management plan, whichever is less, and which has been approved pursuant to section 5 herein;
3. For intensive facility in which poultry are confined and fed, 20 acres or the number of acres required by the nutrient management plan, whichever is less, and which has been approved pursuant to section 5 herein.

All such acres for any one intensive facility need not be contiguous if the operator owns or has the right to possession of all acres on which such facility shall be established. In addition, the operator shall be able to demonstrate that he or she has a right to access between any non-contiguous acres in such operation.

Livestock, dairy, or poultry facilities in operation as of the effective date of this amendment which do not have sufficient acres, as required above, shall be considered non-conforming existing uses and may continue so long as the operation is not abandoned for as long as two years continuously.

3.2. *Setbacks from property line.*

Each livestock, dairy or poultry structure shall be set back from the owner's property line as follows:

1. In the Conservation, C-1 or Agriculture, A-1 Zoning Districts: 300 feet;

2.a) From an adjacent Zoning District that is not Conservation, C-1 or Agricultural, A-1: 600 feet;

b) The owner may reduce the above 600 feet setback to 400 feet if he/she plants a ten-foot-wide vegetative screen that will grow to at least six feet height in two years unless there is a natural barrier that meets the height and width requirements.

3.3. *Setbacks from public road.*

The setback for intensive livestock, dairy, or poultry structures from a public road shall be at least 300 feet.

3.4. *Other setbacks.*

All livestock, dairy, or poultry structures shall be set back at least 1,000 feet from incorporated towns, residential R-1, R-2, and R-3 Zoning Districts, mobile home parks, public schools, churches, County owned buildings, public recreation areas; public wells, public springs, and public water intakes.

The owner may reduce the above 1,000 feet setback to 800 feet if he/she plants a ten-foot wide vegetative screen that will grow to at least six feet in height in two years unless there is a natural barrier that meets the height and width requirements.

All livestock, dairy, or poultry structures shall be set back at least 100 feet from any well, stream, creek, river, or other water impoundment of any type.

3.5. *Plat/Affidavit required.*

The owner of an intensive facility constructed or completed after the effective date of this chapter shall file with the Zoning Administrator a plat or scaled drawing showing the entire parcels on which the facility is located and also showing the location of the facility within the parcel or parcels. With this plat or scaled drawing, the owner shall submit a written affidavit sworn to and subscribed before a notary public, by which the owner certified to the Zoning Administrator that the intensive facility shown on the plat or similar documentation meets all applicable setback requirements of this ordinance.

SECTION 4.

4.1. Livestock, dairy, or poultry facility development plans.

a) In the Conservation, C-1, or Agricultural, A-1, Zoning Districts, an owner of a livestock, dairy or poultry facility or a potential owner may file with the Zoning Administrator a development plan which indicates the number, size and location of livestock, dairy or poultry structures planned for the subject parcel. When such development plan has been approved by and filed with the Zoning Administrator and during the period in which it remains in effect, the planned structures shall be obliged to meet setbacks only from those property lines and uses existing at the time the development plan is approved. The Zoning Administrator shall approve within 30 days of receipt of the development plan, or if the development plan does not meet the requirements of sections 3 and 4, the Zoning Administrator shall return the development plan to the person who submitted it, together with a written description of the portion(s) of the development plan that do not comply with such sections.

b) The development plan shall be based on the requirements of this chapter and shall be accompanied by a plat or scaled drawing and affidavit verifying the accuracy of the distances shown in the development plan and containing all of the data required as specified pursuant to section 3 of this chapter.

c) The development plan shall remain in force only so long as the structures proposed are constructed in accordance with the development plan and are placed in service as described below.

d) At least one-third of the number of head of livestock or dairy animals, subject to this chapter of the ordinance or one poultry structure indicated in the development plan must be placed into service within 36 months of the date on which the development plan is approved by the Zoning Administrator, unless at least one-third of the number of livestock or dairy animals or one such poultry structure is already in service on the subject parcel at the time the development plan is filed.

e) The owner shall notify the Zoning Administrator in writing within 30 days of placement into service of any structure indicated in his/her development plan.

f) In the event an owner fails to build the proposed structure or have in place the minimum number of head required in the above section (d) or fails to obtain building permits for any of the structures indicated in his development plan within the prescribed five-year period, the Zoning Administrator shall revoke the development plan. All future development plans of the structure on the subject parcel shall conform to the requirements of this chapter.

g) Each parcel for which a development plan has been approved by the Zoning Administrator shall display at its entrance a sign no smaller than two square feet, or larger than four square feet, clearly visible from the nearest roadway, indicating that a development plan is in effect for the parcel and containing the words "Certified Agricultural Development Site."

h) Nothing herein shall be construed to prohibit an operator or a potential operator from submitting amendments to his or her original development plan or to submitting revised development plans at any time. The Zoning Administrator shall approve the amended or revised development plan, following the standards set forth in 4.1(a) above, according to the terms of the zoning ordinance in effect at the time that the amendments or revisions are submitted to the Zoning Administrator.

SECTION 5.

5.1. *Nutrient Management Plan.*

(a) No intensive facility shall commence operation until a nutrient management plan for the proposed facility has been reviewed and approved by the Virginia Department of Conservation and Recreation, or by the Virginia Extension Service, or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner.

Every intensive facility with liquid waste shall have sufficient on-site storage for a six-month supply of liquid waste. Every intensive facility with solid waste shall have sufficient on-site storage for one complete cleaning of the facility.

(b) If off-site disposal is part of the nutrient management plan, the operator shall provide, as part of that nutrient management plan, written documentation of an agreement with the receiver of the wastes produced at the owner's facility. Documentation shall specify the duration of the agreement and the nature of the application or use of the wastes. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such an agreement expires or is terminated by either party. The owner shall notify the Zoning Administrator whenever such an agreement is terminated before its stated expiration date within 15 days of such termination.

(c)(1) The facility shall also provide for a site, with or without a permanent structure, for the storage of animal wastes.

(2) If an owner is unable to locate a storage site on the same parcel of land because of insufficient acreage or topographical hardship, the Zoning Administrator may permit the storage site to be located on adjacent land of the owner; or, if there is valid agreement for off-site disposal as provided in this section, the Zoning Administrator may permit the storage site be located on a parcel specified in the agreement for off-site disposal.

(d) The nutrient management plan shall be reviewed and updated every five years by an agent of the Virginia Department of Conservation and Recreation, or by the Virginia Cooperative Extension Service, or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner.

3-11. *Limitations of Subdivisions in Conservation, C-1 District.* No lot, tract or parcel of land in the Conservation, C-1 District shall be subdivided into more than four smaller lots, tracts or parcels of land (including the residue if any) within any ten-year period. Except as provided above, no lot, tract or parcel of land in the Conservation, C-1 District created by subdivision in accordance herewith shall be further subdivided within ten years from the date the subdivision plat is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia. A lot, tract or parcel of land created by boundary adjustment in the Conservation, C-1 District shall not gain additional division rights until ten years from the date the plat or deed of boundary adjustment is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia.

ARTICLE 4. AGRICULTURAL, A-1

Statement of Intent

This district is established for the purpose of accommodating all types of rural, open land uses such as agriculture and forestry, along with kindred rural occupations. The basic aim is to promote farming as a continuing way of life in Madison County. The agricultural area should maintain a low development density allowing farm and local estate residences. Intensive suburban growth is less feasible. The permitted uses are broad enough to allow expanded residential uses in pre-planned and staged locations recognizing future trends of orderly growth, and at the same time discouraging random scattering of such uses throughout the district.

In addition to the zoning ordinances, uses in this zone may be subject to the requirements of Madison County's Subdivision Ordinance, Site Plan Ordinance, and/or Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance.

4-1. *Use Regulations.*

In the Agricultural District, A-1, no building shall be erected or altered and no building or premises shall be used for any purpose except the following:

Uses Permitted by Right

4-1-1. Same as Conservation, C-1.

4-1-2. Processing of farm and food products with wholesale sales.

4-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided in Article 14-3:

4-2-1. Same as Conservation, C-1 plus.

4-2-2. Hospital, clinic, and nursing home.

4-2-3. Dinner theater.

4-2-4. Airport or heliport.

4-2-5. Storage of explosives incidental to farm or construction activity.

4-2-6. Commercial greenhouse and plant nursery.

4-2-7. Commercial warehouse for bulk agricultural produce.

4-2-8. Welding and Blacksmith shop.

4-2-9. Small or medium alcohol fuel plants (See 20-8A and 20-8B for definition).

4-2-10. Furniture, cabinet, woodworking, or wood assembly shop under cover.

4-2-11. Small engine repair shop.

4-2-12. Automobile repair shop.

4-2-13. Bulk fertilizer blending, storage, and sales.

4-2-14. Farm supply sales, exclusive of new farm machinery.

4-2-15. Livestock market.

4-2-16. Mulch Production Facility.

4-2-17. Professional office (limited).

4-2-18. Two family dwelling (duplex) (limited).

4-2-19. Group home, child.

4-2-20. Processing of farm and food products with retail sales.

4-2-21. Farmers market.

4-2-22. Commercial slaughterhouse.

4-2-23. Auction establishment.

4-2-24. Event venue.

4-2-25. Rural resort.

(Ord. of 8-11-1994, § 1; Ord. of 3-18-1998, § 1; Ord. No. 2019-7, 5-1-2019)

4-3. *Area Regulations.*

The minimum lot area for permitted uses shall be three acres. All dwellings located on a single parcel shall require a minimum of three acres per dwelling.

(Ord. No. 2020-8, 3-4-2020)

4-4. *Setback Regulations.*

4-4-1. Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width, or 100 feet or more from the center line of any street right-of-way less than 50 feet in width.

4-4-2. All buildings must be located at or beyond the front setback line. All accessory buildings must be located ten feet or more from a side or rear property line.

(Ord. No. 2011-4, § 1, 4-12-2011)

4-5. *Lot Width Requirements.*

The minimum frontage for permitted uses shall be 250 feet at the setback line, or measured at the location of the foundation of the subject parcel's principal dwelling or accessory building. The minimum distance which the building is required to be located from the street right-of-way or center line shall be known as the setback line.

(Ord. No. 2020-9, 3-4-2020)

4-6. *Yard Regulations.*

4-6-1. *Side.* Each main structure shall have side yards of 25 feet or more.

4-6-2. *Rear.* Each main structure shall have a rear yard of 50 feet or more.

4-7. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

4-8. *Height Regulations.*

The height regulations for the Agricultural, A-1 District shall conform to the height regulations for the Residential Limited, R-1 District, as detailed in section 5-8. All agricultural uses are exempt from height restrictions.

4-9. *Off-street Parking.*

Off-street parking is subject to section 14-9 of this ordinance.

4-10. *Entrance Regulations.*

4-10-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison

County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

4-10-2. The centerline of any entrance onto U. S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U. S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U. S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

4-11. *Limitations of Subdivisions in Agricultural, A-1 Districts.* No lot, tractm or parcel of land in the Agricultural, A-1 District shall be subdivided into more than four smaller lots, tracts or parcels of land (including the residue, if any) within any ten-year period. Except as provided above, no lot, tract or parcel of land in the Agricultural, A-1 District created by subdivision in accordance herewith shall be further subdivided within ten years from the date the subdivision plat is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia. A lot, tract or parcel of land created by boundary adjustment in the Agricultural, A-1 District shall not gain additional division rights until ten years from the date the plat or deed of boundary adjustment is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia.

ARTICLE 5. RESIDENTIAL, LIMITED R-1

Statement of Intent

This district is established to provide quiet, low density residential areas in those portions of the County where they currently exist and where expansion of such low density areas can reasonably occur.

The regulations of this district are designed to promote harmonious residential communities and suitable environments for family life. Permitted uses thus are limited to relatively low concentrations of single family dwellings and complementary uses such as schools, churches, and parks and public facilities that serve the district's residents more intense uses such as commercial and industrial are considered inappropriate.

In addition to the zoning ordinances, uses in this zone may be subject to the requirements of Madison County's Subdivision Ordinance, Site Plan Ordinance, and/or Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance.

5-1. *Use Regulations.*

In the Residential, Limited (R-1) District, no building shall be erected or altered and no building or premises shall be used for any purpose except:

Uses Permitted by Right

5-1-1. Agriculture as defined, including gardens, excluding livestock on lots less than two acres.

5-1-2. Single family dwelling.

5-1-3. Church, parish hall, and rectory.

5-1-4. Public park and playground.

5-1-5. Public school.

5-1-6. Library.

5-1-7. Public Service Corporation transmission lines, poles, pipes, meters, transformers and other facilities necessary for the transmission and maintenance of public service utilities. Subject to Code of Virginia, § 15.1-456, as amended.

5-1-8. Accessory use and building.

5-1-9. Home occupation as defined.

5-1-10. Small wind energy system.

5-1-11. Solar energy system (see Article 14-16).

5-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided for in Article 14-3:

5-2-1. Livestock on lots less than two acres.

5-2-2. Wayside stand.

5-2-3. Cemetery.

5-2-4. Lodge, inn, or hotel with interior eating facilities or overnight lodging.

5-2-5. Private school and day care center.

5-2-6. Water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health.

5-2-7. Private park and playground.

5-2-8. Public or community building.

5-2-9. Two family dwelling (duplex).

5-2-10. Golf course.

5-2-11. Golf driving range.

5-2-12. Country club.

5-2-13. Professional office (limited).

5-2-14. Rooming or boarding house.

5-2-15. Antique, craft, or gift shop in a structure under 2,500 square feet.
(Ord. of 3-18-1998, § 2)

5-3. *Area Regulations.*

The minimum lot area for permitted uses shall be 1.5 acres (65,340 square feet) without public water and sewer systems, and one acre (43,560 square feet) with public water and sewer systems. All dwellings located on a parcel without public water and sewer shall require a minimum of 1.5 acres per dwelling; all dwellings located on a parcel with public water and sewer shall require a minimum of one acre per dwelling.
(Ord. No. 2020-8, 3-4-2020)

5-4. *Setback Regulations.*

Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center line of any street right-of-way less than 50 feet in width.

All accessory structures must be located ten feet or more from any property line.
(Ord. No. 2020-7, 3-4-2020)

5-5. *Lot Width Requirements.*

The minimum frontage for permitted uses shall be 150 feet at the setback line, or measured at the location of the foundation of the subject parcel's principal dwelling or accessory building. The minimum distance which the building is required to be located from the street right-of-way or center line shall be known as the setback line.
(Ord. No. 2020-9, 3-4-2020)

5-6. *Yard Regulations.*

5-6-1. *Side.* Each main structure shall have side yards of 15 feet or more.

5-6-2. *Rear.* Each main structure shall have a rear yard of 35 feet or more.

5-7. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

5-8. *Height Regulations.*

5-8-1. Buildings may be erected up to 35 feet in height from the average adjacent ground elevation except that:

5-8-2. The height limit for dwellings may be increased up to 45 feet and up to three stories provided each of the two side yards is ten feet, plus one foot or more for each additional foot of building height over 35 feet.

5-8-3. A public or semi-public building such as a school, church, library, or hospital may be erected to a height of 60 feet provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

5-8-4. Church spires, belfries, cupolas, monuments, water towers, fire towers, flues, flagpoles, television antennae, and radio aerials may exceed the height limit by no more than 25 feet. Parapet walls may be up to four feet above the height of the building on which the walls rest.

5-8-5. Additional height above the stated height regulations requires a special use permit as provided for under Article 14-3 of this ordinance.

5-8-6. No accessory building which is within 20 feet of any party lot line shall be more than 15 feet high. All accessory buildings shall be less than the main building in height.

5-9. *Off-street Parking.*

Off-street parking is subject to section 14-9 of this ordinance.

5-10. *Entrance Regulations.*

5-10-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

5-10-2. The centerline of any entrance onto U. S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U. S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the

Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U. S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

ARTICLE 6. RESIDENTIAL, GENERAL R-2

Statement of Intent

This district is established for the purpose of accommodating a variety of residential types including single family detached, single family semidetached, and single family attached units.

The district is designed to create viable rural residential neighborhood environments suitable for a mix of family types especially those with children. The district also is created to provide an alternative to the single family detached housing unit and to encourage the orderly planning and development of residential village communities. Therefore, the district should be located in those portions of Madison County within, adjacent to, or very near to existing villages or settlements where neighborhoods currently exist. All commercial, industrial and agricultural uses are excluded.

Development in this district may utilize individual wells or sewage disposal systems, provided that all applicable State Health Department and State Water Control Board regulations are met.

In addition to the zoning ordinance, uses in this zone may be subject to the requirements of Madison County Subdivision Ordinance, Site Plan Ordinance, Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance. All multiple family uses are subject to the Site Plan Ordinance.

6-1. *Use Regulations.*

In the Residential, General District R-2 no building shall be erected or altered and no building or premises shall be used for any purpose except the following:

Uses Permitted by Right

6-1-1. Single detached dwelling.

6-1-2. Two-family dwelling (duplex).

6-1-3. Rooming and boarding house.

6-1-4. Church, public school, parish hall, rectory and library.

6-1-5. Public and private park and playground.

6-1-6. Accessory use and building.

6-1-7. Public Service Corporation transmission lines, poles, pipes, meters, transformers, and other facilities necessary for the transmission of public service utilities. Subject to Code of Virginia, § 15.1-456, as amended.

6-1-8. Home garden as defined.

6-1-9. Home occupation as defined.

6-1-10. Solar energy system (see Article 14-16, roof-mounted only).

6-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided in Article 14-3:

6-2-1. Three family dwelling.

6-2-2. Four family dwelling.

6-2-3. Townhouse.

6-2-4. Agriculture exclusive of keeping of livestock or poultry.

6-2-5. Hospital, clinic, and nursing home.

6-2-6. Professional office (limited).

6-2-7. Water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health.

6-2-8. Club and lodge, without overnight lodging.

6-2-9. Small wind energy system.
(Ord. of 3-18-1998, § 3)

6-3. *Area Regulations.*

6-3-1. The minimum lot area for permitted uses shall be 1.5 acres (65,340 square feet) without public water and sewer systems, and three-quarters acre (32,670 square feet) with public water and sewer systems. For uses utilizing individual on-site water and on-site sanitary disposal, the required area shall be approved by the Health Official. The Administrator may require a greater area if considered necessary by the Health Official.

No development within this district shall have a density greater than six dwelling units per gross acre of site area, nor shall buildings on any parcel within this district cover more than 12.5 percent of the total lot area.

6-3-2. Maximum Building Grouping - In any townhouse development, no more than eight town-houses shall be grouped contiguous to each other.

6-4. *Setback Regulations.*

6-4-1. Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center line of any street right-of-way less than 50 feet in width.

6-4-2. All accessory buildings must be located ten feet or more from any property line.
(Ord. No. 2020-7, 3-4-2020)

6-5. *Lot Width Requirements.*

The minimum frontage for permitted uses shall be 150 feet at the setback line, or measured at the location of the foundation of the subject parcel's principal dwelling or accessory building. The minimum distance which the building is required to be located from the street right-of-way or center line shall be known as the setback line.

All Townhouse lots shall have a minimum width of 16 feet.
(Ord. No. 2020-9, 3-4-2020)

6-6. *Yard Regulations.*

6-6-1. *Side.* Each main structure or group of structures shall have a side yard of ten feet.

6-6-2. *Rear.* Each main structure or group of structures shall have a rear yard of 25 feet or more.

6-7. *Sign Regulations.*

6-7-1. Signs shall conform to Article 12 of this ordinance.

6-8. *Height Regulations.*

6-8-1. Buildings may be erected up to 35 feet from the average adjacent ground elevation except that:

6-8-2. The height limit for dwellings may be increased ten feet and up to three stories provided there are two side yards for each permitted use, each of which is ten feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.

6-8-3. A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet from the average adjacent ground elevation provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

6-8-4. Church spires, belfries, cupolas, monuments, water towers, fire towers, chimneys, flues, television antennae, and radio aerials may exceed the height limitation by 25 feet.

6-8-5. Additional height requires a Special Use Permit as provided for under Article 14-3. Parapet walls may be up to four feet above the height of the building on which the walls rest.

6-8-6. All accessory buildings shall be less than the main building in height.

6-9. *Off-street Parking.*

Off-street parking is subject to section 14-9 of this ordinance.

6-10. *Entrance Regulations.*

6-10-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recom-

mendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

6-10-2. The centerline of any entrance onto U. S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U.S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U.S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

ARTICLE 7. RESIDENTIAL MULTIPLE FAMILY R-3

Statement of Intent

This district is established to provide a mixture of multi-family dwellings, such as apartments, at a density not to exceed eight dwelling units per acre. The district is designed to be part of a viable residential neighborhood environment which includes households of varying types, including those with children. Because this zone permits the highest residential density in Madison County, development within an R-3 zone must include the careful design and construction of recreation and pedestrian circulation improvements, parking areas, and the adequate provision of useable open space.

To ensure orderly planning and development under this zone in conjunction with other residential neighborhoods, this zone shall be located adjacent to R-2 zones, or within or adjacent to existing towns, villages, or settlements of Madison County. An R-3 zone shall only be established where public water and sewer facilities are available. Further, this zone requires adequate, safe access to protect its residents and the surrounding uses. Therefore, the zone shall be located adjacent to a major transportation route or traffic collector of the County.

In addition to the zoning ordinance, uses in this zone may be subject to the requirements of Madison County Subdivision Ordinance, Site Plan Ordinance, Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance. All multiple family uses are subject to the Site Plan Ordinance.

7-1. *Use Regulations.*

In the Residential Multiple Family District R-3 no building shall be erected or altered and no building or premises shall be used for any purpose except the following:

Uses Permitted by Right

7-1-1. Single detached dwelling.

7-1-2. Multiple family dwelling (apartment).

7-1-3. Townhouse.

7-1-4. Public Service Corporation transmission lines, poles, pipes, meters, transformers and other facilities necessary for the transmission and maintenance of public service utilities. Subject to Code of Virginia, § 15.1-456, as amended.

7-1-5. Home occupation as defined.

7-1-6. Solar energy system (see Article 14-16, roof-mounted only).

7-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided in Article 14-3:

7-2-1. Agriculture exclusive of keeping of livestock or poultry.

7-2-2. Hospital, clinic, and nursing home.

7-2-3. Professional office (limited).

7-2-4. Water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health.

7-2-5. Club and lodge, without overnight lodging.

7-2-6. Small wind energy system.
(Ord. of 3-18-1998, § 4)

7-3. *Area Regulations.*

7-3-1. The minimum lot area shall be 10,000 square feet plus 2,000 square feet for each additional dwelling unit. The Administrator may require a greater area if considered necessary by the Health Official.

No development within this district shall have a density greater than eight dwelling units per gross acre of site area nor shall buildings on any parcel within this district cover more than 35 percent of the total lot area.

7-3-2. Open Space Requirements. The site for any multiple family or single family attached dwellings, shall provide 40 percent of the lot area as open space. When individual ownership of dwelling units exist, this space may be privately owned by the homeowners.

7-3-3. Maximum Building Grouping. Not more than eight townhouses or attached dwelling units shall be included in any one grouping, and no more than eight dwelling units shall be included within any multiple-family dwelling, except housing for older persons not exceeding 60 dwelling units may be included within a multiple-family dwelling. The maximum frontal length of any building or structure in this zone shall not exceed 200 feet, except such maximum frontal length shall not apply to a multiple-family dwelling used as housing for older persons not exceeding 60 dwelling units.

7-4. *Setback Regulations.*

7-4-1. Structures shall be located 35 feet or more from any street right-of-way which is 50 feet or greater in width, or 60 feet or more from the center line of any street right-of-way less than 50 feet in width.

7-4-2. All accessory buildings must be located ten feet or more from any property line except that no accessory building may be located closer to the front of a lot than the main structure.

7-5. *Lot Width Requirements.*

The minimum frontage for permitted uses shall be 150 feet at the setback line, or measured at the location of the foundation of the subject parcel's principal dwelling or accessory building. The minimum distance which the building is required to be located from the street right-of-way or center line shall be known as the setback line.

All Townhouse lots shall have a minimum width of 16 feet.

(Ord. No. 2020-9, 3-4-2020)

7-6. *Yard Regulations.*

7-6-1. *Side.* Each main structure or group of structures shall have a side yard of ten feet.

7-6-2. *Rear.* Each main structure or group of structures shall have a rear yard of 25 feet or more.

7-7. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

7-8. *Height Regulations.*

7-8-1. Buildings may be erected up to 35 feet from the average adjacent ground elevation except that:

7-8-2. The height limit for dwellings may be increased ten feet and up to three stories provided there are two side yards for each permitted use, each of which is ten feet or more, plus one foot or more of side yard for each additional foot of building height over 35 feet.

7-8-3. A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet from the average adjacent ground elevation provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

7-8-4. Church spires, belfries, cupolas, monuments, water towers, fire towers, chimneys, flues, television antennae, and radio aerials may exceed the height limitation by 25 feet.

7-8-5. Additional height requires a Special Use Permit as provided for under Article 14-3. Parapet walls may be up to four feet above the height of the building on which the walls rest.

7-8-6. All accessory buildings shall be less than the main building in height.

7-9. *Off-street Parking.*

Off-street parking is subject to section 14-9 of this ordinance.

7-10. *Entrance Regulations.*

7-10-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

7-10-2. The centerline of any entrance onto U.S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U.S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U.S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

ARTICLE 8. BUSINESS, GENERAL B-1

Statement of Intent

This district is established for the purpose of accommodating general commercial and business uses to which the public requires direct and frequent access. Thus, it will normally be located on arterial

highways which are adjacent to or in close proximity to population centers. The district is not to be characterized either by constant heavy trucking other than stocking and retailing of retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles.

In addition to the zoning ordinance, uses in this zone may be subject to the requirements of Madison County Subdivision Ordinance, Site Plan Ordinance, Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance.

8-1. *Use Regulations.*

In the Business, General District, B-1, no building shall be erected or altered and no building or premises shall be used for any purpose except the following:

Uses Permitted by Right

8-1-1. Retail Store (such as: agricultural supply store, auction establishment, bakery, building material yard, drug store, furniture store, general store, gift and antique shop, hardware store, lumber and building supply with storage under cover, plumbing and electrical supply with storage under cover, wearing apparel store).

8-1-2. Service Business (such as: auto and home appliance service, automobile sales and rental, automobile service station, barber and beauty shop, car wash, caterer, day care center, dry cleaner, funeral home, indoor health club or fitness center, laundry and laundromat, machinery sales and service, mobile home or travel sales and service, print shop).

8-1-3. Public Use (such as: assembly hall, bank and saving and loan institution, church, clinic and nursing home, club and lodge, hospital, hotel, library, motel, office building, private school and day care center, public building, restaurant, theater, veterinary clinic/hospital with no outdoor facilities).

8-1-4. Public Services (such as: firehouse and rescue stations. Public Service Corporation transmission lines, poles, pipes, meters, transformers, and other facilities necessary for the transmission and maintenance of public service utilities (Subject to Code of Virginia, § 15.1-456, as amended), water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health).

8-1-5. Light Process/Industrial (such as: cabinet maker and repair, cannery, commercial dairy, farm winery with wholesale and/or retail sales, frozen food locker with processing, ice storage and supply, machine shop, welding or blacksmith shop).

8-1-6. General (such as: accessory use and building as defined, office trailer temporary use, small wind energy system up to 60 feet).

8-1-7. Residential/Business Solar Energy Systems. See Article 14, section 17.
(Ord. No. 2019-6, 1-2-2019)

8-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided in Article 14-3:

8-2-1. Apartment house in existing structures only.

8-2-2. Apartment or dwelling located in the main business structure as a secondary use and lived in by an owner, caretaker, or tenant; or a single family detached dwelling if such dwelling was lawfully built prior to the date of the special use application.

8-2-3. Broadcasting station and facility.

8-2-4. Drive-in theater.

8-2-5. Office trailer - continuous operation.

8-2-6. Public range.

8-2-7. Small wind energy system with a tower height of greater than 60 feet to 100 feet.

8-2-8. Veterinary clinic/hospital and kennel with run out or animal run.

8-2-9. Generating, booster, or relay station (main).

8-2-10. Indoor commercial firearm and/or archery range facility.

8-3. *Area Regulations.*

None, except for permitted uses utilizing an individual sewage disposal system. The required area for any such use shall be approved by the Health Official.

8-4. *Setback Regulations.*

8-4-1. Buildings shall be located 45 feet or more from any street right-of-way which is 50 feet or greater in width or 70 feet or more from the center line of any street right-of-way less than 50 feet in width.

The minimum distance which the main building is required to be located from the street right-of-way or center line shall be known as the setback line.

8-4-2. All buildings must be located at or beyond the front setback line. All accessory buildings must be located ten feet or more from a side or rear property line.

(Ord. No. 2011-4, § 1, 4-12-2011)

8-5. *Yard Regulations.*

None, except when permitted uses adjoins or is adjacent to a residential, agricultural or conservation zone, the minimum side and rear yards shall be 50 feet.

8-6. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

8-7. *Height Regulations.*

8-7-1. Buildings may be erected up to 35 feet in height from the average adjacent ground elevation except that:

8-7-2. The height limit for dwellings may be increased up to 45 feet and up to three stories provided each of the two side yards is ten feet, plus one foot or more for each additional foot of building height over 35 feet.

8-7-3. A public or semi-public building such as a school, church, library, or hospital may be erected to a height of 60 feet provided that required front, side, and rear yards shall be increased one foot for each foot in height over 35 feet.

8-7-4. Church spires, belfries, cupolas, monuments, water towers, fire towers, flues, flagpoles, television antennae, and radio aerials may exceed the height limit by no more than 25 feet. Parapet walls may be up to four feet above the height of the building on which the walls rest.

8-7-5. Additional height above the stated height regulations requires a special use permit as provided for under Article 14-3.

8-7-6. No accessory building which is within ten feet of any party lot line shall be more than 15 feet high. All accessory buildings shall be less than the main building in height.

8-8. *Off-street Parking and Loading.*

Off-street parking and loading are subject to sections 14-9 and 14-10 of this ordinance.

8-9. *Entrance Regulations.*

8-9-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

8-9-2. The centerline of any entrance onto U.S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U.S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors, after recommendation from the Planning Commission and approval of the Virginia Department of Transportation, finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U.S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

ARTICLE 9. INDUSTRIAL, LIMITED M-1

Statement of Intent

This district is established to permit certain light to median industrial uses near a labor supply for which satisfactory evidence is presented that such uses, either by right or special use permit, will not adversely affect any contiguous district by reason of odor, glare, smoke, dust, vibration, noise, sight, or contamination of water, air, and land. Such establishments shall not result in any unusual danger of fire, explosion, drowning, or hazard to life or limb.

In addition to the zoning ordinance, uses in this zone may be subject to the requirements of Madison County Subdivision Ordinance, Site Plan Ordinance, Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance.

9-1. *Use Regulations.*

In the Industrial, Limited District M-1, no building shall be erected or altered and no building or premises shall be used for any purpose except:

Uses Permitted by Right

9-1-1. Accessory use and building as defined.

9-1-2. Manufacture or assembly plant for small equipment.

9-1-3. Heavy equipment sales and service.

9-1-4. Commercial greenhouse.

9-1-5. Contractor's equipment storage yard and office.

9-1-6. Manufacture, compounding, processing of apparel, agricultural produce, bakery goods, candy, drugs, perfumes, pharmaceutical, toiletries, food products, musical instruments, toys, pottery, baskets, figurines or other similar ceramic products.

9-1-7. Bank and saving and loan association.

9-1-8. Restaurant.

9-1-9. Office building.

9-1-10. Warehousing and wholesale commercial use.

9-1-11. Heliport.

9-1-12. Laboratory (pharmaceutical or medical).

9-1-13. Research and development facility.

9-1-14. Trade school.

9-1-15. Public Service Corporation transmission lines, poles, pipes, meters, transformers, and other facilities necessary for the transmission and maintenance of public service utilities. Subject to Code of Virginia, § 15.1-456, as amended.

9-1-16. Small wind energy system.

9-1-17. Commercial slaughterhouse.

9-1-18 Retail Store (such as: agricultural supply store, auction establishment, bakery, building material yard, drug store, furniture store, general store, gift and antique shop, hardware store, lumber and building supply with storage under cover, plumbing and electrical supply with storage under cover, wearing apparel store).

9-1-19 Service Business (such as: auto and home appliance service, automobile sales and rental, automobile service station, barber and beauty shop, car wash, caterer, day care center, dry cleaner, funeral home, indoor health club or fitness center, laundry and laundromat, machinery sales and service, mobile home or travel sales and service, print shop).

9-1-20 Public Use (such as: assembly hall, bank and saving and loan institution, church, clinic and nursing home, club and lodge, hospital, hotel, library, motel, office building, private school and day care center, public building, restaurant, theater, veterinary clinic/hospital with no outdoor facilities).

9-1-21 Public Services (such as: firehouse and rescue stations. Public Service Corporation transmission lines, poles, pipes, meters, transformers, and other facilities necessary for the transmission and maintenance of public service utilities (Subject to Code of Virginia, § 15.1-456, as amended), Water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health).

9-1-22 Light Process/Industrial (such as: cabinet maker and repair, cannery, commercial dairy, farm, winery with wholesale and/or retail sales, frozen food locker with processing, ice storage and supply, machine shop, welding or blacksmith shop).

9-1-23 General (such as: accessory use and building as defined, office trailer temporary use, small wind energy system up to 60 feet).

9-1-24 Indoor shooting range and fuel distribution for wholesale and retail.

9-1-25 Moving and storage facility.

9-1-26 Truck terminal.

9-1-27 Welding or blacksmith shop.

9-1-28 Septic tank sales and service.

9-1-29 Mobile home and travel trailer sales and service.

9-1-30 Indoor health club.

9-1-31 Day care center.

9-1-32 Office trailer.

9-1-33 Retail store.

9-1-34 Automobile sales and rental.

9-1-35 Small wind energy system with a tower height of greater than 60 feet to 100 feet.

9-1-36 Mixed Use Building(s). (Added in March 2020)

9-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided for in Article 14-3, such as:

9-2-1. Any use requiring laboratory analysis and testing of animals, vegetables or minerals.

9-2-2. Manufacture or finishing of modular units made from wood or other materials and designed for use as components in building construction of all types, including furniture.

9-2-3. Petroleum storage.

9-2-4. Wood preserving operation.

9-2-5. Meat, poultry and fish processing.

9-2-6. Generating, booster or relay station (main).

9-2-7. Other limited industrial use of a similar nature not specifically enumerated in this article of the ordinance.

9-2-8. Biodiesel fuel production for wholesale or retail sale.

9-2-9. Indoor commercial firearm and/or archery range facility.

9-2-10. Solar farm.
(Ord. of 8-2019; Ord. No. 2020-3, 3-4-2020)

9-3. *Area Regulations.*

None, except that area required to meet the regulations of this article and the regulations of the State Health Department and the Virginia Department of Transportation.

9-4. *Maximum Percent of Lot Coverage.*

9-4-1. Eighty percent of lot, provided off-street parking and loading space is sufficient to accommodate the use proposed.

9-4-2. Fifty (50) percent of the lot for any building in excess of 50 feet in height.

9-4-3. Lot coverage shall include buildings, roads, parking, loading, and other pavement coverage.

9-5. *Setback Regulations.*

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width and 75 feet or more from the center line of any street right-of-way less than 50 feet in width.

9-6. *Frontage Regulations.*

The minimum frontage for permitted uses shall be 80 feet at the building setback line. The minimum distance which the main building is required to be located from the street right-of-way or center line shall be known as the setback line.

9-7. *Yard Regulations.*

The minimum side and rear yards shall be 15 feet except that when the permitted use adjoins or is adjacent to a residential, agriculture, or conservation zone, the minimum side and rear yards shall be 60 feet.

9-8. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

9-9. *Height Regulations.*

9-9-1. Buildings may be erected up to 50 feet in height from the average adjacent ground elevation except that:

9-9-2. When a building exceeds 40 feet in height, side and rear yard setbacks shall be increased by one foot for each one foot in height above 40 feet.

9-9-3. A public or semi-public building such as a school, church, library, or hospital may be erected to a height of 60 feet provided that required front, side, and rear yards shall be increased one foot for each foot in height over 40 feet.

9-9-4. Church spires, belfries, cupolas, monuments, water towers, fire towers, flues, flagpoles, television antennae, and radio aerials may exceed the height limit by no more than 25 feet. Parapet walls may be up to four feet above the height of the building on which the walls rest.

9-9-5. Additional height above the stated height regulations requires a special use permit as provided for under Article 14-3.

9-9-6. No accessory building which is within 20 feet of any party lot line shall be more than 15 feet high. All accessory buildings shall be less than the main building in height.

9-10. *Special Provisions for Accessory Buildings Setback Regulations.*

All buildings must be located at or beyond the front setback line. All accessory buildings must be located 20 feet or more from a side or rear property line.

(Ord. No. 2011-4, § 1, 4-12-2011)

9-11. *Off-street Parking and Loading.*

Off-street parking and loading is subject to sections 14-9 and 14-10 of this ordinance.

9-12. *Entrance Regulations.*

9-12-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and

provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

9-12-2. The centerline of any entrance onto U.S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U.S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900-foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U.S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

ARTICLE 10. INDUSTRIAL, GENERAL M-2

Statement of Intent

This district is established to permit certain general industrial uses which may create some nuisance, and which are not properly associated with, nor particularly compatible with, residential, institutional, and neighborhood commercial service establishments. It is specifically the intent of this district to encourage the construction of and the continued use of land for heavy commercial and industrial purposes, and to prohibit residential and neighborhood commercial uses and to prohibit any other use which would substantially interfere with the development, continuation, or expansion of commercial and industrial uses in the district.

To ensure that the district has a minimal impact on Madison County's existing environment and character, it must be carefully planned and developed. The location of the district must have a close proximity to public water and public sewer and major highways. Further, gentle to moderate topography and suitable soils should be present.

In addition to the zoning ordinance, uses in this zone may be subject to the requirements of Madison County Subdivision Ordinance, Site Plan Ordinance, Soil Erosion and Sedimentation Control Ordinance, and/or Floodplain Management Ordinance.

10-1. *Use Regulations.*

In the Industrial, General District M-2, no building shall be erected or altered and no building or premises shall be used for any purpose except:

Uses Permitted by Right, such as:

10-1-1. Accessory use and building as defined.

10-1-2. Manufacture or assembly plant for small equipment.

10-1-3. Heavy equipment sales and service.

10-1-4. Commercial greenhouse.

10-1-5. Contractor's equipment storage yard and office.

10-1-6. Manufacture, compounding, processing of apparel, agricultural produce, bakery goods, candy, drugs, perfumes, pharmaceutical, toiletries, food products, musical instruments, toys, pottery, baskets, figurines or other similar ceramic products.

10-1-7. Bank and saving and loan association.

10-1-8. Restaurant.

10-1-9. Office building.

10-1-10. Warehousing and wholesale commercial use.

10-1-11. Heliport.

10-1-12. Laboratory (pharmaceutical or medical).

10-1-13. Research and development facility.

10-1-14. Trade school.

10-1-15. Public service corporation transmission lines, poles, pipes, meters, transformers and other facilities necessary for the transmission and maintenance of public service utilities. Subject to Code of Virginia, § 15.1-456, as amended.

10-1-16. Bottling work.

10-1-17. Monument work.

10-1-18. Manufacture or finishing of modular units made from wood or other materials and designed for use as components in building construction of all types, including furniture.

10-1-19. Petroleum storage.

10-1-20. Drive-in theater.

10-1-21. Moving or storage facility.

10-1-22. Truck terminal.

10-1-23. Coal and wood yard.

10-1-24. Welding or blacksmith shop.

10-1-25. Permanent sawmill or planing mill.

10-1-26. Septic tank sales, service and manufacturing.

10-1-27. Wood preserving operation.

10-1-28. Manufacture of brick or cinder block.

10-1-29. Small wind energy system.

10-1-30. Commercial slaughterhouse.

10-1-31. Retail Store (such as: agricultural supply store, auction establishment, bakery, building material yard, drug store, furniture store, general store, gift and antique shop, hardware store, lumber and building supply with storage under cover, plumbing and electrical supply with storage under cover, wearing apparel store).

10-1-32. Service Business (such as: auto and home appliance service, automobile sales and rental, automobile service station, barber and beauty shop, car wash, caterer, day care center, dry cleaner, funeral home, indoor health club or fitness center, laundry and laundromat, machinery sales and service, mobile home or travel sales and service, print shop).

10-1-33. Public Use (such as: assembly hall, bank and saving and loan institution, church, clinic and nursing home, club and lodge, hospital, hotel, library, motel, office building, private school and day care center, public building, restaurant, theater, veterinary clinic/hospital with no outdoor facilities).

10-1-34. Public Services (such as: firehouse and rescue stations. Public Service Corporation transmission lines, poles, pipes, meters, transformers, and other facilities necessary for the transmission and maintenance of public service utilities (subject to Code of Virginia, § 15.1-456, as amended), water and sewage treatment or distribution facilities where same are required by state and/or federal regulations to protect the public health).

10-1-35. Light Process/Industrial (such as: cabinet maker and repair, cannery, commercial dairy, farm, winery with wholesale and/or retail sales, frozen food locker with processing, ice storage and supply, machine shop, welding or blacksmith shop).

10-1-36. General (such as: accessory use and building as defined, office trailer temporary use, small wind energy system up to 60 feet).

10-1-37. Indoor shooting range and fuel distribution for wholesale and retail.

10-1-38. Moving and storage facility.

10-1-39. Truck terminal.

10-1-40. Welding or blacksmith shop.

10-1-41. Septic tank sales and service.

10-1-42. Mobile home and travel trailer sales and service.

10-1-43. Indoor health club.

10-1-44. Day care center.

10-1-45. Office trailer.

10-1-46. Retail store.

10-1-47. Automobile sales and rental.

10-1-48. Small wind energy system with a tower height of greater than 60 feet to 100 feet.

10-2. *Special Permit Uses.* The following uses may also be permitted subject to securing a special use permit as provided for in Article 14-3, such as:

10-2-1. Natural resource extraction and processing.

10-2-2. Concrete batching plant.

10-2-3. Asphalt plant.

10-2-4. Meat, poultry and fish processing.

10-2-5. Crushed stone operation or quarrying.

10-2-6. Auto, truck and farm equipment junkyard.

10-2-7. Public service corporation generating, booster, or relay station (Main).

10-2-8. Other general industrial use of a similar nature not specifically enumerated in this article of the ordinance.

10-2-9. Office trailer.

10-2-10. Indoor health club.

10-2-11. Biodiesel fuel production for wholesale or retail sale.

10-3. *Area Regulations.*

None, except that area required to meet the regulations of this Article and the regulations of the State Health Department and the Virginia Department of Transportation.

10-4. *Maximum Percent of Lot Coverage.*

10-4-1. Eighty percent of lot, provided off-street parking and loading space is sufficient to accommodate the use proposed.

10-4-2. Fifty percent of the lot for any building in excess of 50 feet in height.

10-4-3. Lot coverage shall include buildings, roads, parking, loading, and other pavement coverage.

10-5. *Setback Regulations.*

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width and 75 feet or more from the center line of any street right-of-way less than 50 feet in width.

10-6. *Frontage Regulations.*

The minimum frontage for permitted uses shall be 100 feet at the building setback line. The minimum distance which the main building is required to be located from the street right-of-way or center line shall be known as the setback line.

10-7. *Yard Regulations.*

The minimum side and rear yards shall be 20 feet except that when the permitted use adjoins or is adjacent to a residential, agricultural, or conservation zone, the minimum side and rear yards shall be 100 feet.

10-8. *Sign Regulations.*

Signs shall conform to Article 12 of this ordinance.

10-9. *Height Regulations.*

10-9-1. Buildings may be erected up to 50 feet in height from the average adjacent ground elevation except that:

10-9-2. When a building exceeds 40 feet in height, side and rear yard setbacks shall be increased by one foot for each one foot in height above 40 feet.

10-9-3. A public or semi-public building such as a school, church, library, or hospital may be erected to a height of 60 feet, provided that required front, side, and rear yards shall be increased one foot for each foot in height over 40 feet.

10-9-4. Church spires, belfries, cupolas, monuments, water towers, fire towers, flues, flagpoles, television antennae, and radio aerials may exceed the height limit by no more than 25 feet. Parapet walls may be up to four feet above the height of the building on which the walls rest.

10-9-5. Additional height above the stated height regulations requires a special use permit as provided for under Article 14-3.

10-9-6. No accessory building which is within 20 feet of any party lot line shall be more than 15 feet high. All accessory buildings shall be less than the main building in height.

10-10. *Special Provisions for Accessory Buildings.*

No regulation, except that no accessory building shall be closer to a side or rear property line than 20 feet. No accessory buildings are permitted in the front of the setback line for the main building.

10-11. *Off-street Parking and Loading.*

Off-street parking and loading is subject to sections 14-9 and 14-10 of this ordinance.

10-12. *Entrance Regulations.*

10-12-1. The centerline of any entrance onto a Virginia primary road shall be 600 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on a Virginia primary road and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and

provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 600 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

10-12-2. The centerline of any entrance onto U.S. Route 29 shall be 900 feet or more from the centerline of any adjacent entrance; provided, however, each parcel of land that fronts on U.S. Route 29 and is recorded in the Clerk's Office of the Circuit Court of Madison County prior to June 20, 1990, shall be permitted to have at least one such entrance; and provided further that the aforesaid distance between entrances may be decreased to a point of nearest relief upon application by special use permit if the Board of Supervisors after recommendation from the Planning Commission and approval of the Virginia Department of Transportation finds that exceptional topographical conditions such as rock formations or floodplain areas justify such decrease.

Each application for a special use permit under this paragraph shall include a plat of survey showing both the 900 foot entrance point and the point of nearest relief. After approval, said plat of survey shall be recorded by the applicant in the Clerk's Office of the Circuit Court of Madison County.

Entrances shall be located at crossover points on U.S. Route 29 if feasible and required by the Virginia Department of Transportation.

The aforesaid entrance regulation shall not apply to U.S. Route 29 Business.

ARTICLE 11. FLOOD PROTECTION

ARTICLE I. GENERAL PROVISIONS

Section 1.1. Statutory Authorization and Purpose. 44 CFR 59.22(a)(2)

This ordinance is adopted pursuant to the authority granted to localities by Virginia Code, § 15.2-2280.

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

A. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and

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

(Ord. No. 2014-2, § 1.1, 5-7-2014)

Section 1.2. Applicability.

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the County, and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to the County, by FEMA.

Section 1.3. Compliance and Liability.

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

B. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.

C. This ordinance shall not create liability on the part of the County, or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 1.4. Records. 44 CFR 59.22(a)(9)(iii)

Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

Section 1.5. Abrogation. 44 CFR 60.1(b)

This ordinance supersedes any ordinance currently in effect in flood-prone districts. This ordinance shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

Section 1.6. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

Section 1.7. Penalty for Violations. 44 CFR 60.2(e)

Any person who fails to comply with any of the requirements or provisions of this ordinance or directions of the Floodplain Administrator shall be guilty of the appropriate violation and subject to the penalties therefor.

The VA USBC addresses building code violations and the associated penalties in sections 104 and 115. Violations and associated penalties of the Zoning Ordinance of Madison County, Virginia, are addressed in section 19.3 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the County, to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

Section 1.8. Definitions. 44 CFR 59.1

A. *Appurtenant or accessory structure.* Accessory structures not to exceed 200 square feet.

B. *Base flood.* The flood having a one percent chance of being equaled or exceeded in any given year.

C. *Base flood elevation.* The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

D. *Basement.* Any area of the building having its floor sub-grade (below ground level) on all sides.

E. *Board of Zoning Appeals.* The Board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

F. *Development.* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

G. *Elevated building.* A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

H. *Encroachment.* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

I. *Existing construction.* Structures for which the "start of construction" commenced before the effective date of the FIRM or before April 3, 1989, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

J. *Flood or flooding.*

1. A general or temporary condition of partial or complete inundation of normally dry land areas from

   a. The overflow of inland or tidal waters; or

   b. The unusual and rapid accumulation or runoff of surface waters from any source.

   c. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1(a) of this definition.

K. *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. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

L. *Flood Insurance Study (FIS).* A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

M. *Floodplain or flood-prone area.* Any land area susceptible to being inundated by water from any source.

N. *Flood proofing.* Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

O. *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.

P. *Freeboard.* A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed. When a freeboard is included in the height of a structure, the flood insurance premiums may be less expensive.

Q. *Highest adjacent grade.* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

R. *Historic structure.* Any structure that is:

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

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

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

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without approved programs.

S. *Hydrologic and Hydraulic Engineering Analysis.* Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

T. *Letters of Map Change (LOMC).* A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA). An amendment based on technical data showing that a property was incorrectly included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a Land as defined by meets and bounds or structure is not located in a Special Flood Hazard Area.

Letter of Map Revision (LOMR). A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR). A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of Special Flood Hazard Areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

U. *Lowest adjacent grade.* The lowest natural elevation of the ground surface next to the walls of a structure.

V. *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 other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44 CFR 60.3.

W. *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, but does not include a recreational vehicle.

X. *New construction.* For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after April 3, 1989, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Y. *Post-FIRM structures.* A structure for which construction or substantial improvement occurred on or after April 3, 1989.

Z. *Pre-FIRM structures.* A structure for which construction or substantial improvement occurred on or before April 3, 1989.

AA. *Recreational vehicle.* A vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

BB. *Repetitive Loss Structure.* A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions, in which the cost of the repair, on the average, equalled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

CC. *Severe repetitive loss structure.* A structure that: 1. Is covered under a contract for flood insurance made available under the NFIP; and 2. Has incurred flood related damage: (a) For which four or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding $5,000.00, and with the cumulative amount of such claims payments exceeding $20,000.00; or (b) For which at least two separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

DD. *Shallow flooding area.* A Special Flood Hazard Area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

EE. *Special Flood Hazard Area.* The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in article 3, section 3.1 of this ordinance.

FF. *Start of construction.* For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

GG. *Structure.* For floodplain management purposes, a walled and roofed building or a manufactured home.

HH. *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 percent of the market value of the structure before the damage occurred.

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

1. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure; or
3. historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of

the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

JJ. *Violation.* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 3.7 B11, section 4.3 B, section 4.4 A, section 4.5, and section 4.8 is presumed to be in violation until such time as that documentation is provided.

KK. *Watercourse.* A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE II. ADMINISTRATION

Section 2.1. Designation of the Floodplain Administrator. 44 CFR 59.22(b)

The Madison County Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

Section 2.2. Duties and Responsibilities of the Floodplain Administrator. 44 CFR 60.3

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 (SFHA).

(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, or structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(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 non-compliance has occurred or violations have been committed.

(H) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

(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 County, 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 Change; 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, other required design certifications, variances, 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 or stop work orders, and require permit holders to take corrective action.

(L) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance and prepare a staff report.

(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.

(2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant 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 County 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 variances issued for development in the SFHA.

(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 Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

(R) Jurisdiction for this ordinance is the County of Madison. Any change in the boundary for the County of Madison would require action that is not governed by this ordinance. Furthermore, any change in the boundary of Madison County is extremely unlikely to occur.

Section 2.3. Use and Interpretation of FIRMs. 44 CFR 60.3

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of Special Flood Hazard Areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

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

(1) 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;

(2) 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.

(B) 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.

(C) 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.

(D) 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.

(E) If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

(1) 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.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to section 3.1.A.3. and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) 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.

Section 2.4. Jurisdictional Boundary Changes. 44 CFR 59.22, 65.3

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes Special Flood Hazard Areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the 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.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v) all NFIP participating communities must notify the Federal Emergency Management Agency and optionally the Virginia Department of Conservation and Recreation — Division of Dam Safety and Floodplain Management in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 2.5. District Boundary Changes.

Jurisdiction for this ordinance is the County of Madison. Any change in the boundary for the County of Madison would require action that is not governed by this ordinance. Furthermore, any change in the boundary of Madison County is extremely unlikely to occur.

Section 2.6. Interpretation of District Boundaries.

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

Section 2.7. Submitting Technical Data. 44 CFR 65.3

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

Section 2.8. Letters of Map Revision.

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.

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges). 44 CRF 65.3 and 65.6(a)(12)

ARTICLE III. ESTABLISHMENT OF SPECIAL FLOOD HAZARD DISTRICTS

Section 3.1. Description of Special Flood Hazard Districts (SFHA). 44 CFR 59.1, 60.3

A. Basis of Districts.

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the County, prepared by the Federal Emergency Management Agency, dated January 5, 2007, and any subsequent revisions or amendments thereto.

The County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the office of the Floodplain Administrator.

1. The Floodway District is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this District are specifically defined the above-referenced FIS and shown on the accompanying FIRM.

   The following provisions shall apply within the Floodway District of an AE zone (44 CFR 60.3(d)):

   a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

      Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with the endorsement of the County, for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

      If article III section 3.1A1 a is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of article 4.

   b. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement

manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.

2. The AE on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE zone (44 CFR 60.3(c)):

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

   Development activities in AE, on the FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with the endorsement of the County, for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

   The requirement in 63.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

3. The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply (44 CFR 60.3(b)):

   The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a 100-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

   The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to no less than one foot above the base flood level.

During the permitting process, the Floodplain Administrator shall obtain:

1) The elevation of the lowest floor (including the basement) of all new and substantially improved structures; and

2) If the structure has been flood-proofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been flood-proofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five acres, whichever is the lesser.

Section 3.2. Overlay Concept.

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Madison County Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

ARTICLE IV. DISTRICT PROVISIONS (44 CFR 59.22, 60.2, 60.3)

Section 4.1. Permit and Application Requirements.

A. *Permit Requirement.*

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform State wide Building Code (VA USBC) and Madison County Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. *Permit Applications.*

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. The elevation of the Base Flood at the site.
2. The elevation of the lowest floor (including basement).
3. For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
4. Topographic information showing existing and proposed ground elevations.

Section 4.2. General Standards.

The following provisions shall apply to all permits:

A. New construction and substantial improvements shall be according to section 3.1 of this ordinance and the VA USBC, 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 flood waters into the system.

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

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

In addition to provisions A — H above, in all Special Flood Hazard Areas, the additional provisions shall apply:

I. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent

jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.

J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 4.3. Elevation and Construction Standards (44 CFR 60.3).

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with section 3.1A3, the following provisions shall apply:

A. *Residential Construction.*

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A and AE with detailed base flood elevations shall have the lowest floor, including basement, elevated to no less than one foot above the base flood level.

B. *Non-Residential Construction.*

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no less than one foot above the base flood level. Buildings located in all A1-30, AE, and AH zones 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 one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are flood proofed, shall be maintained by the Floodplain Administrator.

C. *Space Below the Lowest Floor.*

In zones A and AE, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
3. 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.

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. 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 article 4, sections 4.2 and 4.3.

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 requirements for manufactured homes in article 4.3(D)(1).

Section 4.4. Standards for Subdivision Proposals.

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

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

C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a 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.

ARTICLE V. EXISTING STRUCTURES IN FLOODPLAIN AREAS

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

A. Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.

B. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than 50 percent of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.

C. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of 50 percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.

ARTICLE VI. VARIANCES: FACTORS TO BE CONSIDERED (44 CFR 60.6)

Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, 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.

In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the 100-year flood elevation.

B. The danger that materials may be swept on to other lands or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

E. The importance of the services provided by the proposed facility to the community.

F. The requirements of the facility for a waterfront location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. The safety of access by ordinary and emergency vehicles to the property in time of flood.

K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

M. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the 100-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE 12. SIGN REGULATIONS

Statement of Intent

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the County, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to protect tax revenues by promoting the reasonable, orderly, and effective display of Outdoor Advertising.

12-1. *Advertising Outdoors Regulated.*

12-1-1. No person except a public officer or employee in performance of a public duty, shall paste, post, paint, nail, tack, erect, place, maintain, or fasten any sign, pennant, outdoor advertising sign, billboard, or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided herein.

12-1-2. Definitions of types and categories of signs regulated by this article are listed below:

1. *Auction Sign.* A sign, not illuminated, advertising an auction to be conducted on or off the lot or premises upon which it is situated. Such signs may be erected not more than one month before the date of the auction advertised and shall be removed within 48 hours of its conclusion.
2. *Business Sign.* A sign either free standing or projecting or wall, which directs attention to product(s), commodity(ies), and/or service(s) available on the lot, premises, or farm upon which it is situated.
3. *Directional Sign.* A sign (one end of which is pointed, on which an arrow is painted or otherwise indicated the direction to which attention is called) not illuminated, four square feet or less in area, giving the name only of a person(s), farm, business, or other establishment.
4. *Free Standing Sign.* A business sign located upon a lot or parcel of ground within the required setback area, not attached to the main building.
5. *General Outdoor Advertising Sign.* A sign which directs attention to a product, commodity, or service not necessarily available on the premises.
6. *Home Occupation Sign.* A sign not exceeding four square feet in area directing attention to a service available on the premises, but which service is clearly a secondary use of the dwelling.
7. *Hunting, Fishing or Trespassing Sign.* A sign, not illuminated, 1 ½ square feet or less in area erected on the appurtenant premises solely as a warning or notice.
8. *Identification Sign.* A sign which identifies or otherwise describes the name, ownership, or location or the lot or parcel of land upon which it is situated.
9. *Illuminated Sign.* A sign, or any part of a sign, which is externally or internally illuminated or otherwise lighted from a source specifically intended for the purpose of such illumination or lighting.
10. *Location Sign.* A sign which directs attention to the approximate location of an establishment from which the advertised products, service, or accommodation may be obtained and not situated upon the premises upon which such establishment is located.
11. *Political Sign.* A temporary sign, not illuminated, 40 square feet or less in area, presenting a candidate or issue, subject to Federal, State or local government plebiscite. Such sign may not be erected more than five months prior to the date of the voting and shall be removed within one month after the date of voting.
12. *Projecting Sign.* A business sign projecting perpendicularly to the building wall surface to which it is attached, no part of which is more than six feet from the wall surface of the building on which it is erected.
13. *Public Sign.* A sign owned by and erected at the instance of a Federal State or local government agency.

14. *Sale or Rental Sign.* A sign, not illuminated, which designates all or portions of the lot or premises upon which it is located to be for sale or lease. Such signs shall be removed within one week of sale or lease of the lot or premises upon which it is situated. The lettering or message on any one side of such sign may be different from any other side.
15. *Subdivision Sign.* A sign, not illuminated, 40 square feet or less in aggregate area identifying a subdivision and located thereon at the entrance to such subdivision. Said sign shall be no greater in height than six feet, and setback from any right-of-way for proper sight distance.
16. *Temporary Sign.* A sign, not illuminated, describing a seasonal or brief use being conducted upon the lot or premises upon which the sign is located. Temporary signs shall conform in size to directional signs.
17. *Wall Sign.* A business sign erected or painted on a building visible from the exterior thereof, no part of which is more than 12 inches from the surface of the building on which it is erected. Such sign may be illuminated by indirect method.

(Ord. No. 2011-4, § 2, 4-12-2011)

12-2. *Area Regulations for Signs By Zones.*

12-2-1. *Agricultural, A-1 and Conservation, C-1.*

1. *Business signs.* Maximum size of total surface area 32 square feet.
2. *Church bulletin boards and identification signs.* 40 square feet limit.
3. *Directional signs.* Four square feet limit.
4. *General advertising signs.* 80 square feet limit.
5. *Home occupation signs.* Eight square feet limit per sign.
6. *Temporary signs.* 40 square feet limit.

12-2-2. *Residential, R-1, R-2, and R-3.*

1. Business signs, only to advertise the sale or rent of the premises upon which erected, with a total surface area not exceeding 32 square feet per sign.
2. Church bulletin boards and identification signs, with a total surface area not exceeding 40 square feet per sign.
3. Directional signs, with a total surface area not exceeding four square feet per sign.
4. Home occupation signs, with a total surface area not exceeding eight square feet per sign.
5. Temporary signs with approval from the Zoning Administrator- 40 square feet limit.

12-2-3. *Business B-1.*

1. *Business sign, free standing.* 100 square feet limit.

1A. *Business sign, projecting or wall.* Two square feet for each linear foot of building frontage limit.

2. *Church bulletin boards and identification signs.* 40 square feet limit.

3. *Directional signs.* Eight square feet limit.
4. *General advertising signs.* 100 square feet limit.
5. *Home occupation signs.* Eight square feet limit.
6. *Temporary signs.* 40 square feet limit.

12-2-4. *Industrial M-1 and M-2.*

a. *Business or Industrial Signs.* 150 square feet limit.
b. *Identification Signs.* 80 square feet limit.
c. *Directional Signs.* Eight square feet limit.
d. *General Advertising Signs.* 100 square feet limit.
e. *Temporary Signs.* 40 square feet limit.

12-3. *Setback Requirements.*

Signs with a total surface area less than four square feet per sign may be erected up to the property line. Signs with a total surface area more than four square feet but less than ten square feet per sign shall be located 15 feet or more from any street right-of- way. All signs exceeding ten square feet in total surface area shall setback 25 feet or more from any street right-of- way.

12-4. *Height Regulations.*

Free standing signs shall not exceed a height of 20 feet above ground level or the street to which it is oriented, whichever is higher, without a special use permit.

12-5. *Prohibited Signs.*

No sign shall be erected, maintained or operated:

12-5-1. (Except for authorized traffic signs) which is located at the intersection of any street in such a manner as to create a traffic hazard by obstructing vision between heights of 2 ½ and eight feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.

12-5-2. Which imitates or resembles any official traffic sign, signal, or device or uses the words "Stop" or "Danger" prominently displayed or presents or implies the need or requirement of changing speed or direction or the existence of danger on any highway.

12-5-3. Which is not effectively shielded so as to prevent beams or rays of light from being directed as any portion of the traveled ways of a street or highway and which is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle.

12-5-4. Which advertises any activities which are illegal under State or Federal law or regulations in effect at the location of such sign or at the location of such activities.

12-5-5. Which is obsolete or inconsistent with State law or the provisions of this ordinance.

12-5-6. Which is located anywhere other than on the property or structure to which it directs attention or to which it is appurtenant except (1) any sign erected or maintained by or under the supervision of County or other governmental authority or the Virginia Department of Highways and (2) any other sign which is specifically provided for or permitted in this article.

12-5-7. Which is fastened, placed, painted, pasted or attached in any way to, in or upon any tree, fence, public utility pole, rock, curbstone, sidewalk, lamppost, hydrant, bridge, highway marker or another sign except such as may be:

(1) Required by law;

(2) So placed by a duly authorized governmental agency;

(3) So placed not as an advertisement but as a warning against hunting, fishing or trespassing; or

(4) Not visible from any highway.

12-5-8. Which violates any provisions of the laws of Virginia relating to outdoor advertising including Code of Virginia, §§ 13.1-351 to 33.1-381, inclusive, and 46.1-174, as amended.

12-6. *Permitted Signs.*

12-6-1. Only signs as listed and described in this subsection or otherwise provided for in the sub-sections of this section shall be permitted and these shall be subject to such regulations as are specifically set forth in each case and to all other regulations in this ordinance. No other signs shall be permitted. The permitted signs in Madison County are:

12-6-2. Government Signs: Signs erected and maintained by the Virginia Department of Highways or other governmental authorities in accordance with law.

12-6-3. Historical markers erected by duly authorized public authorities.

12-6-4. Danger, aviation, railroad, bridge, ferry, transportation, Red Cross, public utilities, and other signs as set forth in section 33.1-355.

12-6-5. Hunting, fishing, or trespassing signs erected on the appurtenant property solely as a warning or notice. Such signs shall not exceed an area of 1.5 square feet and shall not be illuminated.

12-6-6. Directional signs of a public or quasi-public nature identifying or locating a town, hospital, community center, public building, or historical place situated in Madison County, Virginia, and also signs identifying or locating a school, college, YMCA, church, or similar place of workshop, board of trade, service club, soil conservation activity, 4-H Club, Isaac Walton League, Chamber of Commerce, or similar public or quasi-public activity for religious, civic, educational, or cultural purposes and signs drawing attention to public conveniences relating to such places or activities.

12-6-7. Name signs upon property displaying the name or address of the premises and the nature of the home occupation.

12-6-8. Home occupational signs upon property displaying the name and/or address of the occupant of the premises and the nature of the home occupation.

12-6-9. Tourist home signs, announcing accommodations only when located on the premises.

12-6-10. Farm signs and wayside stand signs erected or maintained on any farm by the owner or tenant of such farm and relating solely to farm or horticultural produce, livestock, or services sold, produced, manufactured, or furnished on such farm.

12-6-11. Store window signs or displays on or within store windows.

12-6-12. Construction signs erected and maintained on the site of a structure during the period of construction to announce only the nature of the structure and/or the name or names of the owner, contractor, architect, or engineer.

12-6-13. Business signs, exclusive of billboards, of a character which have not been listed or described, provided they advertise only businesses located in Madison County, Virginia. Subject to design, height, bulk, and lighting in Madison County, Virginia. Subject to design, height, bulk, and lighting approval by the Planning Commission.

12-6-14. Temporary signs may be permitted in reasonable number as determined by the Zoning Administrator, provided these are not illuminated and a permit is obtained from the Zoning Administrator, if required, provided that in all zones such signs shall not exceed ten square feet in area.

12-7. *Other General Regulations for Signs.*

12-7-1. All signs shall comply with the provisions of this article and it shall be unlawful for any person to erect or maintain a sign which does not comply.

12-7-2. Whenever a sign becomes structurally unsafe, or endangers the safety of a structure or premises or the public or is erected or maintained in violation of this ordinance, the Zoning Administrator shall order such sign to be made safe, or comply with this ordinance, as the case may be, or be removed. Such order shall be sent by registered mail and shall be complied with within 12 days from the date of the mailing of said order to the person owning or responsible for the sign. Failure to comply shall constitute grounds for the Zoning Administrator to have the sign removed and the cost thereof shall be added to any fine imposed for violation under this ordinance.

12-7-3. No sign shall be located or illuminated in such a manner as to cause a traffic hazard. No flashing, rotating, visually moving or physically agitated signs are permitted in any district.

12-7-4. No business signs shall be restored, or transferred to another business, product, commodity or service, unless such sign conforms with the provisions of this ordinance.

12-8. *Temporary Signs.*

12-8-1. Temporary signs will be regulated as described in 12-7 through 12-7-4. Erectors of same should keep in mind that the prime criteria for judging the sign, size, and location will be the degree to which it provides as nuisance or danger to the public.

12-9. *Nonconforming Signs.*

Any sign lawfully in existence at the time of the effective date of this ordinance may be maintained although it does not conform with the provisions of this ordinance. Such nonconforming sign shall comply in all respects with the requirements of article 13 relating to non-conforming uses.

ARTICLE 13. NONCONFORMING USES

13-1. *Continuation.*

13-1-1. If at the time of enactment or subsequent amendment of this ordinance, as enacted or amended, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

13-1-2. If any change in title, or possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

13-1-3. If any nonconforming use (structure or activity) is discontinued for a period exceeding two years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

13-2. *Changes in Zoning Boundaries.*

Whenever the boundaries of a zone are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article. Such uses shall automatically become eligible for any and all necessary permits as are needed to continue the use.

13-3. *Expansion or Enlargement.*

13-3-1. A nonconforming structure to be extended or enlarged must be made to conform with the general provisions of this ordinance. If a nonconforming use or structure is altered, expanded, enlarged, or extended, the new alteration, expansion, enlargement or extension shall comply with the provisions of this ordinance; however the existing nonconforming use or structure can remain in its nonconforming status.

13-3-2. A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

13-4. *Nonconforming Lots.*

Any lot of record at the time of the adoption of this ordinance which is less in area or frontage than the minimum required by this ordinance may be used when the requirements of the Board of Zoning Appeals regarding setbacks, side and rear yards are met.

13-5. *Restoration or Replacement.*

When a nonconforming structure or when a conforming structure which houses a nonconforming activity is destroyed or damaged in any manner, it may be restored or repaired without bringing said structure or activity into conformance, provided such reconstruction is begun within 18 months of the calamity.

ARTICLE 14. GENERAL PROVISIONS

14-1. *Building Permits.*

14-1-1. Building permits shall be obtained from the Madison County Building Office. No building permit shall be issued until a zoning permit has been issued by the Madison County Zoning Office provided a zoning permit is required. No building permit for a structure with water and/or sewer facilities shall be issued until applicant obtains written approval from the Madison County Health Department. Each lot shall have (a) one approved sewage disposal system or connection, or (b) one (1) approved drainfield area and one approved reserve drainfield area equal in size to that of the approved drainfield area (100 percent reserve). No building permit for a structure which will use a well as a water source shall be issued until the well is drilled and produces water. No building permit for a structure on a lot or parcel of land with access by a private road shall be issued until the private road is built. No building permit for a structure on a lot or parcel of land with access by a public road shall be issued until the public road is accepted by the Virginia Department of Transportation or until the applicant has posted a bond or line of credit approved by the Board of Supervisors as security for the construction of the public road. The applicant for a building permit shall obtain all required approvals and shall pay the costs of such approvals.

If a structure requires the permanent or temporary hookup of one or more public utilities, the utilities may not be made operational to the structure until a valid building permit or certification of occupancy for the structure is shown to a utility representative responsible for authorizing the start-up service.

14-1-2. Application for building permits, upon approval or denial by the Building Inspector, may be appealed to the Board of Zoning Appeals.

14-1-3. Any person making application for a building permit shall pay the County Treasurer a fee as indicated on the Fee/Refund Schedule as adopted by resolution of the Madison County Board of Supervisors. Building permits shall be required for any construction, reconstruction, alteration, or enlargement of a building. For storage building exceptions, refer to the current Virginia Uniform Statewide Building Code.

14-1-4. Building permits will be issued for a term of one year. In the event work specified on the permit is not completed prior to the expiration of the term of the permit, a new building permit subject to the Fee/Refund Schedule will be required.

14-1-5. Upon issuance of a building permit for a swimming pool, the owner must comply with the current Virginia Uniform Statewide Building Code.

(Ord. No. 2011-4, § 3, 4-12-2011)

14-2. *Certificate of Occupancy.*

Structures may be used or occupied only after a certificate of occupancy has been issued by the Building Inspector. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a building permit. A certificate of occupancy shall be issued after the erection or structural alteration of

such building or part has conformed with the appropriate Building Code(s) and with the provisions of this ordinance, as certified by the Building Inspector, and after the water, septic, and electric systems are complete and the dwelling is structurally safe. A certificate of occupancy shall not be issued for a manufactured home unless the home has a HUD inspection label displayed thereon.

14-2A. *Adoption of Building Code Books.*

Inspector shall make inspections in accordance with the standards specified in the following building code books which are adopted and incorporated herein:

(A) Current Virginia Uniform Statewide Building Code.

(B) Current Virginia Plumbing Code (VPC).

(C) Current Virginia Mechanical Code (VMC).

(D) Current National Electric Code (NEC).

(E) Current Virginia Fuel Gas Code (VFGC)

(F) Current Virginia Energy Conservation Code (VECC).

(G) Current Virginia Residential Code for One- and Two-Family Dwellings (VRC).

14-2B. *Public Sewer System.*

Whenever a public sewer system is required under this ordinance, said system shall be a central system constructed by the developer/owner in accordance with standards and specifications of the State Health Department and Rapidan Service Authority (RSA). If a Virginia pollution discharge elimination system (VPDES) permit issued by the State Water Control Board is required for the public sewer system, ownership of the system shall be transferred to RSA after the system has been constructed by the developer/owner, and the public sewer system shall be operated by RSA. If a VPDES permit is not required for the public sewer system, said system shall be operated by the developer/owner in accordance with standards, specifications, and requirements of the State Health Department.

14-2C. *Public Water System.*

Whenever a public water system is required under this ordinance, said system shall be a central system constructed and operated by the developer/owner in accordance with standards, specifications, and requirements of the State Health Department.

14-2D. *Sanitary Sewer and Water.*

No plat of survey or building permit shall be approved where individual water and septic tank systems are to be used until written approval has been secured from the Madison County Health Department. Each lot shall have one approved drainfield area and one approved reserve drainfield area. The approved drainfield area and the approved reserve drainfield area shall have a minimum area of 10,000 square feet; provided, however, additional area may be required by the Madison County Health Department.

The Madison County Health Department shall determine the suitability of soil for waste disposal systems. A conventional sewage system shall be utilized if soil conditions are accept-

able. The Madison County Health Department may require the owner to submit soil percolation tests and other methods of soil evaluation to determine the suitability for sub-surface disposal.

If the Madison County Health Department determines that the site does not allow for a conventional sewage system, a non-conventional sewage system may be utilized. A maintenance and monitoring plan approved by the Madison County Health Department is required for all non-conventional sewage systems. This plan must be approved by the manufacturer of the system and remain in effect for the entire life of the system. The Madison County Health Department will determine the level of maintenance and monitoring required for each non-conventional sewage system; provided, however a minimum of semi-annual testing is required. The Madison County Health Department will supervise the correction of any non-conventional sewage system that does not comply with the approved maintenance and monitoring plan. The Madison County Health Department shall send a copy of all maintenance and monitoring reports to the Madison County Zoning Administrator.

All non-conventional sewage systems shall be designed under the supervision of a licensed professional engineer. Such system shall be designed to operate at a designated site on the proposed lot in conformance with the design requirements of the Virginia State Board of Health Sewage Handling and Disposal Regulations or other applicable regulations.

All non-conventional sewage systems will be subject to the requirements for "Conditional Construction Permits" under the Virginia State Board of Health, Sewage Handling and Disposal Regulations, related to the identification of the conditions and circumstances which form the basis for approving the proposed non-conventional sewage system and recordation of the construction permit for the system in the Clerk's Office of the Circuit Court of Madison County, Virginia.

If a subdivision contains 15 or more lots, the developer shall provide a public water and sewer system to serve said lots. A public water system shall be constructed and operated by the developer/owner in accordance with standards, specifications, and requirements of the State Health Department. A public sewer system shall be constructed by the developer/owner in accordance with standards, and specifications and requirements of the State Health Department. A public sewer system shall be constructed by the developer/owner in accordance with standards, specifications, and requirements of the State Health Department and the Rapidan Service Authority (RSA). If a Virginia pollution discharge elimination system (VPDES) permit issued by the State Water Control Board is required for the public sewer system, ownership of the system shall be transferred to RSA after the system has been constructed by the developer/owner, and the public sewer system shall be operated by RSA. If a VPDES permit is not required for the public sewer system, said system shall be operated by the developer/owner in accordance with standards, specifications and requirements of the State Health Department.

A subdivision within a Business, General, B-1, Industrial, Limited M-1, or Industrial, General, M-2 zone may be approved by the Madison County Health Department if it has received a permit from the State Water Control Board for a sewage treatment facility with discharge into an all weather system.

14-3. *Special Use Permits.*

There are three types of special use permits: (1) temporary (2 year); (2) temporary (5 year); and (3) indefinite. The type must be indicated by the applicant in his/her request.

14-3-1. Temporary (two-year) permit: If the special use permit is granted, the use may be performed for two years. At least 60 days prior to the expiration of the permit, the Administrator shall notify the permit holder by registered mail or other witnessed method that the permit will terminate on a certain date. It shall be the responsibility of the permit holder to reapply for the special use permit if he/she desires to continue such use.

14-3-2. Temporary (five-year) permit: If the special use permit is granted, the use may be performed for the five years. At least 90 days prior to the expiration of the permit, the Administrator shall notify the permit holder by registered mail or other witnessed method that the permit will terminate on a certain date. It shall be the responsibility of the permit holder to reapply for the special use permit if he/she desires to continue such use.

14-3-3. Indefinite Permit: If the special use permit is granted, the permit holder may continue the use indefinitely.

14-3-4. Revocation of Special Use Permit:

If during the period of use the Board of Supervisors, on complaint filed, determines that the use is a serious nuisance or danger, or that the owner or operator of the use covered by the Special Use Permit has failed to observe all laws with respect to the maintenance and conduct of the use or any conditions in connection with the permit that were attached when the permit was issued, or that the applicant for a special use permit made a material misrepresentation when the permit was obtained, the Board of Supervisors may revoke the special use permit after notice and hearing pursuant to Code of Virginia, § 15.1-431, as amended, and, upon revocation as set forth above, the user shall have 90 days from the date of the notice to terminate the use.

14-3-5. Permit holders may continue any valid operation during the course of and pending a decision of an appeal to the higher appropriate authority. Decisions rendered are effective on that date, unless specified otherwise in the decision of revocation.

14-4. *Standards for issuance of special use permits.*

Special Use Permits shall be issued by the Board of Supervisors after recommendation from the Planning Commission. Special Use Permits shall comply with terms, purpose and intent of this ordinance, in the districts in which such permits are permitted. Special use permits may be issued for uses that are in harmony with the purpose and intent of the Madison County Zoning Ordinance. The Commission may attach conditions to such permits. A Special Use Permit shall not be required for any brief activity(ies) in a given Zoning District that is/are:

(1) Consistent with the "by right" or "special use " activities permitted in that District; and

(2) Conducted for no more than a cumulative 15 days in any calendar year.

(Ord. No. 2019-1, 1-2-2019)

14-4-1. No such special use permit shall be heard except after public notice has been given in accordance with the requirements of Code of Virginia, § 15.1- 431, as amended.

14-4-2. The Board of Supervisors may grant, conditionally, the application for the special use permit, when in its judgment such special use permit application complies with the following standards.

(a) Such use shall not be objectionable by reason of smoke, dust, order, or vibration.

(b) The use shall not tend to change the character and established pattern of development of the area in which it wishes to locate.

(c) The use shall be in harmony with the intent of the zoning district, and shall not adversely affect the use of neighboring property or the welfare of persons living and working in the neighborhood of the proposed use.

(d) The location and height of buildings, the location of walls, fences, screening, entrances, lighting, parking and the nature of landscaping on the site shall be such that the use will not hinder or discourage the appropriate use and development of adjacent land and buildings or impair the value thereof.

(e) Such use will be in conformity with the intent and recommended land use of the Comprehensive Plan for Madison County, Virginia unless it can be shown that the Comprehensive Plan for Madison County, Virginia is in error with respect to the subject property.

(f) The proposed use shall not violate any ordinance of Madison County or any law of the Commonwealth of Virginia.

(g) The safety and movement of vehicular traffic upon adjacent streets or roadways will not be adversely affected.

(h) Such use will not have an adverse economic or physical impact on the public facilities of Madison County.

14-4-3. The Board of Supervisors in granting a special use permit may impose reasonable conditions such as but not limited to:

(a) Abatement or restriction of noise, light, smoke, dust, soil erosion, or other element that may affect surrounding properties.

(b) Establishment of setback, side, front and rear yard requirements necessary for orderly expansion and prevention of traffic congestion.

(c) Provision for adequate ingress and egress to public streets and roads, as well as proper drainage control on the site.

(d) Providing adjoining property with screening or shielding from view of the proposed use.

(e) Limiting the hours of operation.

(f) Providing that the use shall terminate upon the sale or transfer of the property by the applicant.

14-4-4. Appeals - Special Use Permits.

The decision of the Board of Supervisors on an application for a special use permit may be appealed to the Circuit Court of Madison County, Virginia, by the applicant or any aggrieved party.

14-5. *Abandonment of Special Use Permit.*

Whenever a special use permit is issued, the activity authorized thereby shall be established, and any construction authorized shall be diligently prosecuted within such time as the Board of Supervisors may have specified, or, if no such time has been specified, then within one year after the effective date of such permit, unless an extension shall be granted by the Board of Supervisors after recommendation from the Planning Commission because of occurrence of conditions unforeseen at the time of granting the special use permit. If construction has not commenced within a period of one year, unless same is extended as set forth above, such permit shall terminate.

If a temporary special use is not performed for one year (365 days continuously not performed) or if an indefinite permitted use is not performed for two years (730 days continuously not performed), the use is considered abandoned and the special use permit shall terminate.

14-5-6. *Special Use Permit Upon Property Sale or Transfer.*

Unless otherwise provided by conditions imposed under article 14-4-3, a special use permit shall not terminate upon the sale or transfer of the property by the applicant.

14-5-7. *Tabling of Special Use Permit Request.*

When applicant tables a special use permit request, action must be taken by the Board of Supervisors within 180 days from the date of the first tabling request by applicant, or the request shall be voided.

(Ord. No. 2011-4, § 3, 4-12-2011)

14-6. *Conditional Zoning.*

Any landowner applying for rezoning may also voluntarily proffer in writing such conditions to regulate use of said land and such conditions shall have the same force and effect as the regulations provided for the zoning district or zone by this ordinance.

Prior to approving a rezoning request, the governing body may accept proffered conditions providing such conditions conform to the provisions of Code of Virginia, §§ 15.1-491 through 491.6, as amended.

Before any proffered condition shall be accepted as part of the rezoning, the governing body shall hold a public hearing in accordance with Code of Virginia, § 15.1-431, as amended.

14-7. *Uses Not Provided For.*

14-7-1. If in any zone established under this ordinance a use is not specifically permitted, it is prohibited. If an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission. After a public hearing in accordance with Code of Virginia, § 15.1-431, as amended, the Planning Commission shall make its recommendations to the Board of Supervisors to:

(a) Amend the ordinance to allow the use within the zone by right;

(b) Amend the ordinance to allow the use within the zone with a special use permit;

(c) Rezone the area and thereby allow the use; or

(d) Deny the use in that zone.

14-7-2. If the Planning Commission fails to make a recommendation to the Board of Supervisors within 90 days after the first regular meeting of the Planning Commission after the application has been referred to it, the Board of Supervisors shall assume that the Planning Commission concurs with the applicant for the use as requested; provided, however, the aforesaid 90-day period may be extended with the consent of the applicant.

14-7-3. The Board of Supervisors shall then, on request of the applicant, proceed to treat the application as a request to amend the zoning ordinance, in accordance with the public hearing and notice requirements established in Code of Virginia, § 15.1-431, as amended.

14-8. *Widening of Highways and Streets.*

Whenever there shall be plans in existence, approved by either the State Department of Highways or by the Governing Body for the widening of any street or highway, the Commission may recommend additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the right-of-way for such proposed street or highway widening.

14-9. *Minimum Off-Street Parking.*

There shall be provided at the time of erection of any main building or at the time any main building is enlarged, minimum off-street parking space with adequate provisions for entrance and exit by standard sized automobile. Two hundred square feet (ten feet by 20 feet) of lot or floor area shall be deemed parking space for one vehicle, excluding the necessary space for turning movements and aisles. Aisles for two-way drives (90-degree parking) shall be at least 22 feet wide and for angle parking, one way, at least 16 feet in width. All parking spaces and access driveways shall be covered with an all-weather surface, and shall be graded and drained to dispose of surface water. However, no surface water from any parking area shall be permitted to drain onto adjoining property unless permitted by an overall drainage plan approved by all parties affected.

14-9-1. A driveway or parking space shall be at least three feet from a property line and no parking space for a multiple-family dwelling shall be less than ten (10) feet from a residential structure. No parking space shall allow overhang of vehicles to walkways or roadways.

14-9-2. The parking spaces required for one-, two- and three-family dwellings shall be located on the same lot as the dwelling; the parking spaces required for all other land uses shall be located on the same lot as the principal use or on a lot which is within 300 feet of the principal use, such distance to be measured along lines of public access to the property.

14-9-3. Collective provision of off-street parking facilities for two or more structures or uses is permissible, provided that the total number of parking spaces is at least equal to the sum of the minimum number of required spaces computed separately for each use. Collective parking is subject to all other stated parking requirements.

14-9-4. Minimum off-street parking spaces accessory to the use hereinafter designated shall be provided as follows, except that the required space may be reduced as approved by the Planning Commission, when the capacity and use of a particular building is changed in such a manner that the new use or capacity would require less space than before the change.

14-9-5. In all residential districts there shall be provided in a private garage or on the lot, space for the parking of two automobiles for each family dwelling unit in a new building, or each family dwelling unit added in the case of the enlargement of an existing building, except a multiple-family dwelling used as housing for older persons shall have space for the parking of one automobile for each bedroom located therein.

14-9-6. Hotels and motels shall provide on the lot, parking space for one automobile for each guest room or dwelling unit, plus such spaces as are required for restaurants, assembly rooms and affiliated facilities in the hotel or motel.

14-9-7. Tourists house, boarding house or rooming house shall provide on the lot one space for each guest accommodation.

14-9-8. For churches, school auditoriums, theaters, general auditoriums, stadiums, and other similar places of assembly, there shall be provided at least one off-street parking space for every four fixed seats, based on the maximum seating capacity in the main place of assembly for the building. For assembly halls without fixed seats, there shall be provided one parking space for each 100 feet of gross floor area. For elementary and intermediate schools, one parking space for each faculty and staff member and other fulltime employees, plus four spaces for visitors in addition to the requirements of the auditorium. For secondary schools, one parking space per faculty and staff member and other fulltime employees, plus one parking space per ten students, based on the maximum number of students attending classes at any one time, in addition to the requirements of the auditorium. Parking space already provided to meet off-street parking requirements for stores, office buildings and industrial establishments situated within 300 feet of the place of public assembly as measured along lines of public access, and which are not normally in use on Sundays or between the hours of 6:00 p.m. and midnight on other days, may be used to meet not more than 75 percent of the off-street parking requirements of a church or other similar place of public assembly.

14-9-9. For hospitals, there shall be provided at least one parking space for each two beds based on the maximum capacity in terms of beds, including those of infants and children.

14-9-10. For funeral homes, one space per four seats in the main chapel or parlor, plus one parking space per two employees.

14-9-11. For retail stores selling direct to the public, one parking space for each 150 square feet of retail floor space in the building.

14-9-12. For office buildings, offices, and professional and personal service establishments, there shall be provided one parking space for each 200 square feet of floor space.

14-9-13. For medical and dental clinics, four parking spaces per examination or treatment room, plus one parking space for each doctor and employee.

14-9-14. For industrial establishments or wholesale establishments, there shall be provided one parking space for each two employees computed on the basis of the maximum number of individuals employed within an eight-hour shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

14-9-15. Any commercial building not listed above and hereafter erected, converted, or structurally altered, shall provide one parking space for each 150 square feet of business floor space in the building.

14-9-16. Every parcel of land hereafter used as a public parking area shall be surfaced with gravel, stone, asphalt, or concrete. It shall have appropriate protective barriers where needed as determined by the Administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

14-10. *Required On-Site Loading Space.*

14-10-1. All on-site loading space shall be provided on the same lot with the use to which it is appurtenant.

14-10-2. Loading spaces shall be provided in addition to, and exclusive of, the parking requirements on the basis of:

a. One space for the first 8,000 square feet of commercial area, plus one space for each additional 20,000 square feet of commercial area;

b. One space for the first 8,000 square feet of office space, plus one space for each additional 20,000 square feet of office space; or.

c. One space for the first 10,000 square feet of industrial floor area, plus one space for each additional 20,000 square feet of industrial floor area.

14-10-3. Additional loading spaces may be required during review of the site development plan.

14-10-4. Such on-site loading space shall be a minimum of 15 feet in width, 15 feet in clearance height, and a depth sufficient to accommodate the largest delivery trucks serving the establishment, but in no case shall such length be less than 25 feet. Longer spaces may be required for use by vehicles exceeding 25 feet in length.

14-10-5. All on-site loading areas shall be a dustless surface and shall be maintained in a smooth, well graded condition. Each off-street loading space shall be designed so as not to impede any required parking spaces, or any pedestrian or vehicular circulation on the sidewalk or public street.

14-11. *Location of Gasoline Dispensing Pumps and Islands.*

14-11-1. All appliances for dispensing gasoline installed outside of enclosed buildings shall be located either: (A) a minimum of 12 feet from the street or roadway right-of-way when the pump island is situated parallel to the roadway; (B) a minimum of 20 feet from the street or roadway right-of-way when the pump island is situated at an angle of from one to 45 degrees to the roadway; or (C) a minimum of 30 feet from the street or roadway right-of-way when the pump island is situated at an angle of 46 to 90 degrees to the roadway.

14-12. *Provisions for Corner Lots.*

14-12-1. The front of a corner lot shall be the side where the driveway entrance is or will be located as approved by the Virginia Department of Transportation.

14-12-2. The side yard on the side facing the side street shall be 35 feet or more for both main and accessory buildings.

14-13. *Wireless Communications Facilities.*

14-13-1. *Purpose and goals.*

The purpose of this ordinance is to establish guidelines for the siting of wireless communications facilities (WCF). The goals of this ordinance are to:

(A) Minimize the total number of freestanding antenna support structures throughout the County, by maximizing the use of existing support structures;

(B) Strongly encourage the joint use of new and existing WCF sites;

(C) Strongly encourage the owners and operators of WCFs to locate them, to the extent possible, in areas where the adverse impact on the County is minimal;

(D) Limit the location of freestanding antenna support structures that detract from the scenic qualities of Madison County;

(E) Encourage the owners and operators of WCFs to locate and configure them in a way that minimizes the adverse visual impact on the landscape and adjacent properties; and

(F) Enhance the ability of wireless communications providers to provide such services efficiently and effectively to residents and visitors of Madison County.

14-13-2. *Applicability.*

(A) *Generally.* The requirements set forth in this ordinance shall govern the location of WCFs installed in any zoning district.

(B) *Amateur Radio; Receive-Only Antennas.* This ordinance shall not apply to any amateur radio antenna or support structure having a combined height of less than 200 feet, or any receive-only antenna and its support structure used for non-commercial purposes.

(C) *Emergency facilities.* This ordinance shall not apply to a temporary, commercial WCF, upon the declaration of a state of emergency by Federal, State, or County government, for the duration of the emergency and for a period of up to three months thereafter. Any such WCF must comply with all federal and state requirements.

(D) *Special events.* This ordinance shall not apply to a temporary, commercial WCF established for the purpose of providing coverage of a special event (such as news coverage or a sporting event), for the duration of the event and for a period of up to one week thereafter. Any such WCF must comply with all federal and state requirements.

14-13-3. *Permitted Uses.*

The following are deemed to be uses permitted by right in every zoning district, provided that they meet the requirements of section 14-3-6:

(A) Installation of a new freestanding WCF less than 100 feet or less in height;

(B) Installation of a concealed WCF;

(C) Installation of an attached WCF, including installation of a WCF on a telephone or electric utility company's existing utility pole or on an existing light stanchion, provided that the top of the attached WCF is no more than 20 feet above the building or structure to which it will be attached.

(D) Mitigation of an existing WCF, except in circumstances where the mitigation of an existing un-illuminated WCF results in a WCF that is required to be illuminated;

(E) An antenna co-located or combined on an existing support structure of any height, provided that:

(i) The addition of said antenna adds no more than 20 feet to the height of the existing support structure;

(ii) The addition of the antenna does not require expansion of the footprint of the support structure or the associated equipment compound; and

(iii) The equipment compound shall be brought into compliance with applicable landscaping requirements; and

(F) Replacement of an antenna, antenna element, or support structure, where such device or structure will be replaced with another that is of identical or reduced size and weight, and has identical or reduced wind load properties.

14-13-4. *Uses Requiring a Special Use Permit.*

Except as provided in section 14-13-3, a WCF shall be allowed only by special use permit.

14-13-5. *Alternatives hierarchy.*

The following is a listing, in order of preference, of the types of WCF facilities preferred by the County:

(1) Attached WCFs.

(2) WCFs co-located or combined on an existing WCF.

(3) Mitigation of an existing WCF.

(4) Concealed freestand WCF.

(5) Non-concealed WCF.

14-13-6. *General Requirements.*

The requirements set forth in this section shall apply with respect to the location of each WCF governed by this ordinance.

(A) *Authorization and approvals required.*

(i) Any WCF permitted by right under this ordinance must be authorized pursuant to a written verification of the Zoning Administrator that the facility will meet all applicable requirements of this ordinance, and no building permit shall be issued for any WCF until this verification has been provided. Such verification shall be provided by the Zoning Administrator within a reasonable time after receipt of all required application materials, not to exceed 60 days. If the Zoning Administrator determines that a WCF fails to meet the requirements of this ordinance, then the Zoning Administrator shall provide written notice to the applicant, identifying which requirements are not satisfied, and shall give the applicant an opportunity to provide additional information demonstrating compliance. If such additional information is not provided within ten days then the Zoning Administrator's determination of noncompliance shall become final. Appeals from a decision of the Zoning Administrator shall be to the Board.

(ii) The approval of a WCF that is subject to the requirement of a special use permit shall be governed by the process set forth in section 14-3 of the zoning ordinance. Additionally:

(a) In determining whether a WCF is in harmony with the surrounding area, and whether the WCF will have an adverse impact on adjacent properties, the County will consider the aesthetic impacts of the WCF in addition to other relevant factors.

(b) The County may condition approval on changes in WCF height, design, style, buffers, or other features of the WCF, or on changes to the surrounding area. Such changes need not result in performance identical to that of the original application.

(c) Factors relevant to consideration aesthetic effects include: protection of the view in sensitive or particularly scenic areas; protection of the view from unique natural features; scenic roadways and historic sites; the concentration of WCFs in the vicinity of the proposed WCF; and whether the height, design, placement or other characteristics of a proposed WCF could be modified to have a less intrusive visual impact.

(d) If the County determines that the proposed additional service, coverage or capacity to be achieved by a proposed new WCF can be achieved by use of one or more existing WCFs, it may disapprove the proposed WCF application.

(iii) Prior to issuance of a building permit, the following shall be provided to the building official with respect to any support structure more than 100 feet in height:

(a) A structural analysis of the proposed support structure prepared by an engineer, indicating the proposed and future loading capacity of the antenna structure; and

(b) Proof of compliance with Subpart C of Federal Aviation Regulations, Part 77, "Objects Affecting Navigable Airspace," or a certification that such regulations are not applicable.

(iv) The County reserves the right to require a supplemental review for any WCF, in order to determine whether the WCF meets the requirements of this ordinance, subject to the following:

(a) Due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the County may require the applicant to pay for a technical review by a third-party expert, the cost of which shall be borne by the applicant in addition to other applicable fees, not to exceed 2 ½ times the amount of the applicable zoning application fee.

(b) Based on the results of the expert review, the County may require changes to the applicant's application or submissions.

(c) A supplemental review may address any or all of the following:

(1) The accuracy and completeness of the application and accompanying information;

(2) The applicability of analysis techniques and methodologies;

(3) The validity of conclusions reached;

(4) Whether the proposed WCF complies with applicable approval criteria;

(5) Other analysis deemed by the County to be relevant to determining whether a proposed WCF complies with the requirements of this ordinance.

(v) Whenever a third party desires to co-locate on any support structure approved under this section, the support structure owner shall notify the Zoning Administrator, in writing, of the proposed co-location and of the proposed antenna mounting height on the support structure. The County shall have a right of first refusal to lease the co-location space, rent free, for emergency communications purposes, provided adequate space and structural capacity exists for the County's proposed use. The County must exercise this right by written notice within 30 days of receiving notice of the proposed co-location.

(B) *Visibility.* Each WCF and related buildings, structures and equipment shall be configured and located in a manner that shall minimize adverse visual impacts on the landscape and adjacent properties.

(i) Each WCF shall be designed to be compatible with the height, scale, color, and texture of existing structures and landscapes, as applicable.

(ii) Each new antenna shall be flush-mounted, unless it is demonstrated through radio frequency propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

(iii) An attached WCF shall be designed to complement the facade, roof, wall or other portion of the building structure to which it is affixed, so it blends with the existing design, color and texture of the structure.

(C) *Height.* Each WCF shall be of the least height necessary to meet the needs of the geographic area to be served by the facility, not to exceed 199 feet, except that in R-1, R-2

and R-3 zoning districts the maximum height of a WCF shall be 125 feet. Height calculations shall include above-ground foundations, but shall exclude lightning rods and lights required by the FAA which do not provide any support for antennas. In the event an applicant provides indisputable technical data demonstrating that a WCF service area would be so substantially compromised that there would be a requirement of additional WCFs within a distance of two miles, then the County may approve additional height. Each WCF that exceeds 199 feet in height shall be subject to a requirement that the WCF shall be designed to allow for a future reduction of elevation to no more than 199 feet, or the replacement of the WCF with a monopole-type support structure at such time as the wireless network has developed to the point that a height of 199 feet or less can be justified.

(D) *Monopoles preferred.* Each freestanding, non-concealed WCF shall utilize a monopole support structure or utility pole. Upon request of an applicant, the County may approve a different type of support structure if the applicant demonstrates to the satisfaction of the County through the submission of technical data that a monopole structure is not appropriate to accommodate the intended uses.

(E) *Design for co-location.*

(i) Each freestanding WCF up to 120 feet in height shall be engineered and constructed to accommodate no fewer than three co-located WCFs.

(ii) Each freestanding WCF that is 121 feet up to 150 feet in height shall be engineered and constructed to accommodate no fewer than four co-located WCFs.

(iii) Each freestanding WCF that is 151 or more feet in height shall be engineered and constructed to accommodate no fewer than six WCFs.

(F) *Grading.* Grading shall be minimized and shall be limited to the area necessary for the new WCF and associated equipment compound and fencing.

(G) *Lighting.* Lighting of a WCF shall comply with the following:

(i) There shall be no lighting of any WCF except as specifically required by federal statute or FAA regulations.

(ii) All FAA required lighting shall be of the minimum intensity and/or number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. In cases where residential uses are located within one-quarter mile of the WCF, then dual mode lighting shall be requested from the FAA.

(iii) Security lighting for ground-level accessory equipment shall be down-shielded and of a type and intensity consistent with generally accepted dark sky lighting standards.

(H) *Setbacks.* Support structures and related accessory equipment shall comply with the following setback requirements:

(i) If a freestanding support structure is to be constructed using breakpoint design technology, then the minimum setback shall be a distance equal to 110 percent of the distance from the highest point on the structure to the breakpoint level of the

structure. Certification by an engineer of the breakpoint design and of the design's fall radius must be provided at the time of application, along with the other information required by this ordinance.

(ii) If a freestanding support structure is not to be constructed using break-point design technology, then the minimum setback distance for any such structure more than 100 feet in height shall be equal to 110 percent of the height of the proposed support structure.

(iii) The setback of any support structure from an abutting property may be reduced if an easement is obtained from the owner of the abutting property that restricts development within that portion of the fall zone which would extend onto the abutting property. Such fall zone easement shall be created by deed, acceptable to the County Attorney, and it shall be recorded subsequent to the County approval of any zoning applications and prior to the issuance of a building permit for the support structure. The setback of any support structure from the right-of-way for a public street may be reduced upon approval of VDOT and the County, without need for a fall zone easement.

(iv) All other WCFs shall be subject to the setbacks of the underlying zoning district, however, if an existing building or structure that is nonconforming as to any setback will serve as the support structure for a proposed WCF, then the existing nonconforming setback shall apply.

(I) *Equipment cabinets and compounds.*

(i) Equipment cabinets more than three feet in height shall not be visible from ground level. Cabinets may be located within a principal building, behind a screen on a rooftop, or on the ground within a fenced-in compound with landscape screening.

(ii) Where required, landscape screening shall consist of a ten-foot wide buffer planted with evergreen trees, minimum two inches caliper, 25-feet on center, evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least five feet, plant five-feet on center, minimum three-gallon or 24 inches tall at the time of planting; or a combination of both. Alternative landscape plans or materials may be approved by the County, upon a determination by the County that a reasonably equivalent level of screening will be achieved. Existing mature tree growth and natural land forms on the property containing a WCF site shall be preserved to the maximum extent possible, and may be used in lieu of the required landscape screening, in whole or in part, upon a determination that a reasonably equivalent level of screening will be achieved.

(iii) Equipment compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed within a compound, and no compound may be utilized as habitable space.

(J) *Fencing.* All freestanding support structures and associated equipment compounds shall be enclosed by a fence adequate to preclude to prelude unauthorized only.

(K) *Signs.* No signs shall be permitted on any WCF, other than the following:

(i) Signs required by the FAA or FCC shall be permitted;

(ii) Informational signs shall be permitted for the purpose of identifying the support structure (such as an ASR registration number), contact information for the party responsible for operation and maintenance of the facility, and contact information for the property manager (if applicable); and

(iii) Warning signs shall be permitted, if more than 220 volts are necessary for the operation of the facility and such voltage is present in a ground grid or in the antenna support structure. Any such signs shall be posted at 20-foot intervals on the fence or wall surrounding the facility and shall display in large, bold, high-contrast letters (minimum 4 inches in height) the words "DANGER—HIGH VOLTAGE."

(L) *Federal standards for interference protection.* Each WCF shall comply with all applicable federal laws and regulations regarding interference protection, including but not limited to federal regulations regarding adjacent channel receiver (blanket) overload and intermodulation distortion. Each applicant seeking an approval required by this ordinance shall provide a written certification at the time of application that the subject WCF shall comply with such regulations.

(M) *Federal standards for radio frequency emissions.* Each WCF shall comply with all applicable federal laws and regulations regarding radio frequency emissions. At the time of application, the applicant shall provide a certification that radio frequency emissions from the WCF comply with FCC standards, and that, individually and cumulatively, and together with any other facilities located on or immediately adjacent to the proposed WCF, the proposed WCF complies with FCC standards. The certification shall be accompanied by a statement of the qualifications of the person providing the certification.

(N) *Compliance with ANSI standards.* Each WCF shall comply with American National Standards Institute (ANSI) standards, as adopted by the FCC, pertaining to electromagnetic radiation. Each applicant seeking an approval required by this ordinance shall provide a written certification at the time of application that the subject WCF shall comply with such standards.

(O) *Safety.*

(i) Each WCF and its accessory equipment shall be constructed in compliance with requirements of the Virginia Uniform Statewide Building Code.

(ii) Any time an antenna is added to an existing WCF located on a support structure in excess of 100 feet, the owner or operator of the antenna shall provide the County with an engineer's certification that the WCF can structurally accommodate the total number of antenna to be located on the WCF.

(P) *Sounds.* No unusual sound emissions, such as alarms, bells, buzzers, etc., are permitted.

(Q) *Abandonment.*

(i) A WCF and its accessory equipment shall be removed, at the owner's expense, within 180 days of cessation of use, unless the abandonment is associated with a replacement support structure, in which case the removal shall occur within 90 days of cessation of use.

(ii) A support structure which remains unoccupied by any antenna for a period of 180 consecutive days ("vacancy period") shall be removed within 60 days of the last day of the vacancy period, at the owner's expense.

(iii) An owner who wishes to extend the time for removal shall submit an application stating the reason for the proposed extension. The Board may extend the time for removal or reactivation upon a showing of good cause.

(iv) If the WCF or vacant support structure is not removed within the time period required by this subparagraph, the County may give written notice that it will contract for removal of the WCF within 30 days following the notice. Thereafter, the County may cause removal of the WCF and the owner or corporate surety, if any, shall be responsible for payment of all costs incurred by the County to do so.

(v) Upon removal of a WCF and its accessory equipment, the site shall be returned to its natural state and topography, and shall be vegetated consistent with the natural surroundings or the current uses of the surrounding or adjacent land at the time of the removal.

14-13-7. *New freestanding WCF.*

(A) No new or mitigated freestanding WCF shall be permitted unless the applicant demonstrates that no existing WCF can accommodate the WCF facilities or is suitable, as to design or location.

(B) In any R-1, R-2, or R-3 zoning district, new freestanding WCFs (other than those mounted on a utility pole) shall only be permitted on lots whose principal use is not single-family residential.

14-13-8. *Mitigation of existing freestanding WCF.*

(A) An existing WCF may be modified in order to mitigate the impact of that facility. Mitigation must accomplish a minimum of one of the following objectives: (i) reduce the number of WCFs; (ii) reduce the number of nonconforming WCFs; or (iii) replace an existing WCF with a new WCF to improve network functionality resulting in compliance with this ordinance. No WCF shall be mitigated more than one time. Upon completion of mitigation, the owner of the mitigated WCF shall provide the County with evidence that at least one of the above-referenced objectives has been achieved.

(B) The height of a mitigated WCF shall not exceed 115 percent of its original height.

(C) A new WCF approved for mitigation of an existing WCF shall not be required to meet new setback standards, so long as the new WCF and its equipment compound are no closer to any property lines or dwelling units than the facility being mitigated.

(D) Except as set forth within paragraphs (B) and (C), above, a mitigated WCF shall be brought into compliance with the requirements of 14-3-5.

14-13-9. *Interference with public safety communications.*

In order to facilitate the regulations, placement and construction of each WCF, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and guidelines of the FCC, each owner of a WCF, and each applicant (if different than the owner) shall agree in a signed written statement to the following:

(1) Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

(2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

(3) In the case of an application for co-located telecommunications facilities, best efforts will be made to provide a composite analysis of all users of the site, to determine that the proposed facility will not cause radio frequency interference with the County's public safety communications equipment and will implement appropriate technical measures to attempt to prevent such interference.

(4) Whenever the County encounters radio frequency interference with its public safety communications equipment, and it believes that the interference has been or is being caused by a WCF, then:

(i) The County will notify the WCF service provider of possible interference with the public safety communications equipment. Upon such notification, the owner shall utilize its best effort to cooperate and coordinate with the County and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide" released by the FCC in February 2001, including the "Good Engineering Practices," as such have been or may be amended or revised by the FCC from time to time.

(ii) If the WCF owner fails to cooperate with the County in complying with its obligations under this subsection, or if the FCC makes a determination of radio frequency interference with the County's public safety communications equipment, the owner who failed to cooperate or whose facility caused the interference shall be responsible for reimbursing the County for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the County to determine the source of the interference. For purposes of this subsection, failure to cooperate shall include failure to initiate any response or action described in the "Best Practices Guide" within 24 hours of the County's notice.

14-13-10. *Submission requirements.*

(A) For each proposed WCF, an applicant shall submit a completed application form and required application fees (as set forth on the most recent fee schedule approved by the Board) along with a site plan containing or supported by the following information:

(1) An affidavit by a radio frequency engineer certifying compliance with the alternatives hierarchy set forth in section 14-13-5. If a lower-ranking alternative is proposed, the affidavit must provide specific factual information explaining why higher-ranked options are not technically feasible, practical, or justified;

(2) Evidence of the current ownership of the subject property;

(3) If the applicant is not the property owner, proof that the applicant is authorized to act upon the owner's behalf;

(4) All applicable certifications, assurances, and written agreements required by this ordinance;

(5) Proposed maximum height of the WCF, inclusive of the base, the antenna support structure, antennas and lighting rods;

(6) Proposed exterior paint and stain samples for any components to be painted or stained;

(7) GPS coordinates for the WCF;

(8) Antenna mounting elevations and power levels of the proposed antenna, and all of the mounting elevations and power levels of any other WCF facilities located on the same site;

(9) Materials detailing the locations of existing WCFs to which a proposed WCF will be a handoff candidate, including GPS coordinates, latitude, longitude, and power levels of the proposed and existing antennas;

(10) A radio frequency propagation plot, indicating the coverage of the applicant's existing WCF sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher-ranked alternative; and

(11) A map showing the designated search ring.

(B) The following information shall be provided, in addition to the requirements of subparagraph (A), above, for any WCF which requires approval of a special use permit:

(1) Two sets (24 inches x 36 inches) of a site plan for the proposed WCF, signed and sealed by a surveyor or engineer licensed by the Commonwealth of Virginia, including antenna support structure elevations, plans for any landscaping and fencing required, plus 17 sets (11 inches x 17 inches). Each site plan shall meet applicable requirements of the County's site plan ordinance.

(2) One original and two copies of a survey of the proposed WCF site, signed by a professional surveyor licensed in the Commonwealth of Virginia.

(3) Photo-simulated post-construction renderings of the completed WCF, from locations to be determined during a pre-application conference with the Zoning Administrator.

(4) A balloon test for any proposed freestanding WCF in excess of 100 feet, in order to demonstrate the height of the proposed WTF. The applicant shall arrange to raise a colored balloon, no less than three feet in diameter, at the maximum height of the proposed WTF, and within 50 horizontal feet of the center of the proposed antenna support structure.

a. The applicant shall inform the Zoning Administrator and adjacent property owners in writing of the date and times of the test, at least 14 days in advance. The date, time and location of the balloon test shall be advertised in a locally distributed paper by the applicant, once per week for two weeks in advance of the test date. The balloon shall be flown for a least four consecutive hours during daylight hours on the date chosen. The applicant shall record the weather during the balloon test.

b. Re-advertisement will not be required if inclement weather occurs—the original advertisement should direct readers to an alternate date.

(5) A report and supporting technical data demonstrating that all potentially usable elevated structures within the proposed service area, and alternative antenna configurations, have been examined and found unacceptable, for one of the following reasons:

a. No existing WCF in the geographic area meets the applicant's engineering requirements, and a written statement explaining in detail the requirements and the reason for this conclusion.

b. No existing WCF in the geographic area is of sufficient height to meet the applicant's engineering requirements or can be increased in height to meet those requirements, and a written statement explaining in detail the requirements and the reason for this conclusion.

c. No existing WCF in the geographic area has sufficient structural integrity to support the applicant's proposed WCF or can be sufficiently improved to provide such support, and a written statement identifying the specific WCFs that were investigated and the reasons for this conclusion.

d. Other limiting factors render other existing WCFs in the geographic area unsuitable, and a written statement explaining in detail the reasons for this conclusion.

(6) A written statement, supported by technical data identifying any existing service gap that will be addressed by the proposed WCF, and accompanying maps and calculations, or other data demonstrating the service gap. For the purpose of this paragraph, the term "service gap" means a defined geographic area in which there is a demonstrable, consistent absence of any signal.

(7) List of property owners within 1,000 feet in agriculturally zoned, and 500 feet in all other districts, of the subject property. The list must be compiled from the most current ownership information supplied by the Commissioner of Revenue's office.

(8) A written statement that the proposed WCF meets the alternatives hierarchy. In the event that the proposed WCF is of a lower degree of preference than a concealed freestanding WCF the applicant shall demonstrate that concealment technology is unsuitable for the proposed facility. Cost of concealment technology that exceed facility development costs of the proposed WCF shall not be presumed to render the technology unsuitable.

(9) A written statement provided by a professional engineer licensed by the Commonwealth of Virginia, specifying the design structural failure modes of the proposed WCF.

(10) Identification of the intended service providers who will operate the WCF.

(11) Proof of approval by the Virginia Department of Historic Resources, State Historic Protection and Preservation Office, or a certification that no such approval is required.

(12) A copy of any material submitted to the U.S Fish and Wildlife Service, or a certification that no submission to the FWS is required for the proposed facility.

(13) A pre-application conference will be required for a new freestanding WCF. The applicant shall demonstrate that the following notice was mailed by certified mail to all other wireless service providers licensed to provide service within the County. "Pursuant to the requirements of the Madison County Zoning Ordinance, we are hereby providing you with notice of our intent to meet with County staff in a pre-application conference to discuss the location of a free-standing wireless communication facility that would be located at _____ (insert physical address, latitude and longitude (NAD-83). In general, we plan to construct an antenna support structure (insert number) feet in height for the purpose of providing (insert type of wireless service). Please inform County staff if you have any desire for placing additional WCF or equipment within two miles of our proposed facility. Please provide us with this information within 20 business days after the date of this letter."

(C) The following shall be provided in lieu of the requirements set forth in subsection (A), above, for any replacement of an existing antenna or support structure:

(1) A written statement setting forth the reasons for the replacement.

(2) A signed statement from a qualified professional, together with a statement of his qualifications, certifying that the radio frequency emissions from the WCF meet FCC standards for such emissions and that, both individually and cumulatively, and with any other facilities located on or immediately adjacent to the WCF, the replacement antenna complies with FCC standards.

(3) A structural analysis of the existing WCF prepared by an engineer licensed by the Commonwealth of Virginia, indicating that the existing or replacement support structure, and all existing and proposed attachments thereto, meet Virginia Uniform Statewide Building Code requirements (including wind loading).

14-13-11. *Relation to Other Zoning Regulations.*

(A) *Principal or accessory use.* WCFs may be considered either principal or accessory uses. An existing structure or existing use already established on the same lot shall not prelude the installation of a WCF on such lot.

(B) *Relation to other zoning district regulations.* For purposes of determining whether the installation of a WCF complies with zoning district regulations, the dimensions of the entire lot shall control, even though the WCF may be located on leased areas within such lots. In the event of a conflict between any requirements of this section and the requirements of a particular zoning district, the more restrictive requirements shall govern; however, the height limitations and setbacks applicable to buildings and structures within each zoning district shall not apply to WCFs.

14-13-12. *Non-conforming uses.*

(A) Impact of installation on non-conforming uses. A WCF that is constructed or installed in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure, other than a nonconforming WCF.

(B) Existing WCFs may continue in use for the purpose now used, but may not be expanded or replaced without complying with this ordinance, except as further provided in this section.

(C) Existing WCFs which are hereafter damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions (subject to obtaining a building permit) but shall be required to meet the requirements of section 14-3-5(L), (M), (N), (O), (P) and (Q) of this ordinance.

(D) The owner of any existing telecommunications facility may replace, repair, rebuild and/or expand such telecommunications facility to accommodate co-located antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards (subject to obtaining a building permit) without having to conform to provisions other than section 14-3-5(L), (M), (N), (O), (P) and (Q) of this ordinance.

14-13-13. *Definitions.*

"Accessory equipment" means any equipment serving or being used in conjunction with a WCF. This equipment includes, but is not limited to, utility and transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, and other structures.

"Antenna" means any structure or device used for telephonic, cellular, data, radio, or television communication through the sending and/or receiving of electromagnetic waves. Such structures and devices include, but are not limited to, directional antennas (such as panels, microwave dishes and satellite dishes) and omni-directional antennas (such as whips), and antenna arrays.

"Board" means the Board of Supervisors of Madison County, Virginia.

"Breakpoint technology" means the engineering design of a monopole such that a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole, and in the event of a structural failure of the monopole the failure will occur at the breakpoint rather than at the base plate, anchor bolts or any other point on the monopole.

"County" means the County of Madison, Virginia, a political subdivision of the Commonwealth of Virginia and, in appropriate context, to the governing Board, its officials, officers and employees.

"Engineer" means an engineer licensed within the Commonwealth of Virginia.

"Existing WCF" means any WCF that was placed, built, erected, or for which a special use permit had been approved by the Board on or before February 4, 2009.

"FAA" means the Federal Aviation Administration.

"FCC" means the Federal Communications Commission.

"Fall zone" means the area surrounding a support structure centered upon the support structure and encompassed within a radius equal to 110 percent of the total height of the support structure.

"Handoff candidate" means a WCF that receives call transference from another WCF, usually located in an adjacent first "tier" surrounding the initial WCF.

"Mitigation" means a modification of an existing support structure in order to bring the structure into compliance with the requirements of this ordinance, to improve aesthetics, or to improve the functionality of the overall wireless network of which the facilities located on the support structure are a part.

"Monopole" means a structure to support antennas and related wireless equipment consisting of a single self-supporting pole, constructed without any external bracing, guy wires or similar attachments.

"Support structure" means a freestanding, guyed, or self-supporting structure designed to support telecommunications facilities, including, but not limited to, lattice-type towers, monopoles, and utility poles.

"Utility pole" means a wooden pole, 100 feet or less in height, of the type typically utilized by telephone and electric utility companies.

"WCF" means a wireless communications facility, and refers to any manned or unmanned facility established for the purpose of providing wireless transmission and/or reception of voice, data, images or other information, including but not limited to cellular telephone service, personal communications service (PCS), and paging service.

A WCF usually consists, collectively, of an antenna, a support structure, and accessory equipment. However, as used in this ordinance "WCF" may refer, in appropriate context, to an individual antenna and its accessory equipment and facilities used for non-commercial access to communications services, installed at a consumer's location.

"Attached WCF" means a WCF that is secured to an existing building or structure. An attached WCF shall be considered to be an accessory use to the existing principal use on a site.

"Co-located WCF" means any one of multiple WCFs operated by multiple carriers, service providers, or licensees on a shared support structure.

"Concealed WCF" means a WCF that is hidden or camouflaged so that it is not readily identifiable as such, and that is designed to be aesthetically compatible with the surrounding natural environment and/or existing and proposed buildings and uses on a site. Examples of a concealed WCF include manmade trees, silos, clock towers, steeples and bell towers, street light poles, and similar alternative mounting structures.

"Freestanding WCF" means a WCF utilizing a support structure.

(Ord. of 2-4-2009)

14-14. *Small wind energy system.*

14-14-1. *Purpose and intent.*

The purpose of this article is to regulate the placement, construction, and modification of small wind energy systems while promoting the safe, effective, and efficient use of small wind energy systems and not unreasonably interfering with the development of independent renewable energy sources.

14-14-2. *Applicability.*

The requirements set forth in this division shall govern the use and siting of small wind energy systems used to generate electricity or perform work which may be connected to a utility grid pursuant to the net metering law set forth in Virginia Code, § 56-594,as amended, or serve as an independent source of energy, or serve in a hybrid system.

14-14-3. *Definitions.*

Small Wind Energy System. A supplemental wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a maximum power of 30kw and does not emit or receive radio, television, or wireless communication signals. A small wind energy system may be part of a hybrid energy system that uses more than one technology to produce energy (for example, a wind-solar system).

Tower. The structure on which the small wind energy system is mounted.

Tower Height. The height above ground of the fixed portion of the tower, including the wind turbine itself.

Turbine. The parts of the wind system, including the blades, generator, and tail.

14-14-4. *Siting requirements.*

The requirements for siting and construction of a small wind energy system in Madison County, Virginia, shall include the following:

1. A small wind energy tower shall have a maximum tower height of 60 feet.
2. The applicant shall provide written confirmation that the proposed height of the small wind energy tower does not exceed the height recommended by the manufacturer or distributor of the tower.
3. The minimum distance between the ground and any protruding blades utilized on a small wind energy tower shall be 15 feet, as measured at the lowest point of the arc of the blades. The lowest point of the arc of the blade shall also be ten feet above the height of any structure within 150 feet of the tower base.
4. A small wind energy tower shall have no advertising sign, writing, or picture.
5. A small wind energy system shall not be artificially lighted.
6. A small wind energy system shall be set back from all adjacent lots or parcels of land a distance equal to at least 110 percent of the height of the tower, plus the blade length and a distance equal at least to 150 percent of the tower height, plus blade length from any inhabited dwelling on all adjoining lots or parcels of land. In addition to the requirements set forth above, a small wind energy system shall meet all setback requirements for the zoning district in which it is located.

14-14-5. *Removal of defective or abandoned wind energy systems.*

Any small wind energy system found to be unsafe by the Madison County Building Inspector shall be repaired by its owner to meet Federal, State and local requirements or removed as specified by the Madison County Building Inspector. Any small wind energy system that is not in operational use for a continuous period of 24 months shall be considered abandoned, and the owner of the abandoned system shall remove it within 90 days after receipt of a written removal notice from the Madison County Building Inspector.

14-14-6. *Federal and State requirements.*

(a) *Compliance with Uniform Statewide Building Code.* Building permit applications for a small wind energy system shall be accompanied by standard drawings of the small wind turbine structure, including the tower, blades, generator, base, and footings, and an engineering analysis of the tower showing compliance with the Uniform Statewide Building Code and certified by a licensed professional engineer.

(b) *Compliance with National Electrical Code.* A building permit application for a wind energy system shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

(c) *Compliance with regulations governing energy net metering.* A small wind energy system connected to a utility grid must comply with the Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering.

(Ord. of 7-7-2010)

14-15. *Commercial firearm and archery range facilities.*

14-15-1. *Purpose.*

(A) The purpose of this ordinance is to provide minimum standards and a review procedure for the development and operation of commercial outdoor and indoor firearm and archery ranges, and to require a special use permit for any such ranges.

(B) Given the potential adverse impact of commercial outdoor and indoor firearm and archery ranges on the health, safety, and welfare of the owners and users of neighboring properties, as well as of the users of these ranges, the Madison County Board of Supervisors finds that it is in the public interest to regulate the establishment and operation of commercial outdoor and indoor firearm and archery ranges within Madison County, and that the public has a right to participate in the permitting of these operations.

(C) The provisions of this ordinance do not apply to (1) private outdoor and indoor firearm and archery ranges where the owner receives no compensation from users of the range and the use of the range is permitted only when the owner is present; and (2) turkey shoots conducted as fund raisers by charitable non-profit organizations under the following conditions: (a) the principal administrative offices are located with Madison County, (b) the organization conducts shoots no more than 12 days in any calendar year and only during hours between 12:00 noon and 10:00 p.m. on Fridays, Saturdays, or holidays, (c) the discharge of firearms shall be limited to shotguns up to 12 gauge and the greatest allowable shot size shall be 7 1/2, (d) the shoot is positioned so that the line of fire is directly away from any public or private road or right-of-way and shall not be directed towards any residence or other structure, (e) permission is obtained from any neighbor whose residence is within 900 feet of the firing range, and (f) the dates of the shoots are coordinated in advance with the Madison County Sheriff and publicized in the Madison County Eagle at least one month in advance.

14-15-2. *Development standards for commercial outdoor and indoor firearm and archery ranges.*

The following minimum standards shall be applied in considering a special use permit application for an outdoor or indoor commercial firearm or archery range:

(A) *Area Requirements for Outdoor Firearm and Archery Ranges.* The minimum lot area shall be ten acres for an outdoor firearm range or three acres for an outdoor archery range. Larger lot area may be required to accommodate the specific type of range and for projectile containment and noise abatement.

(B) *Design Standards for Outdoor and Indoor Firearm and Archery Ranges.*

(1) The then-current National Rifle Association Range Source Book shall be used in assessing the adequacy of safety and noise abatement measures for a proposed outdoor or indoor firearm range.

(2) The then-current Easton Foundation Archery Facility Planning Guide and the then-current Archery Trade Association Archery Park Guide shall be used in assessing the adequacy of safety measures for a proposed indoor or outdoor archery range.

(3) Outdoor firearm and archery ranges shall be designed so as to contain discharge projectiles within the property on which the range is located. Natural topographic features and man-made improvements, such as impact and side berms, bullet traps, arrow curtains, ricochet catchers, and overhead safety baffles may be considered in connection with this standard.

(4) Indoor firearm and archery ranges shall be designated so as to contain discharged projectiles within the structure in which the range is located.

(5) Outdoor and indoor firearm ranges shall be designed so as to substantially avoid noise impacts on neighboring properties.

(C) *Security for Outdoor Firearm and Archery Ranges.* The entire perimeter of all outdoor firearm and archery ranges shall be fenced and signed to reduce the potential for trespass. Warning signs shall be posted around the perimeter of the range at 100-foot intervals.

(D) *Lead Recovery for Outdoor Firearm Ranges.* Outdoor firearm ranges must have a plan for scheduled periodic recovery, removal, and disposal of lead.

(E) *Indoor Firearm Range Ventilation Requirement.* Indoor firearm ranges shall be properly and adequately ventilated and filtered at all times and comply with all applicable OSHA, NIOSH, EPA standards to mitigate lead particles in the air.

(F) *Parking for Outdoor and Indoor Firearm and Archery Ranges.* In addition to the requirements of 14-9, at a minimum, there shall be one parking space for each firing position, range official, and instructor.

14-15-3. *Special use permit application requirements for commercial outdoor and indoor firearm and archery ranges.*

(A) A special use permit must be obtained prior to the issuance of a building permit for any commercial outdoor or indoor firearm or archery range.

(B) In addition to the requirements of article 14-3, an application for a special use permit to operate a commercial outdoor or indoor firearm or archery range must, at a minimum, contain the following information:

1. The names and address of all owners of the proposed range.

2. The types of firearms and/or archery equipment to be utilized at the range.

3. In the case of a firearm range, a statement of the largest caliber ammunition to be utilized.

4. A site plan, sealed by a Virginia-licensed engineer or surveyor, detailing:

a. The property lines of the lots or parcels on which the range is to be developed.

b. The location of the range within the property lines, including, without limitation, shooting positions, firing lines, target positions, safety fans, shortfall zones, natural topographic features, manmade backstops, side berms, and baffles.

c. The locations, dimensions, and uses of all existing and proposed structures, roadways, sidewalks, parking areas, fencing, screening, lighting, and utilities on the property.

d. The location of all streams, watercourses, and wetlands on the property.

5. The safety and noise abatement procedures that will be implemented at the range and how these procedures conform to the National Rifle Association Range Source Book, in the case of a firearm range, and the Easton Foundation Archery Facility Guide and Archery Trade Association Archery Park Guide, in the case of an archery range.

6. The operating plan for the range, including the hours of operation.

7. The amount of liability insurance to be carried by the owners of the range.

8. The names and addresses of all persons owning the property within one mile of the perimeter of the property on which the range is to be located.

9. The uses of all properties abutting the property on which the proposed range is to be located.

14-15-4. *Inspections.*

No commercial outdoor or indoor firearm or archery range facility may commence operations until the range facility has been inspected and approved by the Madison County Building Official to ensure that the range conforms to its special use permit and building permit(s).

14-15-5 *Liability insurance.*

(A) Commercial outdoor and indoor firearm ranges shall maintain general liability insurance coverage in an amount of not less than $3,000,000.00 through an insurance company licensed to do business in Virginia.

(B) Commercial outdoor and indoor archery ranges shall maintain general liability insurance through a Virginia licensed insurance company in an amount not less than $1,000,000.00.

14-15-6 *Definitions.*

(A) *Baffles.* Barriers to contain projectiles and to reduce, redirect, or suppress sound waves. They may be placed overhead, alongside, or at ground level to restrict or interrupt errant or off-the-target shots.

(B) *Berm.* An embankment used for restricting projectiles to a given area or as a dividing wall between ranges.

(C) *Firearm.* Any handgun, shotgun, rifle, and air rifle that will or is designed to or may readily be converted to expel single or multiple projectiles by action of an explosion of a combustible material. The term is used to describe any gun from which a projectile is propelled by means of hot gasses generated by burning powder (usually smokeless or black powder).

(D) *Firing line.* A line parallel to the targets from where projectiles are discharged.

(E) *Firing position.* An area directly behind the firing line having a specified width and depth that is occupied by a shooter or archer, his or her equipment and, if appropriate, an instructor or coach.

(F) *Safety fan.* Term applies to firearm and archery ranges. The safety fan consists of three parts: a direct fire zone, the safety zone, and the ricochet zone.

(G) *Turkey Shoot.* A shooting match or similar activity conducted involving the discharge of shotguns at a target or at targets with the object of such activity being to determine a winner of a prize, such as a turkey, pork ham, other food stuff, or other prize.

14-16. *Residential Solar Energy Systems.*

14-16-1. *Purpose and intent.*

The purpose of this ordinance is to provide for the development, siting, and decommissioning of residential solar energy systems in the County of Madison, Virginia, subject to reasonable conditions that promote and protect the public health, safety and welfare of the community, while promoting development of renewable energy resources. Anyone wishing to install a solar energy system may wish to consider the need for a solar easement (See 14-16-6) to ensure the system has access to direct sunlight in the future.

14-16-2. *Applicability.*

The requirements set forth in this division shall govern the use and siting of residential solar energy systems used to generate electricity or perform work which may be connected to a utility grid pursuant to the net metering law set forth in Virginia Administrative Code section 20 VAC 5-315 or serve as an independent source of energy, or serve in a hybrid system. A building and/or electrical permit must be issued before construction may begin.

14-16-3. *Siting Requirements.*

The requirements for siting and construction of a solar energy system in the County of Madison, Virginia, shall include the following:

1. Solar energy systems, as described in this ordinance, are permitted by right in all zoning districts as an accessory use, with restriction to roof-mounted systems in zones R2 and R3.

2. A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall not be for the generation of power for resale/sale.

3. The installation and construction of a roof-mounted energy system shall be subject to the following development and design standards and is required in R2 and R3 zoning:

    a. A roof- or building-mounted solar energy system may be mounted on a principal or accessory building.

    b. Placement of solar panels shall not extend horizontally past the roofline or exceed eight feet above the roof.

4. The installation and construction of a ground-mount or pole-mount energy system shall be subject to the following development and design standards:
   a. The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.
   b. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
   c. Ground mounted solar energy systems shall not be located in a septic system drain field or in the reserve drain field area shown on the property plat.
5. All electrical equipment associated with and necessary for the operation of solar energy systems shall comply with the setbacks specified for accessory structures in the zoning district.
6. Solar panels are designed to absorb (not reflect) sunlight; therefore panels are generally less reflective than other varnished or glass exterior housing. However, solar panel placement should attempt to minimize or negate any solar glare onto nearby properties or roadways.
7. A solar energy system shall not be used to display advertising of any type, including banners, streamers, or reflectors.
8. A solar-energy system shall not be constructed until a building and/or electrical permit has been obtained.

14-16-4. *Federal and State Requirements.*

1. The design of the solar energy system shall conform to applicable state and national solar codes and standards. A building and/or electrical permit reviewed by the Building Official shall be obtained. All design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), Virginia Residential Code (VARES), Virginia Construction Building Code, Virginia Statewide Fire Prevention Code, and Virginia Uniform Statewide Building Code.
2. The solar energy system shall comply with all local codes so as to ensure the structural integrity of the system.
3. Prior to operation, electrical connections must be inspected by the building official.
4. Any connection to the public grid must be approved by the appropriate public utility.
5. A solar energy system connected to a utility grid must comply with the Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering.

14-16-5. *Abandonment/Decommissioning of All Solar Energy Systems.*

1. If a solar energy system is abandoned or decommissioned, the owner of the system should notify the respective power company. This enables the power company to remove the solar energy system from its system.

2. If a solar system has been determined to be unsafe by the building official, the system shall be required to be repaired by the owner or other responsible party to meet federal, state, and local safety standards, or to be removed by the owner or other responsible party.
3. Solar panels contain dangerous chemicals, which, if not disposed of properly, could result in damage to the environment. Consequently, the owner should take precautions to dispose of solar panels in a safe manner.

14-16-6. *Definitions.*

Residential Solar Energy System: The components and subsystems required to convert solar energy into electric energy suitable for use, all the land inside the perimeter of the system. The term applies, but is not limited to solar photovoltaic systems, solar thermal systems, and solar hot water systems. A residential and/or business solar energy system may be part of a hybrid energy system that uses more than one technology to produce energy (for example, a wind-solar system).

Photovoltaic: Refers to technology which uses a device, typically a solar panel to convert light into electricity.

Solar Array: A group of multiple solar panels connected together to provide a single electrical output.

Solar Energy: Energy from the sun that is converted into thermal or electrical energy.

Solar Panels: A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

Solar Collector: A solar PV cell, panel, or array, or solar thermal collector device, that relied on solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Ground-Mount System: A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to the adjacent home or building.

Roof-Mount System (Rooftop Mounted): A solar energy system consisting of solar panels directly installed on the roof of a home or building. Roof-mount systems may be mounted flush with the roof or tilted toward the sun at an angle.

Pole-Mount System: A solar energy system that is directly installed on specialized solar racking systems, which are attached to a pole, anchored and firmly affixed to a concrete foundation in the ground, and wired underground to an attachment point at the building's meter. Unlike ground-mount systems, pole-mount systems are elevated from the ground. Pole-mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year.

Accessory Use: See Definitions, section 20-3.

Net Meter: A device provided and installed by the local utility, to measure the flow of electricity from the solar system for the purpose of net-metering.

Net Metering: A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated onsite and provided to the utility grid.

Solar Easement: A legal arrangement entered into with adjoining property owner(s) to protect or guarantee future access to direct sun light for the purpose to generating solar energy. A solar easement is created for the purpose of protecting the dominant land's exposure to direct sunlight. Such an easement prevents the servient landowner from constructing any building or other structure which would obstruct the dominant sunlight to a solar energy system.

(Ord. No. 2019-3, 1-2-2019)

14-17. *Solar energy systems.*

14-17-1. *Purpose and intent.*

The purpose of this ordinance is to provide for the development, siting, and decommissioning of residential and/or business solar energy systems in the County of Madison, Virginia, subject to reasonable conditions that promote and protect the public health, safety and welfare of the community, while promoting development of renewable energy resources. Anyone wishing to install a solar energy system may wish to consider the need for a solar easement to ensure the system has access to direct sunlight in the future.

14-17-2. *Applicability.*

The requirements set forth in this division shall govern the use and siting of residential and/or business solar energy systems used to generate electricity or perform work which may be connected to a utility grid pursuant to the net metering law set forth in Virginia Code, § 56-594, as amended, or serve as an independent source of energy, or serve in a hybrid system. A building permit must be issued before construction may begin.

14-17-3. *Siting Requirements.*

The requirements for siting and construction of a solar energy system in the County of Madison, Virginia, shall include the following:

1. Solar energy systems, as described in this ordinance, are permitted in A-1, B-1, and C-1 districts as an accessory use.
2. A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located and shall not be for the generation of power for commercial purposes.
3. The installation and construction of a roof-mounted energy system shall be subject to the following development and design standards:
    a. A roof or building mounted solar energy system may be mounted on a principal or accessory building.
    b. Placement of solar collectors on flat roofs shall be allowed by right provided that panels do not extend horizontally past the roofline or exceed eight feet above the roof.
4. The installation and construction of a ground-mount or pole-mount energy system shall be subject to the following development and design standards:
    a. The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.

b. The surface area of a ground- or pole-mounted system shall be calculated as part of the overall lot coverage.

c. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

d. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be in accordance with building code.

e. Ground mounted solar energy systems shall not be located in a septic system drain field or in the reserve drain field area shown on the property plat.

5. All electrical equipment associated with and necessary for the operation of solar energy systems shall comply with the setbacks specified for accessory structures in the zoning district.

6. Solar panels are designed to absorb (not reflect) sunlight; therefore panels are generally less reflective than other varnished or glass exterior housing. However, solar panel placement should attempt to minimize or negate any solar glare onto nearby properties or roadways.

7. A solar energy system shall not be used to display advertising of any type, including banners, streamers, or reflectors.

8. A solar-energy system shall not be constructed until a building/zoning permit has been approved and issued.

14-17-4. *Safety and Inspections.*

1. The design of the solar energy system shall conform to applicable state and national solar codes and standards. A building permit reviewed by department staff shall be obtained. All design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), the International Residential Code (IRC), International Commercial Building Code, State Fire Code, and Uniform Statewide Building Code.

2. The solar energy system shall comply with all local codes so as to ensure the structural integrity of the system.

3. Prior to operation, electrical connections must be inspected by the building official.

4. Any connection to the public grid must be approved by the appropriate public utility.

5. A solar energy system connected to a utility grid must comply with the Virginia Administrative Code 20 VAC 5-315: Regulations Governing Energy Net Metering.

6. Unless otherwise specified through a contract or agreement, the property owner of record will be the responsible party for owning and maintaining of the solar energy system.

14-17-5. *Abandonment/Decommissioning and Removal for All Solar Energy Systems.*

1. If a solar energy system is abandoned or decommissioned, the owner of the system should notify the respective power company. This enables the power company to remove the solar energy system from its system.

2. If a solar system has been determined to be unsafe by the building official, the system shall be required to be repaired by the owner or other responsible party to meet federal, state, and local safety standards, or to be removed by the owner or other responsible party.
3. Solar panels contain dangerous chemicals, which, if not disposed of properly, could result in damage to the environment. Consequently, the owner should take precautions to dispose of solar panels in a safe manner.

14-17-6. *Definitions.*

Accessory Use: See Definitions, section 20-3.

Ground-Mount System: A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to the adjacent home or building.

Net Meter: On-grid solar photovoltaic systems connected to the utility grid use a net meter, typically provided and installed by the local utility, to measure the flow of electricity from the solar system for the purpose of net-metering.

Passive Solar: Techniques, designs, and materials designed to take advantage of the sun's position throughout the year.

Photovoltaic: Refers to technology which uses a device, typically a solar panel to convert light into electricity.

Pole-Mount System: A solar energy system that is directly installed on specialized solar racking systems, which are attached to a pole, anchored and firmly affixed to a concrete foundation in the ground, and wired underground to an attachment point at the building's meter. Unlike ground- mount systems, pole-mount systems are elevated from the ground. Pole-mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year.

Residential and/or Business Solar Energy System: The components and subsystems required to convert solar energy into electric energy suitable for use, all the land inside the perimeter of the system. The term applies, but is not limited to solar photovoltaic systems, solar thermal systems, and solar hot water systems. A residential and/or business solar energy system may be part of a hybrid energy system that uses more than one technology to produce energy (for example, a wind-solar system).

Roof-Mount System (Rooftop Mounted): A solar energy system consisting of solar panels directly installed on the roof of a home or building. Roof-mount systems may be mounted flush with the roof or tilted toward the sun at an angle.

Solar Array: A group of multiple solar panels connected together to provide a single electrical output.

Solar Easement: A legal arrangement entered into with adjoining property owner(s) to protect or guarantee future access to direct sun light for the purpose to generating solar energy. A solar easement is created for the purpose of protecting the dominant land's exposure to direct sunlight. Such an easement prevents the servient landowner from constructing any building or other structure which would obstruct the dominant sunlight to a solar energy system.

Solar Energy: Energy from the sun that is converted into thermal or electrical energy.

Solar Panels: A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

(Ord. No. 2019-4, 1-2-2019)

14-18. *Rural Resort.*

14-18-1. *Purpose and Intent.*

The purpose of this ordinance is to provide standards and review procedures for the development and operations of rural resorts and to require a special use permit for the same. Any development will require adherence to the Madison County Ordinances and the Code of Virginia.

Given the potential impact on the health, safety, and welfare of neighboring property owners, as well as the patrons of these facilities, the Madison County Board of Supervisors find that it is in the public interest to regulate the establishment and operation of rural resorts within Madison County.

14-18-2. *Structures and Activities to Be Allowed.*

The activities that will be permitted at a given rural resort will be determined by the Board of Supervisors in consultation with the County planning staff, the Planning Commission, and the special use permit applicant, and will be a function of the circumstances of a particular proposed event venue, including, without limitation: the overall acreage of the proposed resort; the existing and anticipated uses of surrounding properties, existing and proposed facilities, and location within the County.

At the discretion of the Board of Supervisors, such permissible activities and facilities at a particular proposed event venue may include, without limitation: conferences, wedding hosting, and retreat facilities; educational and entertainment facilities, dining and picnicking facilities; camping and glamping facilities; resort store; indoor and outdoor athletic and physical fitness facilities; hiking, cycling, fishing, canoeing, rafting, tubing, wildlife observation shelters, boat landing/docks, and equestrian trails and facilities; administrative, utility service, laundry and construction facilities, and staff living quarters.

Outdoor Music or entertainment events that are open to the public are subject to the requirements of the Madison County Music and Entertainment Ordinance (5/9/1978, amended 10/12/82). The Music and Entertainment ordinance does not apply to private events such as weddings or conferences or any event without music.

14-18-3. *Siting Requirements.*

The requirements for siting and construction of facilities on Rural Resorts in the County of Madison, Virginia shall include the following:

1. Area Regulations. The minimum lot area for event venue use shall be ten acres in A1 (General Agriculture) zoning district and ten acres in the C1 (Conservation) zoning district.

(Ord. No. 2020-2, 3-4-2020)

2. Open Space. A minimum of 50 percent of the site shall remain as open space. (See article 20-133.)

3. Building height. No new building shall exceed 48 feet (four stories) in height from the grade to the highest roof beams or a flat roof, or the mean level of the highest gable or slope of a gable, hip, or other roof.

4. Lodging. All lodging, dining, and other facilities for guest use must comply with local and State building codes and Health Department regulations.

5. Any special use permit application for constructing and operating an event venue will be subject to article 14-4-3.

6. Parking and Loading: Parking and lodging at event venues will be subject to the requirements set forth in article 14-9 and 14-10.

7. For any addition of land to the event venue, the applicant must submit an application to amend its special use permit. No tract of land may be admitted to the resort except with the submission of detailed plans as required by this ordinance and/or other documents required by the County in order to enable it to make a comprehensive study of the proposed development. No tract of land may be admitted to the venue unless the event venue activities and facilities are a primary part of the overall plan development.

14-18-4. *Application Requirements.*

1. An application for an event venue special use permit shall include:

   a. A thorough explanation of the scope and variety of buildings, land improvements, and uses that would be installed on the property.

   b. The anticipated installation timetable or phasing plan.

   c. Appropriate concept maps showing lot lines, the location of existing and new land features, improvements, and other pertinent information.

2. An applicant should be prepared to addresses the potential impact on adjacent properties in areas such as noise, lighting, traffic, storm water management, erosion, and sediment control.

3. The specifics of any building, land improvements, and uses approved under a special use permit for an event venue shall be documented in the motion by the Board of Supervisors.

(Ord. No. 2019-7, 5-1-2019)

14-19. *Commercial Solar Energy Facilities.*

14-19-1. *Purpose and Intent.*

The purpose of this ordinance is to provide standards and review procedures for the development, operations, siting, and decommissioning of commercial solar energy facilities in the County of Madison, Virginia, and require a special use permit for the same.

1. Given the potential impact on the environment, health, safety, and welfare of neighboring property owners, as well as county staff, the Madison County Board of Supervisors finds that it is in the public interest to regulate the establishment and operation of commercial solar energy facilities within Madison County.

2. Definitions.

Applicant: The person or entity who submits an application to Madison County for a permit to install a Commercial Solar Energy Facility under this ordinance.

Commercial Solar Energy Facility: Any solar energy facility designed to produce electricity for sale.

14-19-2. *Applicability.*

1. The requirements set forth in this ordinance shall govern the approval, development, siting, operation, and decommissioning of commercial solar energy facilities used to generate electricity for sale.

2. This special use permit shall be binding on any successors, assignees, current or future lessees, or owners, of the facility and is granted solely for the construction and operation of a commercial solar energy facility.

14-19-3 Conditions for the Establishment and Operation of Commercial Solar Energy Facilities.

The requirements for siting and construction of a Commercial Solar Energy Facility in Madison County, Virginia, shall include the following minimal standards and requirements:

A. *Before Issuance of a Special Use Permit.*

1. Commercial Solar Energy Facilities, as described in this ordinance, are permitted exclusively in zoning district M-1 only by special use permit.

2. A special use permit shall not be issued for a commercial solar facility until the applicant submits a feasibility study demonstrating that the amount of generated power can be supported by the relevant electric company and electric grid; that the State Corporation Commission has approved the proposed plan and that PJM (Pennsylvania, New Jersey, and Maryland Interconnection) or a successor organization has likewise approved the project, when required.

3. The applicant shall submit an economic cost/benefit analysis describing estimated increase in Property tax revenues, sales taxes, other taxes, locally spent construction dollars, estimated construction jobs, estimated permanent jobs, and costs associated with the project's impact on roads and other County infrastructure.

4. A commercial solar energy facility shall generate electric power for commercial purposes only. The size of the facility (generated power) shall be limited to 50 percent of the annual total power usage of all users in Madison County. The applicant shall provide accurate information for electrical power usage in the County for the most current year.

5. A view shed analysis shall be conducted from the perspectives of neighboring landowners and roadway travelers.

6. The applicant shall bear all costs to the County for increased staff time and attention to matters related to construction, maintenance, administrative costs, and enforcement of the requirements of this section and the Special Use Permit.

7. The applicant shall submit a decommissioning plan to be reviewed and approved by the County Attorney with an appropriate surety bond with Special Use application. The Decommissioning Plan shall be reviewed and updated every three years by a certified independent solar facility engineer acceptable to the County at no cost to the County.

B. *Location/Setbacks.*

1. The applicant shall address the impact of the facility on rivers and streams. A buffer of at least 50 feet is required on either side of any stream in the project area. A minimum setback of 150 feet is required on either side of a river.

2. All aspects and components of the facility shall meet the minimum setback requirement of 300 feet. This setback requirement is in addition to the buffer requirements for rivers and streams established in No. 1 above.

3. Construction of Commercial Solar Facilities shall be subject to the Madison County Erosion and Sedimentation Control Ordinance which includes, but is not limited to: extent of grading and grading phases, runoff information, management of runoff and pollution both during construction and throughout the lifetime of the project.

4. The perimeter of the facility shall be secured through the use of security fencing of at least eight feet in height, to be installed on the outside of the facility to include the 300-foot setback buffer. Fencing should be designed to blend in with surrounding screening and natural views.

5. No facility shall be allowed on a property designated by the Virginia Department of Historic Resources as a battlefield area or other historic resource, or other sensitive area.

C. *Safety/Access.*

1. All electrical equipment associated with and necessary for the operation of the facility shall comply with all local and state codes. All design and installation work shall comply with all applicable provisions of the National Electric Code (NEC), Virginia Commercial Building Code. Use of above-ground lines shall be kept to a minimum.

2. The applicant shall provide training, before, during, and after construction for all emergency services in Madison County. The applicant shall provide a set of procedures and protocols for managing risk of fire and for responding in the event of an emergency at the facility. The applicant of the facility shall conduct regular training for first responders during the operation of the facility on a regular basis.

3. Special equipment that may be required to ensure the safety of fire and rescue personnel when responding to an emergency at the facility shall be provided at no cost to the County.

4. The applicant shall provide for and maintain reasonable means of access for emergency services. Lock boxes and keys shall be provided at locked entrances for emergency personnel access. Warning signage shall be placed on electrical equipment and plant entrances.

5. The applicant shall obtain all required permits from the Virginia Department of Transportation. If any adjoining properties are damaged as a result of ingress/egress to the facility, the applicant shall remedy all damages in full.

6. Best practices when using herbicides (non-harmful to the environment) to control weeds, grass and other unwanted vegetation shall be used.

7. The photovoltaic panels shall not contain harmful chemicals such as Cadmium or amorphous silicon. Prior to construction, the applicant shall provide written panel specifications to include composition, toxicological information, and the physical and chemical properties of all panels used at the facility. The applicant shall also provide the country of origin of the panels used at the facility. Only bio-degradable cleaners and water shall be used to clean panels.

D. *Landscaping/Appearance.*

1. Lighting shall be the minimum necessary for safety and/or security purposes and shall be shielded and downward facing to minimize off-site glare.

2. Noise associated with construction and operation shall be defined, maintained, and be of minimal levels. Construction shall be conducted during the hours of 6:00 a.m. and 8:00 p.m., Monday through Saturday, to limit disturbance to neighbors.

3. The use of pile driving equipment is prohibited within 600 feet of any structure or private or public water system unless pile driving monitoring equipment to evaluate vibration is utilized.

4. The applicant shall place all solar panels in a manner that minimizes or negates any solar glare onto nearby properties or roadways.

5. No aspect of the facility shall exceed 15 feet in height, as measured from grade at the base of the structure to its highest point (excluding power lines).

6. All site features, including landscaping, fencing, etc., shall be properly maintained throughout the life of the permit.

7. A vegetative buffer shall be installed and maintained around the entire circumference of the facility and its components to reduce the visual impact on the surrounding property owners. In areas where there is not at least 50 feet of a native timber buffer, a barrier consisting of a minimum of a double row of evergreens (with a beginning height of at least six feet and anticipated mature height of 30 to 40 feet) shall be planted during the appropriate time of year, subsequent to the completion of construction. The applicant shall replace any dead or diseased trees in the buffer. All landscaping shall be approved by the County.

8. The facility shall not be used to display advertising of any type, including banners, streamers or reflectors. However, notices, warnings, and identification information required by law shall be displayed.
9. When the land surface is prepared for construction, the applicant shall design the facility so that grading and fill are kept to a minimum. Top soil shall be removed before grading, etc., and stored on site to be returned to the disturbed land to a minimum of four inches to maintain the quality of the soil prior to final approval by the County.

E. *Additional Requirements.*

1. The County shall require the owner/operator to provide an annual statement of activity to ensure that the facility is actively producing electricity for the power grid.
2. If there is evidence that the facility or any aspect of such is not in conformance with any of the conditions of approval, a Notice of Violation shall be sent to the owner of the facility and the landowner. A continued violation of any conditions of approval shall be grounds for revocation of the special use permit.

F. *Decommissioning Requirements.*

1. When the facility ceases to be operational, the owner/operator of the facility shall return the land to its original natural state, including at least four inches of top-soil. All surface and sub-surface materials shall be removed.
2. When the facility ceases to be operational for a period of nine months, decommissioning shall be enforced, unless the owner is diligently working to restore the facility to operation.
3. If the facility is not removed within the specified time after the County Notice, the County may cause the removal of the facility with costs being borne by the project owner or property owner.
4. If a solar energy system is abandoned or decommissioned, the owner of the system shall notify the respective power company to enable the power company to remove the facility from its system.
5. Proposed cost savings that may be associated with recycling of solar panels and other materials shall not be part of the decommissioning plan.
6. Decommissioning shall be guaranteed by cash, letter of credit, or other form, at the discretion of the County Attorney.
7. All decommissioning activities shall be completed within six months after notice of inactivity is received by the County.

ARTICLE 15. TRAVEL TRAILER OR CAMPER PARKS (TEMPORARY OR PERMANENT)

15-1. A special use permit may be issued by the Board of Supervisors after recommendation from the Planning Commission pursuant to article 14-3 for a seasonal travel trailer or camper court in the Conservation and Agricultural zones subject to the following conditions:

15-1-1. Such camps or parks must have a minimum lot size of five acres and contain no more than 20 sites per acre.

15-1-2. No camper or travel trailer space shall contain less than 1,000 square feet of area.

15-1-3. No camper or travel trailer space shall be less than 25 feet in width.

15-1-4. No camper or travel trailer shall be located closer than 12 feet to another camper or travel trailer.

15-1-5. Seasonal permits for space rental or occupancy shall be obtained by the camp owner, from the Administrator, to be issued by the trailer court or park owner, with copies of each permit furnished to the Zoning Administrator at the end of each calendar year.

15-1-6. No permit issued for space rental or occupancy shall exceed 30 days and shall not be renewable to the same party or unit owner until a period of 60 days has elapsed from the expiration date of the original permit.

15-1-7. The water and sanitary facilities, including refuse, storage and removal, are approved by the Madison County Health Department.

15-1-8. The court or park owner provides for refuse collection and disposal.

15-1-9. If the park is approved as a permanent or temporary facility, a central service building providing washing, storage, and toilet facilities shall be installed subject to the approval of the Madison County Health Department.

15-1-10. Service buildings shall be provided with toilets, baths or showers, slop sinks, and other sanitation facilities which shall conform to the following requirements:

1. One flush toilet for each sex for each five dependent trailer lots or fraction thereof.
2. One lavatory for each sex for each five dependent trailers or fraction thereof, and not less than one shower or tub for each sex for each ten dependent trailers.
3. Toilets and sanitation for sexes must either be in separate buildings, or if in the same building, separated by walls.
4. In each toilet facility building there shall be provided a slop sink with hot and cold water outlets.

ARTICLE 15-A. PRIMITIVE CAMPGROUNDS

15-A-1. A special use permit may be issued by the Board of Supervisors after recommendation from the Planning Commission pursuant to article 14-3 for a commercial primitive campground in the Conservation and Agricultural zones subject to the following conditions:

15-A-1-1. Camps must have a minimum lot size of ten acres and contain no more than 20 sites per acre.

15-A-1-2. No camp site shall contain less than 1,000 square feet of area.

15-A-1-3. No camp site space shall be less than 25 feet in width.

15-A-1-4. No camp site shall be located closer than 12 feet to another site.

15-A-1-5. No camp site shall be placed within 50 feet of adjacent properties.

15-A-1-6. The camp owner shall issue permits for space rental or occupancy and those permits shall not exceed 30 days and shall not be renewable to the same party or unit owner until a period of 60 days has elapsed from the expiration date of the original permit. Copies of these permits must be provided to the Zoning Administrator on demand.

15-A-1-7. Water and sanitary facilities including refuse storage and removal require approval by the Madison County Health Department.

15-A-1-8. The camp owner provides for refuse collection and disposal.

15-A-1-9. Any commercial primitive campground that existed prior to the adoption of this article 15-A shall not require a special use permit.

15-A-1-10. A special use permit will not be required for a primitive camp used solely by scouting units to learn about primitive camping skills, wilderness survival, and leave no trace camping, and for scouting service projects. The use of the property must be donated to the scouting units by the property owner.

ARTICLE 16. DEVELOPMENT IMPACT

16-1. Development Impact.

It is the intent of the Board of Supervisors and the Planning Commission to encourage the development of Madison County in a fiscally and environmentally sound manner. To this end, development proposals should be evaluated for their impact on the land, people, economy, public facilities, and services of the County.

Madison County recognizes the benefits of sound planning for all types of development. All developers must expect to present to the Planning Commission and Board of Supervisors an objective evaluation of the impact of their proposed development on the County, and then must expect to assist in offsetting those impacts under laws of Virginia in effect at the time of application.

16-2. All developers may be required by the Planning Commission or Board of Supervisors to finance and assist in the preparation of an impact study of the proposed development upon the County. This impact study will supplement any information submitted with any preliminary plats and must include at a minimum the following:

1. The estimated increase in the County's population that will result from the development, describing the anticipated population structure of the development and including the period of time over which such growth is expected to occur.
2. The expected needs of the development for public and private services such as water, sewer, trash disposal, government, fire protection, police, schools, and rescue squads, including any additional land, persons, buildings, road, and equipment that may be needed to provide such services and the estimated cost thereof.
3. The environmental impact of the development including its effect on air and water quality, wildlife, historic property, and prime agricultural lands.

4. The estimated local tax revenue that the development will generate.

16-3. Such a development impact study shall be prepared by competent individuals recognized as experts in planning, engineering, and environmental analysis.

16-4. The Commission or Board may request opinions from departments, agencies, or authorities of the County or state government or from recognized individuals.

16-5. The results of the impact study shall be weighed as one of the considerations in any actions taken by the Planning Commission or the Board of Supervisors.

ARTICLE 17. PROVISIONS FOR APPEAL

Variance - Hardship - Interpretation

17-1. *Board of Zoning Appeals.*

17-1-1. A Board consisting of five members shall be appointed by the Circuit Court of the County. Each Board member shall serve a term of office for five years. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

17-1-2. Members may be removed for cause by the appointing authority upon written charges and after a public hearing.

17-1-3. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.

17-1-4. The Board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman.

17-2. *Powers of the Board of Zoning Appeals.*

17-2-1. Boards of Zoning Appeals shall have the following powers and duties:

17-2-2. To hear and decide appeals from any order, requirement, decision, or determination made by an Administrative Officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto in accordance with Code of Virginia, § 15.1-495, as amended.

17-2-3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

17-2-4. When a property owner can show that his/her property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance; or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property; or of the use of development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such

variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variance shall be in harmony with the intended spirit and purpose of the ordinance. Financial conditions alone are not considered as evidence of hardship.

17-2-5. No such variance shall be authorized by the Board unless it finds:

(a) that the strict application of the ordinance would produce undue hardship;

(b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

(c) that the authorization of such variance will not be of substantial detriment to adjacent property;

and that the character of the district will not be changed by the granting of the variance.

17-2-6. No such variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.1-431, as amended.

17-2-7. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

17-2-8. In authorizing a variance, the Board may impose such conditions regarding the location, character, setback, screening, lighting, access and other features of the proposed structure for use as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

17-3. *Rules and Regulations.*

17-3-1. The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

17-3-2. The meeting of the Board shall be held at the call of its chairman or at such time as a quorum of the Board may determine.

17-3-3. The Chairman or, in his absence, the acting Chairman may administer oaths and compel the attendance of witnesses.

17-3-4. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

17-3-5. All meetings of the Board shall be open to the public.

17-3-6. A quorum shall be at least three members.

17-4. *Appeal to the Board of Zoning Appeals: Variances, Hardships, Interpretation.*

An appeal to the Board may be taken by any person aggrieved or by any officer, department, Board or bureau of the County or municipality affected by a decision of the Zoning Adminis-

trator except special use permits. A notice of appeal shall be filed specifying the grounds thereof. The Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

17-5. *Appeal Procedure.*

17-5-1. Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the Planning Commission. A third copy shall be mailed to the individual, official, department or agency concerned, if any.

17-5-2. Appeals requiring an advertised public hearing shall be accompanied by payment to the Treasurer of a fee according to a fee schedule adopted by the Madison County Board of Supervisors.

17-5-3. The appeal must be mailed within 30 days after the decision and notification of such decision made by the Zoning Administrator.

17-6. *Public Hearing and BZA Decisions.*

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within 60 days. In exercising its powers the Board may reverse or affirm, wholly, or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of any administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records.

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

Written communication of the Board's decision and reasons for its decision shall be sent to the County Planning Commission and the Board of Supervisors.

17-7. *Appeals from Decisions of Board of Zoning Appeals.*

17-7-1. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, Board, or bureau of the jurisdiction, may present to the Circuit Court of the County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.

17-7-2. Upon the presentation of such petition, the Court shall allow a Writ of Certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less

than ten days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

17-7-3. The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

17-7-4. If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

17-7-5. Costs shall not be allowed against the Board unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from.

ARTICLE 18. AMENDMENTS

18-1. The regulations, restrictions, districts, and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by a favorable majority of votes of the governing body, provided:

18-1-1. That a public hearing shall be held in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.

18-1-2. Notices shall be given of the time and place of such hearing in accordance with the requirements of Code of Virginia, § 15.1-431, as amended.

18-1-3. Changes shall be made by the Board of Supervisors in the zoning ordinance or the zoning map only after such changes have been referred to the Planning Commission for a recommendation. Action shall be taken by the Board of Supervisors only after a recommendation has been made by the Planning Commission, unless a period of 90 days has elapsed after the first regular meeting of the Planning Commission after the amendment has been referred to it, after which time it may be assumed the Planning Commission has recommended approval of the amendment.

18-1-4. Applications or petitions for amendments to the zoning ordinance or zoning map must be made in writing by the property owner(s), the contract buyer(s), or authorized agents. Each application must be accompanied by payment of the applicable application fee adopted by the Board of Supervisors.

ARTICLE 19. ADMINISTRATION AND INTERPRETATION

19-1. *Administration.*

19-1-1. This ordinance shall be enforced by the Administrator who shall be appointed by the governing body. The Administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

19-2. *Interpretation.*

19-2-1. Unless zone boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply.

19-2-2. Where zone boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

19-2-3. Where a zone boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the center line at low water or at the limits of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

19-2-4. If no distance, angle, curvature, description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary, in accordance with the B.Z.A. appeals procedure. (Reference article 17.)

19-3. *Violations and Penalties.*

19-3. Violations and Penalties

19-3-1. General Provisions.

Any building erected or improvements constructed contrary to any of the provisions of this ordinance and any use of any building or land which is conducted, operated or maintained contrary to (i) any of the provisions of this ordinance, or (ii) any development condition imposed under the provisions of this ordinance, or (iii) plan approved under the provisions of this ordinance, shall be and the same is hereby declared to be unlawful. Any person, firm or corporation, whether owner, occupant, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ordinance, or permits any such violation by act or failure to act, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or land in violation of the provisions of this ordinance shall be subject to the enforcement provisions of this section.

19-3-2. Civil Violations and Penalties.

Any violation of the provisions of this ordinance except a violation set forth below in section 19-3-5 shall be deemed a civil violation and, upon an admission of liability or finding of liability, shall be punishable by a fine of $100.00 for the first violation and $250.00 for each additional

violation. Each day during which the violation is found to have existed shall constitute a separate offense. However, in no event shall specified violations arising from the same operative set of facts be charged more frequently than once in any ten-calendar-day period, and in no event shall a series of specified civil violations rising from the same operative set of facts result in civil penalties which exceed a total of $5,000.00. The designation of a particular violation of this ordinance as a criminal infraction shall preclude civil prosecution or sanctions.

19-3-3.1.1. Notice of Violation.

A. Upon becoming aware of any civil violation of this ordinance, the Madison County Zoning Administrator shall send by certified mail, return receipt requested, a notice of such violation (a "Notice of Violation") to the person committing the violation or to the person owning the real property where the violation exists. The Notice of Violation shall require such violation to cease within such reasonable time as is specified therein. If such violation is not ceased within such reasonable time as is specified in the Notice of Violation, the Madison County Zoning Administrator may then institute such action as necessary to terminate and/or remedy the violation.

B. If the person to whom the Notice of Violation is sent responds in writing within 30 days of receipt of such Notice of Violation, and agrees to cease and/or remedy said violation, no civil fines shall be levied, if such violation is in fact ceased or remedied within 30 days of such response.

C. If the person to whom the Notice of Violation is sent denies under oath and in writing that a violation exists, he may appeal the decision, determination and/or Notice of Violation issued by the Madison County Zoning Administrator to the Madison County Board of Zoning Appeals pursuant to the provisions of section 15.2-2311 of the Code of Virginia and this ordinance.

19-3-4. Court Summons for Civil Violation.

A. After the Madison County Zoning Administrator has issued a Notice of Violation as set forth above in section 19-3-3, and if such violation has not ceased within such reasonable time as is specified in the Notice of Violation, the Zoning Administrator may issue a court summons to be served personally upon the person to whom the Notice of Violation has been sent.

B. The court summons shall provide that any person summoned for a violation may elect to waive trial, admit liability, and pay the assessed civil penalty to the Madison County Treasurer at least 72 hours prior to the time and date fixed for trial. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court; however, an admission shall not be deemed a criminal conviction for any purpose.

C. If a person charged with a violation does not elect to enter a waiver of trial, admit liability, and pay the assessed civil penalty as set forth above in section 19-3-4(B), the violation shall

be tried in the Madison County General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

19-3-5. Criminal Violations and Penalties.

Any violation of the provisions of this ordinance that results in physical injury to any person shall be deemed a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than $10.00 and not more than $1,000.00 for each violation. Failure to remove or abate a zoning violation within the time period established by a court order shall constitute a separate misdemeanor offense punishable by a fine of not less than $10.00 nor more than $1,000.00 for each violation, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period for each violation, punishable by a fine of not less than $100.00 nor more than $1,500.00.

19-3-6. Additional Remedies.

In addition to the remedies provided herein, the Madison County Zoning Administrator may initiate injunction, mandamus, or any other appropriate legal or equitable action to prevent, enjoin, abate or remove any erection or use in violation of any provision of this ordinance.

ARTICLE 20. DEFINITIONS

Defined herein are those terms and names used which might be subject to other interpretations. Where terms are sufficiently identified within the text of the ordinance, the definition item will refer to that section number.

The words "used for" include "designed for", and vice versa; words used in the present tense include the future; words in singular number include the plural number and vice versa; the word "building" includes the word "structure", the word "dwelling" includes the word "residence"; the word "lot" includes the word "plot", and the word "shall" is mandatory and not director.

20-1. *Abattoir.* A commercial slaughter house.

20-2. *Access.* A means of approach or admission.

20-3. *Accessory Use or Building.* A subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building.

20-4. *Acreage.* A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

20-5. *Administrator, The.* The official charged with the enforcement of the zoning ordinance. He/she may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He/she may serve with or without compensation as determined by the governing body.

20-5A. *Adult Bookstore.* An establishment which has as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals and which excludes juveniles in accordance with Code of Virginia, §§ 18.2-390 and 391, as amended.

20-6. *Agent.* The representative of the governing body who has been appointed to serve as the agent to the Board in administering the subdivision ordinance.

20-6A. *Agritourism.* Agritourism activity means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities or attractions. An activity is an agritourism activity whether or not the participants paid to participate in the activity. (See Code of Virginia, § 3.2-6400.)

20-7. *Agriculture.* The tilling of the soil, the raising of crops, horticulture, forestry, and gardening including such agricultural industries or business as fruit packing plants, dairies, orchards, nurseries, wayside stands for agricultural products, or similar uses.

20-8. *Airport (Including Air Park, Flight Strip, and Airfield and Heliport).* A place where aircraft may take off or land, discharge or receive cargoes and/or passengers, be repaired, take on fuel, or be stored.

20-9. *Alley.* A permanent service way providing a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

20-10. *Alteration.* Any change in the total floor area, use adaptability, or external appearance of an existing structure.

20-11. *Amend* or *Amendment.* Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a district, or any repeal or abolition of any map, part thereof, or addition thereto.

20-12. *Amusement Park.* A commercial recreational activity of a permanent nature offering amusements and diversions and operating either seasonally or all year long.

20-13. *Apartment House.* See dwelling, multi family.

20-14. *Architect.* A professional who is registered with the Virginia State Department of Professional and Occupational Registration as an architect or one who is a member of the American Institute of Architects.

20-14A. *Auction Establishment.* A structure or enclosure in which goods and/or livestock are displayed and sold by auction.

20-15. *Automobile Graveyard.* Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated and which it would not be economically practical to make operative, are located or found. See also "junkyard." (The State Code identifies five.)

20-16. *Automobile Service Station.* A building used or intended to be used for the retail sale of fuels, lubrications, air, water and other operating commodities for motor vehicles to include the space and facilities for the installation of such commodities, and in addition the space for facilities for the storage, minor repair, painting, steam cleaning, rust-proofing and refinishing.

20-17. *Basement.* A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

20-17A. *Biodiesel fuel production.* Production of biodiesel fuel - a renewable, biodegradable, mono-alkyl ester combustible liquid fuel from agricultural plant oils or animal fats that meets American Society for Testing and Materials (ASTM) specifications for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

20-18. *Block.* That property abutting one side of a street, and lying between the two nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and railroad right-of-way, un-subdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

20-19. *Board.* The Board of Supervisors of Madison County, Virginia.

20-20. *Board of Supervisors.* The Board of Supervisors of Madison County, Virginia; the governing body.

20-21. *Boarding House.* A dwelling other than a hotel, where for compensation, meals or lodging and meals are provided for three or more, but not exceeding 14 persons.

20-22. *Buffering* or *Screening.* For the purposes of this ordinance, screening or buffering shall be defined as any device or natural growth, or a combination thereof, which shall serve as a barrier to vision or noise between adjoining properties, wherever required by this ordinance. Whenever used for screening or buffering purposes, "natural growth" shall be taken to mean trees, bushes and shrubbery.

20-23. *Buildable Area.* The area of a lot remaining after required yards, open spaces, parking, loading, and access areas have been provided.

20-24. *Building.* Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or property of any kind. When a building or structure is divided into separate parts by fire walls and having separate plumbing, electrical, heating, drainage and ventilation, each part so divided shall be deemed a separate structure.

20-25. *Building Accessory.* A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

20-26. *Building Coverage: Lot Coverage.* All areas under roof or projections from buildings on a lot.

20-27. *Building, Height of.* The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average adjacent elevation of the ground surface along the front of the building.

20-28. *Building Inspector.* An appointed official of Madison County who is responsible for certifying building inspections.

20-29. *Building, Main.* The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

20-30. *Building Permit.* A permit which is issued by the Administrator before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the Zoning Ordinance. 20-30A. *Cabin.* A single, permanent detached dwelling, which may or may not contain cooking facilities, dedicated to transient guests.

20-31. *Campground.* An area containing ten acres or more of land developed by the owner to accommodate paying guests for stays of short duration in tents, campers, or motor homes designed for single families or travel trailers owned by the guests. Campgrounds must comply with regulations for sanitation imposed by the County Health Officer; and a special use permit shall be obtained in every case. Individual space rentals shall be recorded as specified.

20-32. *Camp, Summer.* An area containing not less than ten acres owned and/or operated privately for profit or by a charitable, religious or civic organization, where children or adults are lodged and fed in tents or similar rustic shelters during vacation periods and instruction in outdoor activities, crafts, sports, and similar pursuits are furnished. Included in this definition are day camps.

20-33. *Carport.* Any space outside a building and contiguous thereto, wholly or partly covered by a roof and used for the shelter of motor vehicles. An unenclosed carport is a carport with no side enclosure that is more than 18 inches in height, exclusive of screens (other than the side of the building to which the carport is contiguous).

20-34. *Carnival.* A traveling or transportable group or aggregation of rides, shows, games or concessions or any combination thereof.

20-35. *Cellar.* A story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

20-36. *Cemetery.* A privately or church owned and/or operated place for burial of the dead where lots are sold and perpetual care of the graves is furnished.

20-37. *Certificate of Occupancy.* A document which indicates to the public that a building, its construction, location and intended use, conform to all Madison County ordinances and Codes relative to its construction, location and intended use.

20-38. *Circus.* A traveling or transportable show or exhibition consisting of performances by persons and animals under one tent or similar structure, with or without other side shows.

20-39. *Cluster Development.* Development premised on unit density which allows unit credit based on gross acreage but permits development including lots and streets on a given percentage of the overall gross site.

20-40. *Code, The.* The Code of Virginia, as the same may be amended from time to time.

20-41. *Commercial.* Any wholesale, retail, or service business activity established to carry on trade for a profit.

20-42. *Commission.* The Planning Commission of Madison County, Virginia.

20-43. *Common Open Space.* An open tract, or parcel of land owned in undivided interest, not devoted to residential uses or structures but directly related and adjunct to a cluster development or planned development or special housing area as herein provided.

20-44. *Condominium.* Ownership of single units in a multiple unit structure or complex having common elements. Ownership includes fee simple title to a residence or place of business and undivided ownership, in common with other purchases of the common element in the structure and including the land and its appearance.

20-45. *Conservation.* The objective of preserving, protecting and utilizing within criteria and standards of the natural resources of Madison County, including excessive slopes, erosive soils, 15 percent + slopes, soils, water, timber, air and recreational open space, scenic or otherwise.

20-46. *Construction Facilities, Temporary.* A temporary special permit may be granted with conditions by the Board of Supervisors as being compatible with the use and nature of the adjacent properties for temporary construction facilities for a period coinciding with such construction work, provided that safe and convenient access is available, proper bonds for clean-up are provided, and adjacent properties are adequately protected.

20-46-1. Temporary highway department inspector's office.

20-46-2. Contractors office and equipment storage yards for contractors who have been awarded contracts by the Virginia Department of Highways. The above use shall not be construed to mean the storage or manufacture or processing of explosives or explosive components.

20-46-3. Contractors asphalt and concrete processing plants and aggregate storage for contractors who have been awarded contracts by the Virginia Department of Highways.

20-47. *Construction Standards.* Specifications and standards as may be or are adopted by or are applicable in the County of Madison relating to the construction of all physical improvements.

20-47A. *Conventional Sewage System.* An individual sewage disposal system incorporating a septic tank and sub-surface soil absorption (drainfield) with or without pumping to serve a single residence.

20-48. *Country Club.* An organization which provides facilities for dining, entertainment, lodging, golf, golf driving range, tennis, pro shop and/or swimming. A civic, fraternal, and patriotic club or lodge shall not be deemed a country club.

20-49. *County.* Madison County, Virginia.

20-50. *County Engineer.* An appointed official of Madison County who is a licensed professional engineer, or his designated deputy.

20-51. *County Resident Engineer.* The Resident Engineer for Madison County, Virginia, of the Department of Highways of Virginia, or his designated deputy.

20-52. *Court.* An open, unoccupied space, other than a yard with a building or group of buildings which is bounded on two or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.

20-53. *Cul De Sac.* A street with only one outlet having an appropriate turn-around area for a safe and convenient reverse of traffic movement.

20-54. *Dairy.* A commercial establishment for the manufacture and sale of dairy products.

20-55. *Day Care Center.* Any facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardian during a part of the day.

20-56. *Developer* or *Subdivider.* An individual, corporation, proprietor, trust, trustee, joint venture, partnership, or other entity having legal title to any tract of land or parcel of land to be developed, whether or not they have given their power of attorney to one of their group, or another individual or entity to act on their behalf in planning, negotiation or in representing or executing the requirements of the ordinances of the County of Madison.

20-57. *Director of Planning.* An appointed County official who serves as the Director of Planning for Madison County, Virginia or his/her designated deputy.

20-57A. *Distribution Substation.* Station that connects to the transmission system and lowers transmission voltage to medium voltage with the use of transformers.

20-57B. *Distribution Transformers.* Distribution transformers reduce the voltage of the primary circuit to the voltage required by customers.

20-58. *District.* Districts as referred to in Code of Virginia, § 15.1-486.

20-59. *Driveway* or *Accessway.* That space specifically designated and reserved on the site for movement of vehicles from one site to another on site from the site to public street.

20-60. *Duplex.* A two-family residential structure; the residential units may be arranged one above the other, or be semi-detached.

20-61. *Dustless Surface.* A surface adequately covered in accordance with good construction practice with a minimum of either two applications of bituminous surface treatment, concrete, bituminous concrete, or equivalent paving material, approved by the County Engineer and/or Resident Engineer, and maintained in good condition at all times.

20-62. *Dwelling.* Any structure used for residential purposes with complete and separate facilities for each unit except commercial establishments renting rooms to transients for a short number of days.

20-63. *Dwelling, Attached.* One of two or more residential buildings having a common or party wall separating single dwelling units.

20-64. *Dwelling, Multiple-Family.* A structure arranged or designed to be occupied by more than one family living independently of each other.

20-65. *Dwelling, Semi-Detached.* One of two buildings, arranged or designed as dwellings located on abutting walls without openings, and with each building having a separate lot with minimum dimensions required by district regulations.

20-66. *Dwelling, Single Family.* A residential building containing only one dwelling unit and not occupied by more than one family.

20-67. *Dwelling, Single Family, Attached.* A group of two or more single family dwelling units which are joined to one another by a common party wall, a common floor or ceiling and/or connecting permanent structures such as breezeways, carports, garages or screening fences or walls, whether or not such a group is located on a single parcel of ground or on adjoining individual lots. Each unit shall have its own outside entrance(s); architectural facades or treatment of materials shall be varied from one group of units to another; and no more than three abutting units in a row shall have the same front and rear setbacks, with a minimum setback offset being one foot. For the purpose of this ordinance, dwellings such as a semi-detached, garden court dwelling, patio house and townhouse shall be deemed a single family attached dwelling. See definition for townhouse.

20-68. *Dwelling, Two-Family.* A structure arranged or designed to be occupied by two families, the structure having only two dwelling units.

20-68A. *Dwelling, Two Family (limited).* A single family dwelling existing on or before March 29, 1974, and arranged or designed to be occupied by two families. Said existing single family dwelling shall have only two dwelling units and may be improved with repairs, renovations, or a porch or deck that is not enclosed; but the frame and floor area of said existing single family dwelling shall not be otherwise enlarged with additional construction.

20-69. *Dwelling Unit.* One or more rooms in a structure designed to provide living and sleeping accommodations for an individual or a family.

20-70. *Dwelling Unit, Modular.* A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site.

20-71. *Dwelling Unit, Sectional Home.* A dwelling made of 2 or more modular units transported to the home site, put on a foundation (Permanent) and joined to make a single family dwelling, on a permanently improved parcel of ground.

20-72. *Dump Heap (Trash Pile).* Any area of 100 square feet or more lying within 1,000 feet of a state highway, a residence, a dairy barn or food handling establishment where trash, garbage or their waste or scrap material is dumped or deposited without being covered by a sanitary fill.

20-73. *Easement.* A grant by a property owner of the use of his land by another party for a specific purpose.

20-73A. *Electrical Distribution Line.*The final stage in delivery of electric power to individual consumers, carrying power from substations.

20-73B. *Electrical Transmission Line.* Used to transfer electrical energy from the generating source (power plants) to electrical substations.

20-74. *Engineer.* An individual who is recognized by the State and who is registered with the State Department of Professional and Occupational Registration as a "professional engineer."

20-75. *Family.* An individual or group of individuals living together as one household within a single dwelling unit related by blood, marriage, or other legal arrangement, and having no more than two boarders; or a group of five or less individuals living together within a single dwelling unit with the intent to function as a single social and housekeeping unit. A family would not be a group of persons living as separate housekeeping units within one structure or whose housekeeping is independent of one another but have the same place of residence due to economic arrangements with a common proprietor rather than the purpose of living together. A dormitory, hotel, lodge, apartment building, fraternity or nursing home would not be a single family dwelling.

20-75A. *Farm or Food Products.* Any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple and sorghum products, apple cider, fruit juice, wine, ornamental or vegetable plants, nursery products, livestock feed, or baked goods.

20-76. *Farm Tenant.* A worker, other than the owner, who resides on and derives his/her principal income from a farm.

20-77. *Farm Winery.* An establishment licensed in accordance with Title 4-1 of the Code of Virginia, as amended (i) located on a farm in Madison County with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume or (ii) located in Madison County with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth of Virginia, and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 18 percent alcohol by volume. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth of Virginia.

20-77A. *Farm Market.* A building, structure or place used for the sale of farm or food products or craft products to consumers where 51 percent or more of the products are grown, produced or processed by the operator or under the operator's direction. A farm market must be located at or beyond the setback line and must use an existing entrance as access.

20-78. *Fire Lane.* A means of access of sufficient design to permit ingress and egress by firefighting equipment.

20-79. *Floodplain.* Continuous sections of land, adjacent to bodies of water, which are subject to periodic flooding and inundation.

20-80. *Floor Area.* The aggregate area of all floors included within the outer walls of a building, measured at the exterior of such walls.

20-81. *Floor Area Ratio.* The ratio of total floor area to land area.

20-82. *Frontage.* The minimum width of a lot measured from one side line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

20-83. *Garage, Private.* Accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

20-84. *Garage, Parking.* All buildings used for temporary public parking.

20-85. *Garage, Public.* A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor driven vehicles.

20-86. *Garage, Service.* A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor vehicles.

20-87. *General Store, Country.* A single store, the ground floor area of which is 4,000 square feet or less and which offers for sale primarily, most of the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a country general store and no more than three gasoline pumps shall be permitted.

20-87A. *Glamping.* The activity of camping with amenities and comforts (such as beds, electricity, indoor plumbing) not usually used when camping.

20-88. *Golf Course.* Any golf course, publicly or privately owned, on which the game golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

20-89. *Golf Driving Range.* A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

20-90. *Governing Body.* The Board of Supervisors of Madison County, Virginia.

20-91. *Graveyard.* A place for burial of the dead, consisting of 1 or more graves and set aside and maintained by a family.

20-91A. *Group home, child.* A community based home-like single dwelling, other than the private home of the operator, licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, for up to 12 child residents with one or more adult resident counselors or other staff persons.

20-92. *Guest Room.* A room which is intended, arranged or designed to be occupied by one or more guests paying direct or indirect compensation therefor, but in which no provisions is made for cooking. Dormitories are excluded.

20-93. *Health Official.* The Director of the Health Department of Madison County, Virginia.

20-94. *Highway Engineer.* The Resident Engineer of Madison County, employed by the Virginia Department of Highways.

20-95. *Historical Area.* A building or group of buildings with accessory buildings and structures, including monuments and the lot on which they are found, to which the provisions of State or County ordinances apply for the protection and perpetuation of an historical heritage. Historical areas shall be designated on the zoning map, when such areas are established.

20-96. *Hog Farm.* A farm where hogs are bred and/or raised in quantity to be sold at market.

20-97. *Home Garden.* A garden in a residential district for the production of vegetables, fruits and flowers generally for use and/or consumption by the occupants of the premises.

20-98. *Home Occupation.* An occupation limited to person(s) who reside on the premises where there is no evidence (except for signs as otherwise herein provided) that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a dwelling or accessory building thereto; provided, however, a home occupation with less than three employees who are regularly employed on the site may be permitted by special use permit in Conservation (C-1) and Agricultural (A-1) zones and a home occupation conducted solely within the home without employees other than those who reside on the premises and without any customer traffic to the home shall be permitted by right in Conservation (C-1), Agricultural (A-1), Residential, Limited (R-1), Residential General (R-2) and Residential, Multiple Family (R-3) zones. A home occupation shall use no mechanical equipment exceeding five horsepower other than that which is normally used for domestic or household purposes. The aforesaid amendments shall apply to all home occupations which have heretofore been granted a special use permit.

20-99. *Home Owners' Association.* A non-profit organization operating under recorded land agreements through which:

(a) Each lot and/or homeowner in a clustered, planned development, or special housing area, is automatically a member;

(b) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and

(c) The charge if unpaid becomes a lien against the property.

20-100. *Hospital, Sanitarium, Sanatorium.* Any institution receiving inpatients and rendering medical, surgical and/or obstetrical care. This shall include general hospitals and institutions in which service is limited to special fields such as cardiac, eye, ear, nose and throat, pediatric, orthopedic, skin and cancer, mental, tuberculosis, chronic disease and obstetrics. The term "hospital" shall also include sanitariums and sanatoriums including those wherein feeble-minded and mental patients, epileptics, alcoholics, senile psychotics and drug addicts are treated or cared for under the supervision of licensed medical personnel.

20-101. *Hotel.* A building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

20-101A. *Housing for older persons.* Housing that is:

(i) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(ii) Intended for, and solely occupied by persons 62 years of age or older; or

(iii) Intended for, and solely occupied by, at least one person 55 years of age or older per dwelling unit.

20-102. *Inoperable Vehicle.* A motor vehicle, trailer, or attachment thereto designed for movement along public roadways which is required by the State of Virginia to display current license plates and/or meet safety standards as evidenced by display of a current state inspection sticker and current County sticker which vehicle, trailer, or attachment therefore does not display said license plates and/or a current state inspection sticker or current County sticker. Farm vehicles are exempt from this definition.

20-103. *Junkyard.* The use of any area of land of more than 200 square feet in any location for the buying or selling, storage, keeping or abandonment of junk including scrap metals or other scrap materials. The term "junkyard" shall include the term "automobile graveyard."

20-104. *Kennel.* A place designed or prepared to house, brood, breed, handle, or otherwise keep or care for dogs or cats for sale or in return for compensation. Home litters kept less than six months are not included.

20-105. *Landscape Architect.* A professional who is registered in one or more states as a landscape architect or a professional who is a member of the American Society of Landscape Architects.

20-106. *Light Industry.* Includes warehousing and light manufacturing uses which produce some noise, traffic congestion or danger, but which are of such limited scale or character that they present no serious hazard to neighboring properties from fire, smoke, noise or odors. Examples are lumber yards, warehouses, research laboratories, food preparation, auto repair shops, bakeries, bottling plants, electronic plants, storage of farm implements, contractors' storage yards, tobacco warehouses, steel or metal fabrication.

20-107. *Livestock.* Domestic animals normally raised on a farm such as draft horses, cows, swine, goats, sheep, poultry, etc. This definition specifically excludes light horses or ponies used primarily for pleasure riding and dogs or cats.

20-108. *Livestock Market.* A commercial establishment wherein livestock, including horses and ponies, is collected for sale and auctioned off.

20-109. *Loading Space.* An off-street space available for the loading or unloading of goods, not less than 15 feet wide, 25 feet long and 14 feet high, and having direct useable access to a street or alley, except that where one such loading space has been provided, and additional loading space lying alongside, contiguous to and not separated from such first loading space need not be wider than 12 feet.

20-110. *Lot.* A parcel of land occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by the County zoning ordinance, and having frontage upon a street. A lot is either shown on a plat of record for sale or transfer, or considered as a unit of property described by metes and bounds for building development.

20-111. *Lot Area.* The total horizontal area included within the rear, side and front lot lines or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking areas and other accessory uses. Lot area shall not include portions under water.

20-112. *Lot, Corner.* A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

20-113. *Lot, Depth of.* The average horizontal distance between the front and rear lot lines.

20-114. *Lot, Double Frontage.* A lot having frontage on two streets.

20-115. *Lot, Interior.* Any lot other than a corner lot with only one street frontage.

20-116. *Lot, Width of.* The average horizontal distance between side lot lines.

20-117. *Lot of Record.* A lot which has been recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia.

20-118. *Manufacture* and/or *Manufacturing.* The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character or for use for a different purpose.

20-119. *Manufactured Home.* A factory built structure transportable in one or more sections, which is built on a permanent chassis and which may be occupied as a single family dwelling after it has been placed upon a permanent foundation with screening of the undercarriage and connected to required utilities. A single wide manufactured home cannot be used as a storage building.

20-120. *Modular Home.* See *Dwelling Unit, Modular Unit,* and *Sectional Home.* (Also, Industrialized Building Unit - Title 36. chapter 4, Code of Virginia, as amended.)

20-120A. *Mixed Use Building(s).* An existing building, or group of buildings, located on the same parcel which are utilized for a variety of uses ranging from general retail, restaurants or similar uses, events or venue facilities, light manufacturing, short or long term lodging and professional offices.

20-121. *Motel.* Any group of dwelling units, combined or separated, used for the purpose of housing transient guests, each unit of which is provided with its own toilet, washroom and off-street parking facility.

20-122. *Mulch Production Facility.* The processing of wood wastes consisting of stumps, tree limbs, branches, bark, leaves and other clean and untreated wood wastes by grinding, shredding or chipping to produce mulch for distribution to the general public for landscaping and other horticultural uses. At least 75 percent of the mulch produced in a one-year time period must be removed from the site within the one-year time period; the machine (grinder) used shall not exceed 325 horsepower and shall operate intermittently as approved by the Madison County Board of Supervisors; and the facility must be exempt from permit requirements under the Virginia Solid Waste Management Regulations, Department of Environmental Quality.

20-122A. *Music or Entertainment Festival.* For the purpose of this ordinance, the term "musical or entertainment festivals" shall mean any gathering of individuals, open to the public, with or without admission charge, for the purpose of listening to or, participating in entertainment which consist primarily of musical renditions conducted in open spaces not within an enclosed structure.

20-123. *Non-profit Organization.* An incorporated organization or group whose character prohibits profit-making endeavors and which has tax exemption privileges.

20-124. *Nonconforming Activity.* The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments of the ordinance.

20-125. *Nonconforming Lot.* An otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

20-126. *Nonconforming Structure.* An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this ordinance or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

20-126A. *Non-Conventional Sewage System.* Any sewage disposal system other than a traditional septic tank and traditional sub-surface soil absorption (drainfield). This system may serve a commercial establishment, or may be used if enhanced flow distribution, low-pressure distribution or pre-treatment is necessary. This system shall not include an experimental or provisional system, and this system may be approved for intermittent use if both the manufacturer and a licensed engineer, in consultation with an Authorized On-Site Soil Evaluator (AOSE), verify that the system is designed for intermittent use and does not become biologically inactive with intermittent or seasonal use. The system shall also be required to be designed and inspected by an AOSE licensed engineer prior to being approved for intermittent use. All other regulations regarding maintenance and monitoring will apply.

20-127. *Nursing Home.* Includes rest homes, convalescent homes and homes for the aged, and shall mean a place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities or injuries, not requiring extensive and/or intensive care that is normally provided in a general hospital or other specialized hospital.

20-128. *Off-Street Parking Area or Parking Bays.* Space provided for vehicular parking outside the dedicated street right-of-way.

20-129. *Off-Site.* Any area which does not fall within the boundary of property to be developed or planned, but generally lies in proximity to it.

20-130. *Office Building.* A structure wherein are employed a number of people greater than that allowed in professional offices and where there are no goods offered for sale.

20-131. *Office Trailer.* A structure or vehicle mounted on wheels designed for use on roads, propelled or drawn by its own or other motor power and designed and constructed to provide for a temporary or permanent office for the conduct of a business, profession, trade or occupation or for use as a selling or advertising device.

20-132. *On-Site.* A term describing location within the boundary of any parcel of land to be planned or developed, which may be subject to an application for approval by the Board of Supervisors, Planning Commission and which is in single ownership or under unified control.

20-133. *Open Space.* Water or land left in undisturbed open condition or developed as a landscaped area unoccupied by habitable buildings, streets, or parking lots.

20-134. *Overhang.* Any projection, either roof, bay window or similar cantilevered construction, which extends beyond the foundation of a structure. A story bay window may project not more than three feet beyond the setback line of the building.

20-135. *Parking Space.* A space of sufficient size and shape to park one standard size automobile and containing not less than 400 square feet of area, including moving and turning and 200 square feet per car space (10 x 20).

20-136. *Parcel.* Any tract of land or water not subdivided.

20-137. *Patio House; Court Garden House.* A single family attached dwelling, usually L-shaped, based on lot-line building of a house with the common walls of the adjacent dwellings forming a patio or garden court.

20-138. *Pen.* An enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals or poultry; a coop.

20-139. *Performance Bond.* A bond of surety, and/or cash deposit approved by the Governing Body equal to the full cost of improvements required by these regulations and providing for completion of said improvements within a definite term.

20-140. *Planned Unit Development.* A cohesive development of mixed uses based on unit density in which conventional lot restrictions are changed to provide a percentage of open space.

20-141. *Planner; Land Planner.* A professional qualified to prepare development plans, site plans, and/or subdivision plats who is either registered as such or who meets the standards of the American Institute of Certified Planners.

20-142. *Planning Commission.* The Planning Commission of Madison County, Virginia.

20-143. *Plat.* A diagram or map, drawn to scale showing tracts, parcels, lots, subdivisions, land boundaries, legally recordable in the clerk's office, together with all data essential to the description and identification of the several elements shown thereon, and including one or more certificates indicating due approval. A plat differs from a plan in that it does not necessarily show additional cultural, drainage and relief features.

20-144. *Poultry.* Domestic fowl normally raised on a farm such as chickens, ducks, geese, turkeys, peafowl, guinea fowl, etc.

20-145. *Porch.* An open, unenclosed stoop or paved terrace which may project into a front yard for a distance not exceeding ten feet. This shall not be interpreted to include porches which may be enclosed by removable windows; or fixed canopies.

20-146. *Private School.* Shall include private schools, colleges or universities, private instructional/ training institutions.

20-146A. *Primitive Campgrounds.* Primitive Campgrounds are defined as camps which are characterized by the absence of what is generally understood as modern conveniences such as water - flush toilets, showers and electrical connections. A campground shall be classified as a primitive camp when half or more of the required number of toilet seats, as determined by the Madison County Health Department, are "non-flush type."

20-147. *Private Utility System.* A utility system whose owner has the choice to accept a client's application for hookup or may refuse such request.

20-148. *Professional office (limited).* The office, studio or occupational room of one doctor, architect, artist, musician, lawyer, realtor, insurance agent, surveyor, appraiser, clergy, licensed therapist, or other licensed professional person with less than three employees who are regularly employed on the site where there is no evidence (except for signs as otherwise herein provided) that will indicate from the exterior that the building is being used in whole or in part for any purpose other than a dwelling or accessory building thereto.

20-149. *Property.* Any tract, lot or parcel or several of the same collected together for the purpose of subdividing, preparing a site development plan and/or developing.

20-150. *Public Access Easement.* A legal easement, or series of easements, which grant and guarantee the right of access for emergency and public service vehicles to any given area or right-of-way.

20-151. *Public Building.* Any building owned or leased by a governmental or civic organization for public use such as a town hall, courthouse, armory, office building, post office, auditorium, museum, art gallery, school, college, university, hospital, clinic, library, police, fire or rescue station.

20-152. *Public Facilities.* Shall be considered for the purpose of this ordinance to be any public works supplied generally by a governmental organization. Such public works shall include, but not be limited to, public roads, schools, water supply and sewer facilities and police and fire protection facilities.

20-153. *Public Sewer System.* A central system owned and/or operated by the Town of Madison, Madison County, Rapidan Service Authority, or an individual, partnership or corporation approved by the Board of Supervisors and by the State Health Department for the collection, removal, treatment and disposal of sewage.

20-154. *Public Water System.* A central system owned and/or operated by the Town of Madison, Madison County, Rapidan Service Authority, or an individual, partnership or corporation approved by the Board of Supervisors and by the State Health Department for the supply of potable water.

20-155. *Quarrying.* The industry of extracting stone from an open excavation. Quarrying shall be deemed to include both the extraction and processing of crushed stone in blocks for building, monumental and related uses, but shall not be deemed to include sand and gravel operations nor extracting industries of a temporary nature.

20-156. *Record, Recorded, Recording.* Admission to record in the Office of the Clerk of a Court of competent jurisdiction.

20-157. *Recreation Area, Commercial.* Any establishment operated as a commercial enterprise in which seasonal facilities directly related to outdoor recreation are provided for all or any of the following: camping, lodging, picnicking, boating, skiing, sledding, fishing, swimming, outdoor games and sports, and activities incidental and related to the foregoing. A commercial recreation area does not include miniature golf grounds, golf driving ranges, mechanical amusement devices or accessory uses such as refreshment stands, equipment sales or rentals.

20-158. *Required Open Space.* Any space required in any front, side or rear yard.

20-158A. *Resort Store.* A place of business owned and operated by the rural resort owner/ownership entity where merchandise such as gifts, apparel, produce, crafts, general convenience items, farm produced products, and outdoor recreational equipment is sold.

20-159. *Restaurant.* Any building in which for compensation, food, or beverages are dispensed for consumption on the premises, including, among other establishments, cafeterias, cafes, tea rooms, confectionery shops, refreshment stands and drive-ins.

20-160. *Retail Stores and Shops.* Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, lumber yards and adult book stores), such as the following, which will serve as illustration only and are not to be considered exclusive: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

20-161. *Road.* See Street.

20-162. *Rooming House.* A dwelling in which, for compensation, lodging is furnished to three or more but not exceeding nine guests; a boarding house differs because it not only provides rooms but also board.

20-162A. *Rural Resort.* A destination designed to provide recreation, entertainment, and accommodations to transient guests.

20-163. *Sanitary Landfill.* A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary (definition from ASCE - Manuals of Engineering Practices No. 39, New York, ASCE, 1959; p. 61).

20-163A. *Sawmill, Farm.* A sawmill located on real property zoned Conservation, C-1, or Agricultural, A-1, that is sited a minimum of 200 feet from the property line.

20-164. *Sawmill, Portable.* A portable sawmill located on private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto, or incidental processing of timber transported from other property.

20-165. *Sawmill, Permanent.* A sawmill permanently located for the purpose of processing timber from the property on which located, from adjoining property or from other properties removed from the sawmill or its environs without regard to point of origination. Such a mill temporarily ceases the processing of timber according to the current price level. (Includes planning mills.)

20-166. *Schools of Special Instruction.* A school offering instruction in musical dramatic, artistic and cultural and personal development subjects.

20-166A. *Secondary Distribution Line.* Lowest voltage distributed directly to consumers.

20-167. *Semi-Public Buildings.* Any building designed for the use of the general public or any segment of the general public which is owned and/or operated by a non-profit association.

20-168. *Setback.* The minimum distance by which any building or structure is separated from the front lot line.

20-169. *Sign Structure.* Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground, and rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than 1.5 square feet in area is excluded from this definition.

20-170. *Sign, Area of.* The area of a sign shall be determined from its outside measurements, including any wall work incidental to its decoration, but excluding supports, unless such supports are used to attract attention. In the case of a sign where lettering appears back-to-back, that is, on opposite sides of the sign, the area shall be considered to be that of only one face. In the case of an open sign made up of individual letters, figures, or designs, the area shall be determined as if such display were made on a sign with straight lines or circular sides.

20-171. *Site Development Plan.* Detailed drawings indicating all building construction and land improvements, including landscape treatments and related information required by this ordinance.

20-171A. *Small Engine Repair Shop.* A shop to repair, remodel or reassemble engines or torque converters with no more than 20 horsepower.

20-172. *Special Housing Area.* Property or parcels having a specified size or acreage limit, within which planned cluster developments and condominium housing projects are permitted under the terms of this ordinance. Uses permitted include single family attached or detached units, multiple family units and recreational uses of all types, including campgrounds. Property owners association and/or horizontal property regimes are required pursuant to Code of Virginia, § 55-79, as amended. (Condominium housing, chapter 683, Acts of Assembly, 1966.)

20-173. *Special Use Permit.* A special use permit is a document which authorizes a use in a zone which is not permitted by the ordinance as a matter of right for that zone, but which the ordinance does allow with such a permit.

20-174. *Specifications.* A detailed, precise presentation of the materials and procedures to be employed in the construction of all physical improvements required by the ordinance applicable in Madison County, Virginia.

20-174A. *Step-down Transmission Substation.* These substations are located at switching points in an electrical grid. They connect different parts of a grids and are a source for sub-transmission lines.

20-174B. *Step-up Transmission Substation.* Receives electric power from a nearby generating facility and uses a large power transformer to increase the voltage for transmission to distant locations.

20-175. *Store.* See *Retail Stores and Shops.*

20-176. *Story.* That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

20-177. *Story, Half.* A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

20-178. *Street.* A strip of land subject to vehicular and pedestrian traffic providing means of access to property; also designated as road, lane, drive, avenue, right-of-way, highway, boulevard, trail, court, place, terrace, etc., designed in accordance with traffic carrying capacities, specified by the standards of Madison County, Virginia or the Virginia Department of Highways whichever is applicable.

20-179. *Street, Arterial.* A highway which is a component of the principal roadway network for through traffic movement and as such is defined in the Virginia State Highway Commission Standards as an arterial highway, and is utilized as a supplement to and an extension of, the interstate highway system. An arterial highway is designed to collect and distribute through traffic to and from the collector road system. A minimum right-of-way of 120 feet is required and carrying capacity in excess of 8,000 vehicles per lane per day.

20-180. *Street, Centerline.* A line established as a center line of a street by any State, County, or other official agency or governing body having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or if there is no official center line of a street, the center line shall be a line lying midway between the street or right-of-way lines thereof. Where street lines are indeterminate and a pavement or a traveled way exists, the center line shall be established by the Commission, or in the absence of a determination by the Commission, shall be assumed to be a line midway between the edges of such pavement or traveled way.

20-181. *Street, Collector, Local.* Designed to serve as the major arteries within developed areas and to efficiently connect adjacent neighborhoods, and adjoining subdivisions with neighborhoods. Local collector streets should be located and designed to collect and distribute residential traffic to elementary schools, churches, small commercial centers, and similar facilities. Such roads should be designed for right-of-way widths of 60 to 80 feet.

20-182. *Street, Collector, Major.* Designed to serve as the major links between the urban area, the communities and villages where there are no arterials or state primaries. Major collectors should be designed similar to primary roads on right-of-way widths of 90 to 100 feet.

20-183. *Street, Interstate.* Designed to accommodate large volumes of long distance through traffic safely and efficiently at high operating speeds and preferably located to reduce excessive volumes of through traffic from nearby arterial highways. Interstates should be designed on right-of-way of 300 feet in widths to make possible future construction economical, and to provide the spatial separation between traffic lanes and adjoining development. (No interstate highway exists in or is planned for Madison County.)

20-184. *Street Line.* The dividing line between a street or road right-of-way and the contiguous property.

20-185. *Street, Local.* Designed primarily to provide direct access to residential, commercial, industrial or other abutting property on rights-of-way of 50 feet minimum.

20-186. *Street, Primary.* A street designed to provide intra-County traffic movements and access to Statewide points not served by the arterial system. As such a primary highway or street is anticipated to carry a traffic volume of 3,000 vehicles per day or more and is designed and maintained as part of the Virginia Primary System by V.D.H. State primaries should have right-of-way widths of 90 to 100 feet.

20-187. *Street, Private.* A local or collector street, travelway or road which affords principal means of access to abutting property and encompassed by a right-of-way dedicated to public use such that the street shall have guaranteed public vehicle access. A private street, etc., shall be constructed to County or state standards or the equivalent thereto and shall be maintained by a private corporation or adjacent landowners within the platted subdivision in accordance with the standards and bonding requirements of the County Subdivision Ordinance.

20-188. *Street, Rural Subdivision.* A street having minimum right-of-way of 50 feet located in rural areas or a subdivision divided into parcels of one acre or more, excepting streets carrying or anticipated to carry heavy volumes of traffic or otherwise defined herein.

20-189. *Street, Service Drive.* A public right-of-way generally parallel with and contiguous to a major highway. Service drives are designed primarily to promote safety by eliminating dangerous ingress and egress turning movements from the major highway.

20-190. *Street, Travel Lane.* Space specifically designated and reserved on the site for the movement of vehicular traffic.

20-191. *Street Width.* The total width of the strip of land dedicated or reserved for public travel including the roadbed, curb and gutter, sidewalks, planting or landscaping strips, and where necessary, utility easements.

20-192. *Structure.* Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

20-193. *Structural Alteration.* Any change in the supporting members of signs, a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof.

20-193A. *Sub-transmission Line.* Carry voltages reduced from the major transmission line system.

20-194. *Surveyor, Land.* An individual who is licensed by the Commonwealth of Virginia and registered with the State Department of Professional and Occupational Registration as a certified land surveyor.

20-195. *Theater, Indoor.* A building designed and/or used primarily for the commercial exhibition of motion pictures to the general public or used for performance of plays, acts, dramas by actors and/or actresses.

20-196. *Theater, Outdoor.* An area not to exceed five acres containing a screen, projection booth, refreshment stand, parking spaces and sound transmission devices to individual parking spaces only, for the purpose of commercial exhibition of motion pictures.

20-197. *Tourist Home.* A dwelling where only lodging is provided for compensation for up to 14 persons (See also Hotels and Boarding Houses) and open to transients.

20-198. *Townhouse.* One of a series of from three to ten attached dwelling units, under single or multiple ownership, separated from one another by parallel continuous firewalls without openings from basement floor to roof, and having diversified architectural facades, or treatment of materials on both front and rear of the building group, with not more than four of any ten abutting townhouses having the same architectural facades and treatment of materials, and with not more than three abutting townhouses having the same front and rear setbacks. Minimum setback offset shall be not less than one foot.

20-198A. *Transient guest.* Transient guests are those individuals who pay for lodging not to exceed 60 consecutive days.

20-199. *Travel Trailer.* A mobile unit which is designed for temporary human habitation and for transport by attachment to a motor vehicle. A travel trailer may not be used as a storage building, nor occupied as a dwelling.

20-200. *Travel Trailer or Camper Camps.* See Campgrounds.

20-201. *U.S.G.S.* The United State Geological Survey.

20-201A. *Underground Distribution Substation.* These are also located near to the end-users. Distribution substation transformers change the sub-transmission voltage to lower levels for use by end-users.

20-202. *Use.* The principal purpose for which a lot or the main building thereon is designed, arranged or intended and for which it is or may be used, occupied, or maintained.

20-203. *Use, Accessory.* A subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

20-204. *Variance.* A variance is a relaxation of the terms of the zoning ordinance where such will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area and size of

structure or size of yards and open space; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or adjoining zoning districts.

20-205. *VDH&T.* The Virginia Department of Highways and Transportation.

20-206. *Wayside Stand.* Any structure located along a road and used temporarily for the sale of agricultural or horticultural produce, or merchandise produced for sale by the owner, or on the owner's property.

20-207. *Yard.* An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

20-208. *Yard, Front.* An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line and extending across the full width of the lot.

20-209. *Yard, Rear.* An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

20-210. *Yard, Side.* An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot and extending from the front yard line to the rear yard line.

20-211. *Zone.* See District.
(Ord. of 11-8-1994, § 2; Ord. of 3-18-1998, § 6; Ord. of 3-3-1999, § 1; Ord. No. 2010-2, 3-3-2010; Ord. No. 2011-4, § 4, 4-12-2011; Ord. of 7-10-2012, § 1; Ord. No. 2013-4, § 1, 6-5-2013; Ord. No. 2019-7, 5-1-2019; Ord. No. 2020-4, 3-4-2020)

ARTICLE 21. VALIDITY: EFFECTIVE DATE

21-1. *Severability.*

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

21-2. *Conflicting Ordinances.*

All conflicting ordinances or parts thereof which are inconsistent with the provisions of this ordinance are hereby repealed.

21-3. *Effective Date.*

The effective date of this ordinance and any amendment thereto shall be the date following its adoption by the Board of Supervisors; provided, however, unless otherwise specifically set forth in an amendment, any application filed prior to the adoption of any amendment shall be acted upon in accordance with the provisions of the ordinance in effect on the date such application was filed.

21-4. *Validation of Certain Special Use Permits.*

All special use permits that were granted or granted conditionally under procedures set forth in this ordinance prior to March 21, 1990, except those that have been abandoned, terminated or revoked under said procedures, are hereby validated.

21-5. *Certified Copy.*

A certified copy of the foregoing Zoning Ordinance of Madison County, Virginia, shall be filed in the office of the Zoning Administrator of Madison County and in the Office of the Clerk of the Circuit Court of Madison County, Virginia.

Appendix A SITE PLAN ORDINANCE*

Adopted March 8, 2011

A. Development Plans.

A.1. *Statement of Intent.*

There is a mutual responsibility between Madison County and the developer to ensure that land is developed in an orderly fashion. The intent of these site development regulations is to promote the public health, safety, convenience and welfare of County citizens and to ensure that transportation systems will be carefully planned; that the community be developed with adequate public facilities; that the needs of agriculture, industry and business be recognized in growth; that residential areas be provided with healthy surroundings for family life; that agricultural and forestall land be preserved; and that the growth of the community be consonant with the efficient and economical use of public funds.

A.2. *Applicability of Regulations.*

A.2.1. A site plan approved in accordance with this ordinance shall be required for every development, as that term is defined herein.

A.2.2. A zoning permit approved in accordance with this ordinance shall be required for any construction or change in use which is not subject to the requirement of a site plan, including, but not necessarily limited to, the following:

A.2.2.1. Establishment of one single-family detached dwelling, manufactured mobile home or duplex dwellings, and related principal and accessory uses and structures;

A.2.2.2. Additions to single family dwellings, detached or attached, manufactured mobile homes or duplex dwellings, and related accessory uses and structures;

A.2.2.3. Accessory buildings and structures, such as storage buildings and structures; swimming pools; gazebos; picnic shelters; temporary family health care structures, etc.;

***Editor's note**—The site plan ordinance printed herein, adopted on March 8, 2011, was adopted to function as an appendix to the zoning ordinance which is set forth in Appendix 1 to this Code of Ordinances. Additions made for clarity are indicated by brackets.

A.2.2.4. Installation of new manufactured mobile home dwellings on existing pads within an existing manufactured home park;

A.2.2.5. Home occupations which require a special use permit;

A.2.2.6. Signs;

A.2.2.7. Temporary uses and structures, except that non-permanent structures less than 150 square feet will not require a zoning permit;

A.2.2.8. Additions and alterations to provide an improvement in handicapped accessibility.

A.2.2.9. A site plan showing improvements/development on a parcel or portion thereof which is less than 40,000 square feet in total land area may be administratively approved by the Zoning Administrator, provided all requirements of this ordinance are met.

A.2.3. Upon receipt of an application for a building permit, the Building Official shall notify the Zoning Administrator and shall circulate the application to the Zoning Administrator for review.

A.2.3.1. If the proposed work is the subject of a previously approved site plan, the Zoning Administrator shall verify that the proposed work is in compliance with applicable zoning and site plan requirements and shall sign the building permit application as evidence of this verification. No fee shall be charged for his review.

A.2.3.2. If there is no approved site plan applicable to the proposed work, and no requirement for a site plan, then a zoning permit shall be required and the applicant shall pay a fee for this zoning review, as set forth on the most recent fee schedule adopted by the Board of Supervisors. It shall be the responsibility of the applicant to provide the Zoning Administrator with information sufficient to verify that the proposed work meets applicable zoning ordinance requirements.

A.2.4. No building permit shall be issued until a site plan or zoning permit, when required, as may be applicable, has been approved in accordance with this ordinance.

A.2.5. No land shall be used or developed except in accordance with an approved site plan or zoning permit, as may be applicable.

(Ord. No. 2011-1, 3-2020; Ord. No. 2020-6, 3-4-2020)

A.3. *DEFINITIONS.*

A.3.1. "Development" means any lot(s), parcel(s) or tract(s) of land ("site") to be developed as a unit under single ownership or unified control, which is to be used for any business, educational, institutional, public, governmental or industrial purpose, or which is to contain three or more residential dwelling units. The term "development" shall not be construed to include any property which will be principally devoted to agricultural production. For the purpose of this definition, the phrase "to be developed" shall refer to:

(a) Any proposed construction (including (i) reconstruction, and (ii) additions or alterations of any existing building or structure that exceed 500 square feet), with the exception of accessory buildings and structures; and

(b) To any change in residential or agricultural use to a non-residential, non-agricultural use, whether or not any construction is involved.

A.3.2. "Site development plan" or "site plan" refers to details of the proposal for a development, including all covenants, grants or easements and other conditions, calculations, and measurements relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as may be required by the Madison County Zoning Ordinance provisions to which the proposed development is subject.

A.4. *ADMINISTRATION.*

A.4.1. Final Approving Authorities.

A.4.1.1. The Board of Supervisors, Zoning Administrator, or County Administrator shall be the approving authority for site plans and any amendments or modifications thereto. The Board of Supervisors shall, by resolution, designate a person to serve as its administrative agent for purposes of administering and enforcing the requirements of this ordinance.

A.4.1.2. The Zoning Administrator shall be the approving authority for zoning permits and any amendments or modifications thereto.

(Ord. No. 2020-6, 3-4-2020)

A.5. *PROCEDURES.*

A.5.1. The Board of Supervisors, Zoning Administrator, or County Administrator shall act on any proposed site plan within 60 days after the site plan has been officially submitted for approval, by either approving or disapproving the site plan in writing, and giving with any disapproval specific reasons therefor. Specific reasons for disapproval shall be given either in a separate document or noted on the plan itself. The reasons for disapproval shall identify deficiencies in the site plan that cause the disapproval by reference to specific ordinances or regulations and shall further identify modifications or corrections as will permit approval of the site plan. The Board of Supervisors shall act on any proposed site plan that it has previously disapproved within 45 days after the site plan has been modified, corrected and resubmitted for approval.

(Ord. No. 2020-6, 3-4-2020)

A.5.1.1. The Board of Supervisors and County staff shall thoroughly review the plan and shall make a good faith effort to identify all deficiencies, if any, with the initial submission.

A.5.1.2. Upon receipt of a site plan that has been officially submitted for approval, the site plan shall be sent by the Zoning Administrator to the Planning Commission for review and comment. The phrase "officially submitted for approval" means that a completed application for approval of a site plan, along with the required fee and a proposed site plan containing all of the information required by sections A.6 and A.7 set forth herein below, have been received by the County.

A.5.1.2.1. The Planning Commission's review and recommendation shall be scheduled as to allow the Board of Supervisors to meet its deadline for action on the plan.

A.5.1.2.2. Any public area, facility or use as set forth in paragraph (a) of section 15.2-2232 of the Virginia Code which is within, but not the entire subject of any application for site plan approval shall be reviewed by the Planning Commission as to whether or not the same is substantially in accord with the Comprehensive Plan, as well as for compliance with the zoning ordinance and the standards and requirements hereof. The Planning Commission shall communicate its findings in writing to the Board of Supervisors prior to the Board's action on the proposed site plan. Failure of the commission to act within 60 days of a site plan submission, unless the time is extended by the Board of Supervisors, shall be deemed approval. The owner(s) of the subject property, or their agent(s), may appeal the Commission's decision to the Board of Supervisors within ten days after the Planning Commission's decision has been rendered. The appeal shall be by written petition to the Board of Supervisors, setting forth the reasons for the appeal. The Board of Supervisors, of its own motion, or upon receipt of an appeal petition, may overrule the action of the Planning Commission by a majority vote of its membership.

A.5.1.3. If a proposed development substantially affects transportation on state-controlled highways, as defined by regulations promulgated by VDOT, then within ten business days of receipt of a site plan that has been officially submitted for approval, the site plan shall be submitted by the County to the Virginia Department of Transportation in accordance with Code of Virginia, § 15.2-2260.

A.5.1.3.1. Submission of the application to VDOT pursuant to Code of Virginia, § 15.2-2260 shall toll all times for local review, until the County has received VDOT's final comments. If VDOT fails to return its final comments prior to the 60-day deadline referenced in A.5.1, above, then the County shall act on the site plan within 35 days of its receipt of VDOT's final comments.

A.5.1.3.2. If the County has not received final written comments from VDOT within 90 days after VDOT received the site plan, the Board of Supervisors shall proceed on the assumption that VDOT has no comments on the plan.

A.5.1.4. If the applicant requests that further processing or formal action on the application for a final site plan be indefinitely deferred, the application shall be deemed to have been voluntarily withdrawn by the applicant if the Board of Supervisors does not take action on the application within six months after the date the deferral was requested. Upon written request received by the County before the application is deemed to be withdrawn, the Board of Supervisors may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed development, the complexity of the review, and the laws in effect at the time the request for extension is made.

A.5.2. If the Board of Supervisors fails to approve or disapprove a site plan within 60 days after it has been officially submitted for approval, or within 45 days after it has been officially resubmitted following a prior disapproval, then the developer, after ten days' written notice to the Board, may petition the Madison County Circuit Court to decide whether the plan should or should not be approved.

A.5.3. If the Board of Supervisors disapproves a site plan and the developer contends that the disapproval was not properly based on the applicable ordinance, or was arbitrary or capricious, he may appeal to the Madison County Circuit Court within 60 days of the written disapproval by the Board of Supervisors.

A.5.4. A site plan shall be deemed final once it has been approved by the Board of Supervisors, if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. A final site plan shall be signed by the Chairman of the Board of Supervisors, who shall be deemed the County's agent for signature of the final plan.

A.5.5. Prior to signature a final site plan shall be revised to reflect any conditions of approval specified by the Board of Supervisors. When the site plan is ready for signature, a revised master drawing and a transparency copy of the revised master drawing shall be submitted for the County's signature. Once the County has signed the master drawing, the master drawing shall be returned to the developer and the developer shall provide the County with two print copies of the signed master drawing.

A.5.6. The Zoning Administrator shall act on any proposed zoning permit within 30 days after the sketch plan has been officially submitted for approval, by either approving or disapproving the sketch plan in writing and giving with any disapproval specific reasons therefore.

A.6. *Site Plan Details.*

A.6.1. A site plan shall be prepared, signed and sealed by a professional architect, engineer, land surveyor or certified landscape architect licensed to practice in the Commonwealth of Virginia.

A.6.2. A site plan shall conform to details that meet the standard for plats adopted under section 42.1-82 of the Virginia Public Records Act (section 42.1-76 et seq.), including, but not necessarily limited to the following:

A.6.2.1. Each sheet of the site plan shall be between 8½ x 11 and 24 x 36 inches, and the scale shall be appropriate to the size of the paper. Original plats shall be inscribed on either translucent or opaque paper, polyester or linen.

A.6.2.2. Color of original inscription shall be black or blue and be solid, uniform, dense, sharp, and unglazed. Signatures shall be in dark blue or black ink. Lettering shall be no less than 1/10 inch or 2.54 mm in height. Lettering and line weight shall be no less than 0.013 inches or 0.3302 mm. Letter and line spacing for control pencil drawings shall be no less than 0.50 inches and for ink drawings no less than 0.040 inches. The drawing substance must be either wet ink or control pencil but not a combination thereof. Good drafting practices shall be followed when eliminating ghost lines and when doing erasures, and all shading and screening shall be eliminated over written data.

A.6.2.3. Margins shall be at least ¼ inch on all sides, and inscriptions are to be made on only one side of the paper. All drawings shall have centering marks on each side, adjacent and outside the margins. Match lines or grid tics delineating 8½ x 11 inch sections shall be inscribed on all plats larger than 8½ x 11 inches, to create the least number of grid blocks possible and be located adjacent and inside the margins. Continuation sheets of multi-sheet drawings shall be the same size as the first sheet.

A.6.3. Each page of a site plan shall be marked with a sheet number and total number of sheets; date of the drawing and the date and description of any revision of such sheet.

A.6.4. A final site plan shall include the following:

A.6.4.1. Project title.

A.6.4.2. Names of the developer and all property owners, with title sources; signatures of the developer and all property owners, indicating the property owners' consent to the proposed site plan.

A.6.4.3. Identification of all applicable variances and zoning conditions applicable to the subject property.

A.6.4.4. North point.

A.6.4.5. Scale.

A.6.4.6. Vicinity sketch drawn to a reasonable scale, with landmarks sufficient to identify the location of the property.

A.6.4.7. Development site boundaries.

A.6.4.8. Zoning of site and all adjacent properties.

A.6.4.9. Tax map and parcel numbers of the subject property.

A.6.4.10. Tax map, parcel number and present use of each adjacent property.

A.6.4.11. Total area of the proposed development, with calculation of the percentages used for building, parking and open space.

A.6.4.12. Minimum building setback lines.

A.6.4.13. Existing physical features or improvements to be retained (streets, roads, driveways, buildings, etc.).

A.6.4.14. At least one datum reference for elevation (where a flood hazard district is involved, USGS vertical datum shall be shown and correlated to plan topography).

A.6.4.15. Existing topography (up to 20 percent slope: maximum five-foot contours; over 20 percent slope: maximum 10 percent contours).

A.6.4.16. Proposed grading (minimum five-foot contours).

A.6.4.17. Identification of areas of the development site where slopes are 25% or greater.

A.6.4.18. Name and location of watercourses and other bodies of water on or adjacent to the development site.

A.6.4.19. Limits of 100-year floodplain.

A.6.4.20. Location and size of existing water and sanitary sewer facilities and easements; storm sewer facilities; and drainage easements.

A.6.4.21. Provisions for the adequate disposition of natural and stormwater on and off-site, including a stormwater management plan where required by the Madison County Water Protection Ordinance. Where any part of the subject property lies in a drainage district, such fact shall be set forth on the site plan.

A.6.4.22. Provisions for adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading and construction, including an erosion and sediment control plan where required by the Madison County Erosion and Sediment Control Ordinance.

A.6.4.23. Detailed plans for proposed water and sanitary sewer facilities meeting state and local requirements, including: pipe sizes, types and grades; connections to central systems; location and dimensions of proposed easements and whether they are to be publicly or privately maintained; water main locations and sizes; valves and fire hydrant locations; location of septic setback lines from watercourses. Written confirmation of the Health Department's approval of the location and type of proposed well, septic or other proposed water and sanitary sewer facilities shall be required as part of the original site plan submission.

A.6.4.23.1. Where a development is to be served by any central water or sewage disposal system other than one owned by the Rapidan Service Authority, if such central system is allowed by the County's zoning or subdivision regulations, the site plan shall include verification that the requirements of sections 15.2-2149 through 15.2-2156 have been satisfied.

A.6.4.24. Location of existing and proposed utilities and utility easements.

A.6.4.25. Proposed streets and right-of-way easements; state route numbers; right-of-way lines and widths; centerline radii; and pavement widths; certification that any street, road or highway to be dedicated to public use has been designed and will be constructed to VDOT standards.

A.6.4.26. Location of existing and proposed ingress/egress to and from the development site, showing distance to the centerline of the nearest existing street intersection.

A.6.4.27. Off-street parking areas, loading areas and internal circulation aisles. For all parking and loading areas, indicate: size, angle of stalls, width of aisles, and specific number of spaces required and provided along with method of computation; indicate type of surfacing for all paved and graveled areas.

A.6.4.28. Number of floors, floor area, height and location of each building or structure, and proposed general use for each building and structure. For a multi-family residential dwelling or townhouse development, the number, size, and type of dwelling units shall be identified.

A.6.4.29. Proposed density.

A.6.4.30. If phasing is planned, phase lines and proposed timing of development.

A.6.4.31. Existing trees and tree cover.

A.6.4.32. Proposed clearing areas.

A.6.4.33. Existing and proposed tree canopy, and information and calculations showing compliance with applicable tree canopy requirements.

A.6.4.34. Landscape plan.

A.6.4.35. Location, type, size and height of all fencing, screening and retaining walls.

A.6.4.36. Percent and acreage of open space.

A.6.4.37. Outdoor lighting plan.

A.6.4.38. Location, design and size of proposed signs.

A.6.4.39. Location of outdoor rental and sales areas and outdoor display areas.

A.6.4.40. Recreation and open space amenities.

A.6.4.41. Location of any grave, object or structure marking a place of burial.

A.6.4.42. Identification of areas proposed to be dedicated for public use.

A.6.4.43. A traffic impact statement, including estimated traffic generation figures for the site based on current VDOT rates: indicate estimated vehicles per day and direction of travel for all connections to a public road. Trip generation calculations shall be based upon the rates or equations published in the Institute of Transportation Engineers Trip Generation (see 24VAC30-155-100) and shall not be reduced through internal capture rates.

A.6.4.43.1. Upon request by the County, the applicant shall provide additional information or supplemental traffic analysis, as defined in the Virginia Administrative Code 24VAC30-155-50, as may be necessary in order for the County to either determine whether the proposed development "substantially affects transportation on state-controlled highways," as defined by current VDOT regulations, or to comply with the requirements of Virginia Code Sect. 15.2-2222.1.

A.6.4.43.2. For the purposes of determining whether a proposal must be submitted to VDOT, the traffic carried on the state-controlled highway shall be assumed to be the most recently published amount measured in the last traffic count conducted by VDOT or the locality on that highway. In cases where the site has access to multiple highways, each receiving highway shall be evaluated individually for the purposes of this determination.

A.6.4.44. Written agreement of the developer to construct all physical improvements required by the County's Zoning or Subdivision ordinances which are to be dedicated to public use.

A.6.4.45. Signature panel for County official.

A.6.5. Concurrent with a developer's site plan application, a request for waivers and/or substitution of applicable requirements enumerated in A.6.1 through A.6.44 of this ordinance shall be submitted in writing to the Zoning Administrator for review. This waiver shall be

forwarded to the County Attorney for review, and approval and/or denial of said request shall be communicated in writing to the applicant in a timely fashion by the Zoning Administrator.

(Ord. No. 2020-6, 3-4-2020)

A.7. *Submission Requirements.*

A.7.1. Developers of projects subject to the requirement of an approved site plan are encouraged to request a pre-filing conference, in order to discuss with County staff the requirements of various County ordinances and procedures, their development proposals, and other pertinent information, prior to the date of official submission of a site plan for approval.

A.7.2. An applicant shall submit a completed application and a sufficient number of copies of a proposed site plan to the Zoning Administrator, along with a fee in the amount established by the most recent fee schedule adopted by the Board of Supervisors. The applicant shall provide twelve (12) sets of copies of the proposed site plan, and one additional set of reduced-size (11-inch x 17-inch) sheets.

A.7.2.1. The Zoning Administrator shall refer the proposed site plan to VDOT and to the Planning Commission for review.

A.7.2.2. Upon receipt of a site plan application the Zoning Administrator shall notify the adjacent property owners in writing. The list of adjacent property owners shall be created from the most current records of the Office of the Commissioner of Revenue.

A.7.3. An applicant for a zoning permit shall submit a completed application and copies of any drawings or plans deemed necessary by the Zoning Administrator in order to allow a determination that a proposed use or construction will be in compliance with requirements of the zoning ordinance.

A.8. *Minimum Standards and Requirements.*

A.8.1. The minimum standards and required improvements set forth in this section shall be in addition to any other applicable standards and requirements of the Madison County Zoning Ordinance.

A.8.2. The approval of a site plan shall not be construed as creating any obligation upon Madison County to pay for grading or paving, or for any sidewalk, sewer, curb and gutter improvements or any other construction. All improvements shall be installed at the cost of the developer, except where cost-sharing or reimbursement agreements between the County and a developer are appropriate and have been recognized and formally approved by both parties prior to site plan approval.

A.8.3. The approval of a site plan shall not obligate the County to accept any improvements for maintenance, repair or operation.

A.8.4. Streets and roads.

A.8.4.1. Streets and roads within and contiguous to a development shall be coordinated with other existing or planned streets and roads within the general area of the development, as to location, widths, grades and drainage.

A.8.4.1.1. Streets and roads shall be designed and constructed as to provide adequate drainage and drainage facilities.

A.8.4.1.2. Proposed streets and roads shall be properly related to the road and highway plans of the State and County. Streets shall be designed to provide adequate vehicular access to the development site, with regard for topographic conditions, projected volumes of traffic and other development possibilities in the area. The design and configuration of streets and entrances shall be such that traffic to and from the development will not have an adverse effect on public safety.

A.8.4.1.3. Each development shall be provided with safe and convenient ingress from and egress to at least one public road.

A.8.4.2. All public streets and roads shall be designed and constructed to meet the state standards necessary for inclusion in the secondary system of state highways, and the local standards set forth in articles 5 and 6 of the Madison County Subdivision Ordinance. In the event of a conflict between state and local design criteria then the current VDOT standards shall govern.

A.8.4.3. In the event that the streets and roads within a development will not be constructed to state standards (i.e., private streets and roads), the streets and roads shall be designed and constructed to meet the local standards set forth in articles 5 and 6 of the Madison County Subdivision Ordinance and the site plan shall include a statement that the streets do not meet VDOT standards and will not be maintained by VDOT or Madison County.

A.8.4.4. Monuments shall be installed to establish street and property lines within a development.

A.8.4.5. Cul-de-sacs are to be designed and constructed as a street and shall not be designed or constructed as for parking.

A.8.5. Water; Sewage Disposal Systems.

A.8.5.1. Within the service areas of the Rapidan Service Authority, where public water or public sewer service is reasonably accessible such service shall be extended by the developer. All such facilities shall be dedicated to the Rapidan Service Authority and shall be constructed to the Service Authority's standards and specifications. All costs of such extension shall be borne by the developer.

A.8.5.2. When a development is to be served by a central water or sewage disposal system other than the Rapidan Service Authority, if such system is allowed by the County's zoning or subdivision regulations, then the developer shall comply with the requirements of Code of Virginia, §§ 15.2-2149 through 15.2-2156.

A.8.5.3. Where public water service is available, fire hydrants and distribution systems shall be provided by the developer. In areas where public water service is not reasonably available, the County may require such alternative provisions as may be reasonably necessary to provide adequate fire protection.

A.8.6. Utility easements.

A.8.6.1. Common or shared easements shall be provided for franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to a proposed development. Such easements, the location of which shall be adequate for use by public service corporations and franchised cable television operators which may be expected to occupy them, may be conveyed by reference to a declaration of the terms and conditions of such common easements which may have been recorded in land records of Madison County.

A.8.6.2. In the event that a developer believes that the common or shared easements referenced in the preceding paragraph are not appropriate under the circumstances, the developer shall submit a written narrative statement of the efforts made to arrange for common or shared easements and reasons why he believes they are not appropriate for the proposed development.

A.8.7. Drainage.

A.8.7.1. Provisions shall be made for the disposition of surface water runoff from the development site, including such on- and off-site facilities and easements as the County may deem adequate. A stormwater management plan approved in accordance with the Madison County Water Protection Ordinance shall satisfy the requirements of this paragraph.

A.8.8. Dedications for Public Use.

A.8.8.1. For (i) any right-of-way located within a development that is constructed or proposed to be constructed as a street, curb, gutter, sidewalk, bicycle trail, drainage or sewage system, water line as part of a public system or other improvement dedicated for public use, and is to be maintained by the Commonwealth of Virginia, the County or other public agency, and (ii) any site-related improvements required by County ordinance for vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities, financed in whole or in part by private funds:

A.8.8.1.1. The County will not accept a dedication for public use other than by official action of the Board of Supervisors; and

A.8.8.1.2. The Board of Supervisors will not take official action to accept a dedication for public use in any case, unless the owner or developer:

A.8.8.1.2.1. Certifies to the Board that the construction costs have been paid to the person constructing such facilities, or at the option of the Board, presents evidence satisfactory to the Board that the time for recordation

of any mechanics lien has expired or evidence that any debt for said construction that may be due and owing is contested and further provides indemnity with adequate surety in an amount deemed sufficient by the Board or its designated administrative agent;

A.8.8.1.2.2. Furnishes to the Board a certified check or cash escrow in the amount of the estimated costs of construction or a personal, corporate or property bond, with surety satisfactory to the Board or its designated administrative agent, in an amount sufficient for and conditioned upon the construction of such facilities, or a contract for the construction of such facilities and the contractor's bond, with like surety, in like amount and so conditioned; or

A.8.8.1.2.3. On certain designated funds satisfactory to the Board or its designated administrative agent as to the bank or savings institution, the amount and the form.

A.8.8.1.2.4. The amount of such certified check, cash escrow, bond or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs, inflation and potential damage to existing roads or utilities, which shall not exceed ten percent of the estimated construction costs.

A.8.8.1.2.5. The County will periodically provide partial and final release of a bond, escrow, letter of credit or other performance guarantee, in accordance with Code of Virginia, § 15.2-2245.

A.8.8.1.3. In the event that the Board of Supervisors has accepted the dedication of a road for public use and such road, due to factors other than its quality of construction, is not acceptable into the secondary system of state highways, then the Board may require the developer to furnish the County with a maintenance and indemnifying bond, with surety satisfactory to the Board or its designated administrative agent, in an amount sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways.

A.8.8.1.3.1. In lieu of such bond, the Board or its agent may accept a bank or savings institution's letter of credit on certain designated funds satisfactory to the Board or its agent as to the bank or savings institution, the amount and the form, or it may accept payment of a negotiated sum of money sufficient for and conditioned upon the maintenance of such road until such time as it is accepted into the secondary system of state highways and assume the developer's liability for maintenance of such road.

A.8.8.1.3.2. As used herein, the phrase "maintenance of such road" means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for pubic usage.

A.9. *Validity.*

A.9.1. An approved final site plan shall be valid for a period of not less than five years from the date of approval thereof, or for such longer period as the Board of Supervisors may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.

A.9.1.1. Notwithstanding the foregoing, an approved final site plan shall remain valid for any period(s) of time required by Code of Virginia, § 15.2-2209.1(A), if 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.

A.9.1.2. Upon application of a developer filed prior to expiration of a final site plan the Board of Supervisors may grant one or more extensions of such approval for additional periods as it may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development and the laws, ordinances and regulations in effect at the time of the request for an extension.

A.9.1.3. If the Board of Supervisors denies an extension requested and the developer contends that the denial was not properly based on the applicable ordinance, or the foregoing considerations for granting an extension, or was arbitrary or capricious, the developer may appeal to the Madison County Circuit Court, provided that such appeal is filed with the Circuit Court within 60 days of the written denial by the Board of Supervisors.

A.9.2. Applications for modifications to an approved site plan shall be submitted and reviewed in the same manner as provided by this ordinance for all site plans. Application for minor modifications to final site plans made during the periods of validity of such site plans shall not constitute a waiver of the provisions hereof, or of the provisions of Code of Virginia, § 15.2-2261, nor shall the approval of minor modifications extend the period of validity of any site plan.

A.10. *Administration; Enforcement.*

A.10.1. The requirements of this ordinance shall be administered and enforced as provisions of and as a part of the Madison County Zoning Ordinance.

A.10.2. Any requirement of this ordinance may be waived by the Board of Supervisors upon a determination that such requirement is overly restrictive or unreasonable, after providing the Planning Commission an opportunity to review and make recommendations with respect to the proposed waiver. No waiver shall be granted if the result would be contrary to the purpose and intent of the County's Zoning Ordinance, including the standards and requirements set forth in this appendix.

A.10.3. The County may impose reasonable fees and charges for the review of a site plan, and for the inspection of facilities required by this site plan ordinance to be installed; such fees and charges shall be as set forth in the most recent fee schedule approved by the Board of Supervisors. (Code of Virginia, §§ 15.2-2258 and 15.2-2259)

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***Editor's note**—Set forth is the subdivision ordinance of Madison County, Virginia, originally adopted on March 29, 1974, and subsequently amended. Additions made for clarity are indicated by brackets.

State law references—Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.; localities to adopt ordinances regulating subdivisions, Code of Virginia, § 15.2-2240; mandatory provisions of a subdivision ordinance, Code of Virginia, § 15.2-2241; optional provisions of subdivision ordinance, Code of Virginia, § 15.2-2242.

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SUBDIVISION ORDINANCE

ARTICLE 1. PURPOSE AND TITLE

The purpose of this ordinance is to establish subdivision standards and procedures for the County of Madison, Virginia.

This ordinance is to guide and facilitate the orderly, beneficial growth of the community by assuring the orderly subdivision of land and its development, and to promote the public health, safety, convenience, comfort, prosperity and general welfare.

The ordinance is known and may be cited as "Subdivision Ordinance of Madison County, Virginia."

ARTICLE 2. DEFINITIONS

(Words and Terms)

For the purpose of this ordinance, terms used here shall be interpreted and defined as follows: Words used in the present tense shall include the future; words in the singular number include the plural, and plural the singular unless the natural construction of the word indicates otherwise; the word "lot" includes the word "parcel"; the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words or "disapprove". The word "current" shall mean the point in time at which a matter is under consideration and shall not mean the date of adoption of this ordinance. Any reference to this ordinance includes all ordinances amending or supplementing the same and the dates of their additions or deletions. All distances and areas refer to measurement in a horizontal plane.

2-1. *Agent.* The person or persons appointed to serve as the agent to the Board of Supervisors of Madison County, Virginia.

2-2. *Alley.* A permanent service way providing a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

2-3. *Architect.* A person licensed to practice as such in the State of Virginia.

2-4. *Board of Supervisors.* The Board of Supervisors of Madison County, Virginia.

2-5. *Building Line.* The distance of a building from the front lot line or a boundary line.

2-5A. *Conventional sewage system.* An individual sewage disposal system incorporating a septic tank and sub-surface soil absorption (drainfield) with or without pumping to serve a single family dwelling.

2-6. *Commission.* The Planning Commission of Madison County, Virginia.

2-7. *Cul-de-sac.* A street with only one outlet and having an appropriate turn around area for a safe and convenient reverse of traffic movement.

2-8. *Developer.* An owner of property being subdivided whether or not represented by an agent.

2-9. *Easement.* A grant by a property owner of the use of land for a specific purpose or purposes.

2-10. *Engineer.* A person licensed to practice as such in the State of Virginia.

2-11. *Health Official.* The Health Director of Madison County or his designated agent.

2-12. *Highway Engineer.* The Resident Engineer of the County employed by the Virginia Department of Highways and Transportation.

2-13. *Improvements.* All public utilities and facilities, including, but not limited to, streets, cul-de-sacs, storm and sanitary sewers, water lines, curb and gutter, required pursuant to the terms of this ordinance or the Zoning Ordinance of Madison County, Virginia.

2-14. *Jurisdiction.* The area or territory subject to legislative control of the Board of Supervisors.

2-15. *Landscape Architect.* A person registered to practice as such or a member of the American Society of Landscape Architects.

2-16. *Lot, parcel or tract of land.* A portion of land, including residue, described by deed or shown on a plat of survey, intended as a unit of real property for the purpose of ownership, conveyance, taxation or development. An existing lot, parcel or tract of land shall be defined and described by the most current deed or plat of survey recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia; provided that such lot, parcel or tract of land was created or approved in accordance with the applicable provisions of the Madison County Zoning and Subdivision Ordinances.

2-17. *Lot, Corner.* A lot abutting upon two or more roads at their intersection. The front of a corner lot shall be the side where the driveway entrance is or will be located as approved by the Virginia Department of Transportation. The setback on the side facing the side road shall be 35 feet or more for both main and accessory buildings.

2-18. *Lot, Depth of.* The mean horizontal distance between the front and rear lot line.

2-19. *Lot, Double Frontage.* An interior lot having frontage on two streets.

2-20. *Lot, Interior.* A lot other than a corner lot with only one street frontage.

2-21. *Lot of Record.* A lot which has been recorded among the land records in the Office of the Clerk of the Circuit Court of Madison County.

2-22. *Lot, Width of.* The mean horizontal distance between the side lot lines.

2-22A. *Non-Conventional sewage system.* Any sewage disposal system other than a traditional septic tank and traditional sub-surface soil absorption (drainfield). This system may serve a commercial establishment, or may be used if enhanced flow distribution, low-pressure distribution or pretreatment is necessary. This system shall not include an experimental or provisional system, and this system may be approved for intermittent use if both the manufacturer and a licensed engineer, in consultation with an Authorized On-Site Soil Evaluator (AOSE), verify that the system is designed for intermittent use and does not become biologically inactive with intermittent or seasonal use. The system shall also be required to be designed and inspected by an AOSE licensed engineer prior to being approved for intermittent use. All other regulations regarding maintenance and monitoring will apply.

2-23. *Performance Bond.* A bond with surety and/or cash deposit, approved by the Board of Supervisors in the amount set by the Board of Supervisors after receipt of a recommendation from the Planning Commission and with the provision that the improvements will be completed within a definite period of time.

2-23A. *Planning Commission.* The Planning Commission of Madison County, Virginia.

2-24. *Plat.* A diagram or map, drawn to scale showing tracts, parcels, lots, subdivisions, land boundaries, legally recordable in the Clerk's Office; together with all data essential to the description and identification of the several elements shown thereon, and including one or more certificates indicating due approval. A plat differs from a plan in that it does not necessarily show additional cultural, drainage and relief features.

2-25. *Planner.* A person qualified to prepare development plans, either licensed as such, or meeting the standards of the American Institute of Certified Planners.

2-26. *Profiles and Specifications.* Construction plans and specifications showing all necessary data for all public and private improvements to be installed under the terms of this ordinance.

2-27. *Property.* Any tract, lot, parcel or several of the same collected together for the purpose of subdividing.

2-28. *Public Sewer System.* A central system owned and/or operated by the Town of Madison, Madison County, Rapidan Service Authority, or an individual, partnership or corporation approved by the Board of Supervisors and by the State Health Department for the collection, removal, treatment and disposal of sewage.

2-29. *Public Water System.* A central system owned by the Town of Madison, Madison County, Rapidan Service Authority, or an individual partnership or corporation approved by the Board of Supervisors and by the State Health Department for the supply of potable water.

2-30. *Road.* A strip of land subject to vehicular and pedestrian traffic providing means of access to property; also designated as road, lane, drive, avenue, right of way, highway, boulevard, trail, court, place, terrace, etc., designated in accordance with traffic capacities, specified by the standards of Madison County, Virginia or the Virginia Department of Highways and Transportation whichever is applicable.

2-31. *Road-Public.* A travelway, road, or thoroughfare which is the principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and maintained by the State as a part of the State Primary or Secondary Road System.

2-32. *Road-Private.* A travelway, road or thoroughfare which is the principal means of access to abutting property and encompassed by a right-of-way not dedicated to public use, maintained by a private organization or adjacent landowners within the platted subdivision and subject to complete restrictive control by said private organization or adjacent landowners. Such streets are subject to special review by the Planning Commission, as well as construction standards and bonding procedures set forth in this ordinance.

2-33. *Road-Former County.* A travelway road or thoroughfare which is the principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and not abandoned by official action of the Board of Supervisors, formerly maintained by Madison County prior to the creation of the state highway system and shown on the Commonwealth of Virginia, Department of Highway, County of Madison Map No. 57-32, dated June 1, 1932.

2-34. *Road-Service.* A public right-of-way generally parallel with and contiguous to a major highway. Service roads are designed primarily to promote safety by reducing ingress and egress access movements from the major highway.

2-35. *Road Width.* The total width of the strip of land dedicated or reserved for public travel including roadway, curb and gutter, sidewalks, planting strips and, where necessary, utility easements.

2-35A. *Stream.* Any permanent or intermittent watercourse as defined by USGS topographic maps.

2-36. *Subdivide.* The process of dividing land to establish a subdivision.

2-37. *Subdivider.* An individual, corporation, proprietor, trust, trustee, joint venture, partnership or other entity, owning any tract, lot or parcel of land to be subdivided or a group of two or more persons or entities owning any tract, lot or parcel of land to be subdivided who have given their power of attorney to one of their group or to another individual or entity to act on their behalf in planning, negotiating for, in representing or executing the legal requirements of the subdivision.

2-38. *Subdivision.* The division of a lot, tract or parcel of land into two or more lots, tracts or parcels; provided, however, the following shall not be defined as a subdivision:

(1) The sale or exchange of a lot, tract or parcel of land between adjoining landowners to create by boundary adjustment a new lot, tract or parcel of land; provided that such sale or exchange does not create an additional building lot or does not create a nonconforming lot; and provided further that the new lot, tract or parcel of land created by boundary adjustment in the Conservation, C-1 or Agricultural, A-1 District shall not gain additional division rights until ten years from the date the plat or deed of boundary adjustment is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia.

(2) A single division of a lot or parcel for the purpose of sale or gift to a member of the immediate family of the property owner as defined and restricted in Code of Virginia, § 15.2-2244, as amended, including aunts, uncles, nieces and nephews; provided, however, that such a lot or parcel is not conveyed to a person other than a member of the immediate family of the property owner or to a trustee to secure financing for said lot or parcel for a period of three years from the date the family division is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia. The aforesaid three-year restriction on the conveyance of such a lot or parcel shall terminate in the event of the property owner's death.

(3) A partition of land ordered by a court of a competent jurisdiction.

2-39. *Surveyor, Land.* An individual who is licensed by the Commonwealth of Virginia and registered with the State Department of Professional and Occupational Registration as a certified land surveyor.

(Ord. of 6-20-1990; Ord. of 11-30-2004; Ord. of 12-7-2005; Ord. of 6-7-2006; Ord. of 10-14-2008; Ord. of 9-1-2009; Ord. No. 2017-11, § 1, 11-1-2017)

ARTICLE 3. ADMINISTRATION

3-1. Administrator.

The agent appointed by the Board of Supervisors is hereby delegated the authority and power to administer this ordinance and in so acting the agent shall be considered the agent of the Board of Supervisors.

3-2. Consultations.

In the performance of his duties, the agent may request opinions and/or decisions, either verbal or written, from other departments of the County government, officials and departments of the State of Virginia, and such other qualified persons as may from time to time be retained.

3-3. Procedures and Policy.

In addition to regulations herein contained for the subdivision of land, the agent, subject to the approval of the Board of Supervisors, may from time to time establish reasonable additional administrative procedures and policy requirements as deemed necessary for the proper administration of this ordinance. Procedures so established shall govern the administration of this ordinance.

3-4. Dedication for Public Use.

No public or private easement of right-of-way as shown on any plat of subdivision hereafter recorded shall be accepted for dedication for public use, until such proposed dedication for public use shall first have been formally approved by the Board of Supervisors in a meeting duly assembled, and evidence of such approval shown on the instrument to be recorded. Approval of any final subdivision plat shall not be deemed acceptance by the Board of Supervisors of any street, alley, or other public space shown on the plat for maintenance, repair or operation thereof unless acceptance is expressly indicated on the final plat.

3-5. Approval of Subdivisions.

All subdivisions shall be approved by the Board of Supervisors after review and recommendation from the Planning Commission. Such approval and review shall comply with the time periods set forth in Code of Virginia, § 15.1-475, as amended; provided the applicant may consent to an extension of any time period set forth therein.

3-6. Application Fee.

The applicant for approval of a subdivision shall pay the applicable application fee adopted by the Board of Supervisors.
(Ord. of 6-20-1990)

ARTICLE 4. PLAT PREPARATION PROCEDURES, GENERAL

4-1. Platting requirements.

4-1-1. *Platting Required.* Every subdivision of land as defined by section 2-38 located within Madison County shall be shown on a plat of a subdivision with reference to known or permanent monuments. A plat of subdivision shall be made, submitted and approved pursuant to the terms of this ordinance and then recorded among the land records in the Clerk's Office of the Circuit Court of Madison County. A plat of the residue shall be required for land in residential, R-1, R-2 or R-3 zones, and shall not be required in other zones unless a plat of the residue is needed to confirm that the residue is not a nonconforming lot.

No plat of subdivision shall be recorded unless or until the plat shall have been submitted to the Board of Supervisors or its authorized agent in accordance with the regulations set forth in this ordinance. No lot shall be sold in any subdivision before the plat shall have been recorded.

4-1-2. *Private Contracts.* This ordinance creates no private easement, covenant, agreement or restriction nor is any public official responsible for the enforcement of a private easement, covenant, agreement or restriction.

4-1-3. *Variations and Exceptions.* Whenever because of unequal size, topography or shape of the property or other unusual condition not resulting from the developer's deliberate act, a strict compliance with the requirements of this ordinance would result in extraordinary hardship to the developer, the Board of Supervisors may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured; provided that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of these regulations or interfering with implementing the Comprehensive Plan of Madison County.

4-1-4. *Mutual Responsibility.* There is a mutual responsibility between the County of Madison and the subdivider to divide and develop land in an orderly manner in accordance with the intent of the Comprehensive Plan of Madison County.

4-1-5. *Limitations of Subdivisions in Conservation, C-1, and Agricultural, A-1, Districts.* No lot, tract or parcel of land in the Conservation, C-1, District or Agricultural, A-1, District shall be subdivided into more than four smaller lots; tracts or parcels of land (including the residue, if any) within any ten-year period. Except as provided above, no lot, tract or parcel of land in the Conservation, C-1, or Agricultural, A-1, District created by subdivision in accordance herewith shall be further subdivided within ten years from the date the subdivision plat is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia. A lot, tract or parcel of land created by boundary adjustment in the Conservation, C-1 or Agricultural, A-1 District shall not gain additional division rights until ten years from the date the plat or deed of boundary adjustment is recorded in the Clerk's Office of the Circuit Court of Madison County, Virginia.
(Ord. of 6-20-1990)

4-2. Improvements: Cost and Bonding.

4-2-1. *Improvements.* Unless otherwise provided or agreed upon, all required improvements shall be installed at the cost of the subdivider. Where cost sharing or reimbursement agreements between the County of Madison and the subdivider are appropriate, the same shall be entered into by formal agreement prior to final plat approval and shall be subject to inspection and acceptance. In cases where specifications have been established either by the Virginia Department of Highways and Transportation for streets, etc., or by this ordinance such specifications shall be followed. The subdivider's performance bond shall not be released until construction has been inspected and accepted by appropriate engineer, or agent, or the Virginia Department of Highways and Transportation if applicable. All improvements shall be in accordance with the requirements set forth in this ordinance.

4-2-2. *Bonding Requirements.* The Board of Supervisors after review and recommendation from the Planning Commission may require the bonding of any improvements or facilities required as a condition of subdivision approval. Such bonding shall comply and be administered in accordance with Code of Virginia, § 15.1-466(f) and (1), as amended.
(Ord. of 6-20-1990; Ord. of 12-7-2005)

4-3. Streams and Drainage.

4-3-1. *Floodplains, Streams and Drainage Courses.*

4-3-1-1. The limits of the floodplain shall be shown on the plat and shall be established as required by the Madison County Floodplain Management Ordinance.

4-3-1-2. When any stream is located in the area being subdivided, no land disturbing activity shall be permitted within 50 feet of each side of the stream except as provided in 4-3-1-3, below. This area shall be identified on the plat.

4-3-1-3. The following activities shall be permitted within an area otherwise restricted pursuant to section 4-3-1-2.

(1) Normal grounds keeping, landscaping, home gardening and maintenance activities shall be permitted in the area immediately surrounding a dwelling or other structure which was in existence on September 1, 2009.

(2) Construction of a new dwelling or other structure on a lot of record that was approved prior to September 1, 2009, shall be permitted, if there is no reasonable building site outside the restricted area.

(3) Replacement of a dwelling or other structure that existed on September 1, 2009, shall be permitted within a restricted area, if the replacement structure is situated within the original footprint of the structure.

(4) Expansion of a dwelling that existed on September 1, 2009, shall be permitted within a restricted area, so long as the footprint of the original dwelling will not be increased by more than 50 percent.

(5) Construction and maintenance of a driveway or road shall be permitted within a restricted area, if there is no reasonable location outside the area that would allow reasonable access

to a usable portion of a lot; and construction of road and utility crossings shall be permitted; provided that, to the extent practicable, such activities shall be constructed in a manner and location of minimum impact to the stream buffers, preferably crossing at a 90-degree angle.

(6) Construction, installation and maintenance of water and sewer facilities or sewage disposal systems on lots of record approved prior to September 1, 2009, shall be permitted if there is no reasonable location outside the restricted area (subject to health department approval).

(7) Agricultural activities (excluding construction of new or expanded buildings) conducted on land that is enrolled in the County's land use taxation program.

(8) Construction and maintenance of: docks, piers, boat launches, and passive recreation areas; construction and maintenance of improvements necessary for historic preservation; and archaeological activities shall be permitted within a restricted area, provided that all applicable federal, state and local permits have been obtained.

(9) Construction and maintenance of a lake, pond, or ecological/wetland restoration project shall be permitted within a restricted area, provided that all applicable federal, state and local permits have been obtained.

(10) Construction and maintenance of on-site or regional stormwater management facilities and temporary erosion and sediment control measures such as silt fences or super silt fence shall be permitted within a restricted area, provided that:

(i) Selected erosion and sediment measures do not harm the natural infiltration of the restricted area and land disturbance is minimized;

(ii) To the extent practical, the location of such facilities shall be outside of the restricted area;

(iii) No more land shall be disturbed than is necessary to provide for construction and maintenance of the facility;

(iv) The facilities are designed and constructed so as to minimize impacts to the functional value of the restricted area for protecting water quality; and

(v) Any facilities that are located within a floodplain adhere to the requirements of the Madison County Floodplain Management Ordinance.

4-3-2. *Stormwater management.* Proper approval of a stormwater management plan, as required by the Madison County Water Protection Ordinance, shall be a condition of approval of every subdivision plat.

4-3-3. *Erosion Control.* Proper approval of plans and specifications for temporary (during construction) and permanent soil erosion and sedimentation controls as required by the Madison County Soil Erosion and Sediment Control Ordinance shall be a condition for approval of every subdivision plat. (Ord. of 6-20-1990; Ord. of 9-1-2009)

4-4. Water and Sewer.

4-4-1. *Sanitary Sewer and Water.* No subdivision shall be approved where individual water and septic tank systems are to be used until written approval has been secured from the Madison County Health Department. Each lot shall have one approved drainfield area and one approved reserve drainfield area. The approved drainfield area and the approved reserve drainfield area shall have a minimum area of 10,000 square feet; provided, however, additional area may be required by the Madison County Health Department.

The Madison County Health Department shall determine the suitability of soil for waste disposal systems. A conventional sewage system shall be utilized if soil conditions are acceptable. The Madison County Health Department may require the owner to submit soil percolation tests and other methods of soil evaluation to determine the suitability for sub-surface disposal.

If the Madison County Health Department determines that the site does not allow for a conventional sewage system, a non-conventional sewage system may be utilized. A maintenance and monitoring plan approved by the Madison County Health Department is required for all non-conventional sewage systems. This plan must be approved by the manufacturer of the system and remain in effect for the entire life of the system. The Madison County Health Department will determine the level of maintenance and monitoring required for each non-conventional sewage system; provided, however, a minimum of semi-annual testing is required. The Madison County Health Department will supervise the correction of any non-conventional sewage system that does not comply with the approved maintenance and monitoring plan. The Madison County Health Department shall send a copy of all maintenance and monitoring reports to the Madison County Zoning Administrator.

All non-conventional sewage systems shall be designed by a professional engineer who may be assisted by an authorized on-site soil evaluator or certified professional soil scientist. Such system shall be designed to operate at a designated site on the proposed lot.

All non-conventional sewage systems will be subject to the requirements for "Conditional Construction Permits" under the Virginia State Board of Health, Sewage Handling and Disposal Regulations, and will be subject to the requirements of such regulations for identification of the proposed non-conventional sewage system and recordation in the Clerk's Office of the Circuit Court of Madison County, Virginia. If a subdivision contains 15 or more lots, the developer shall provide a public water and sewer system to serve said lots. A public water system shall be constructed and operated by the developer/owner in accordance with standards, specifications and requirements of the State Health Department. A public sewer system shall be constructed by the developer/owner in accordance with standards and specifications of the State Health Department and the Rapidan Service Authority (RSA). If a Virginia pollution discharge elimination system (VPDES) permit issued by the State Water Control Board is required for the public sewer system, ownership of the system shall be transferred to RSA after the system has been constructed by the developer/owner, and the public sewer system shall be operated by RSA. If a VPDES permit is not required for the public sewer system, said system shall be operated by the developer/owner in accordance with standards, specifications and requirements of the State Health Department.

A subdivision within a Business, General, B-1, Industrial, Limited, M-1, or Industrial, General, M-2 zone may be approved by the Madison County Health Department if it has received a permit from the State Water Control Board for a sewage treatment facility with discharge into an all-weather stream.

4-4-2. *Septic Tank Installation.* The Health Director shall require, whenever necessary for the satisfactory installation of septic tanks, that individual lots be graded and drained so as to insure effective removal of surface water from each lot. When the contour of the subdivision is such that the use of individual wells with individual septic tank systems will be endangered, the subdivision shall not be approved for the use of individual wells.

4-4-3. *Public Water and Sewer.* Where public water and/or sewer service is reasonably accessible, such service shall be extended to all lots within a subdivision by the developer.

4-4-4. *Fire Protection.* Where public water is available the installation of adequate fire hydrants by the developer in a subdivision at locations approved by the governing body or its agent shall be required as necessary to provide adequate fire protection.

4-4-5. *Utility Easements.* Easements with a minimum width of 15 feet shall be required for utilities on each lot, tract or parcel of land.

4-4-6. *Drainage Easements.* Easements with a minimum width of ten feet may be required for drainage on any lot where there is a present or anticipated need for drainage or erosion control.
(Ord. of 6-20-1990; Ord. of 10-16-1991; Ord. of 11-30-1994; Ord. of 9-1-2009)

4-5. Lots.

4-5-1. *Non-conforming Subdivisions.* A subdivision recorded and/or developed prior to the adoption of, and not in conformity with, this ordinance may be resubdivided and redeveloped in whole or in part, at the option of the owner of all the lots to be resubdivided, but only under the following conditions: (1) the resubdivision shall result in improvement to the general area of lot layout and street connection; (2) and the resubdivision shall be in full conformity with the provisions of this ordinance. Any resubdivision of a recorded plat, or part thereof shall conform to the plat vacation requirements of Code of Virginia, §§ 15.1-481 and 15.1-182, as amended, and shall have the consent of the Board of Supervisors.

4-5-2. *Lot Size.* Lot sizes for residential lots shall conform to the Zoning Ordinance in effect in the County of Madison at the time of the filing of the final plat. Lot sizes may be increased by the Board of Supervisors where health and sanitation reports so indicate a need, in order to protect the public.

4-5-3. *Lots, Shape.* The lot arrangement, design and shape shall be such that lots will provide satisfactory and desirable sites for buildings and shall recognize the natural contour of the terrain and topography, and conform to requirements of this ordinance. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage of area which would be unusable for normal purposes.

4-5-4. *Corner Lots.* Corner lots shall have width sufficient for maintenance of any required building line on both streets as determined by the agent and as set forth in the Zoning Ordinance of Madison County.

4-5-5. *Side Lot Lines.* Side lot lines shall be approximately at right angles or radial to the street line, except at cul-de-sac terminal points, or where different angles or radials results in an improved lot layout.

4-5-6. *Nonconforming Lots, Remnants or Outlots.* No subdivision which creates a nonconforming lot shall be approved. All remnants of lots or outlots below the minimum size remaining after subdividing a tract must be added to adjacent lots rather than allowed to remain as unbuildable parcels.

4-5-7. *Pipestem Lots.* Where pipestem lots, which have a narrow extension of the lot area connecting the lot to a public road for vehicular access, are designed into a subdivision and shown on the recorded plat, the width of the pipestem (driveway-lot extension) shall not be less than 50 feet and the length of the pipestem (driveway) shall not be more than 300 feet from the public street right of way line to which the pipestem lot has access. The area of the pipestem shall not be a part of the required minimum lot area; no structures shall be built in the area of the pipestem; a subdivision shall contain no more than one pipestem lot; and no pipestem lot shall be contiguous to another pipestem lot.

4-5-8. *Monuments.* Permanent monuments shall designate each lot corner.
(Ord. of 6-20-1990; Ord. of 12-7-2005)

4-6. Blocks.

4-6-1. *Block Design.* The arrangements of blocks and the street system, especially intersections, shall be compatible and coordinated with the natural topography and physical features of the land. Form determinants and design opportunities presented by the site should be recognized and incorporated in the subdivision and road layout.

4-6-2. *Block Orientation.* Where a proposed subdivision will adjoin a primary road or street, the Board of Supervisors or its agent may require that the greater dimension of the block shall front or back upon such primary thoroughfare to avoid unnecessary ingress and egress as the case may be.

4-6-3. *Industrial or Business Subdivisions.* Any lots or blocks designed for business or industrial purposes shall be designed specifically for such purposes with adequate space set aside for service road, off-street parking, off-street loading, and delivery facilities.
(Ord. of 6-20-1990)

4-7. Comprehensive Plan and Public Dedications.

4-7-1. *Parks, Schools and Public Land.* In subdividing property, consideration should be given to suitable sites for parks, schools, and other areas of public use as contained in the County's Comprehensive Plan. Such plan regulations for parks, schools, or other public land should be indicated on the preliminary plat in order that it may be determined if, when, and in what manner such areas will be dedicated to, reserved for, or acquired by the appropriate Board of Supervisors for that use. This regulation shall not be construed to preclude the dedication of property for public use not included in the County's Comprehensive Plan provided such property is acceptable to the County for dedication and maintenance.

4-7A. Public Road-Subdivision.

Subdivision on public roads as defined in section 2-31 shall be permitted provided each lot conforms with the area, setback, frontage and other applicable regulations of the Madison County zoning, subdivision, site development plan, soil erosion and sedimentation, and floodplain ordinances, and provided, further, that the plat of the lots served by any public road shall have the following statement: "Any further subdivision of the tract(s) of land shown hereon is subject to review by the Planning Commission and approval by the Board of Supervisors."
(Ord. of 6-20-1990)

4-8. Private Roads.

4-8-1. Private Roads-Subdivision. Any subdivision involving the creation of a new private road shall be subject to review by the Planning Commission and final approval by the Board of Supervisors, but such approval shall be limited to the particular subdivision and shall not be construed to approve any further use of said private road or any further subdivision of adjoining land. Any such further subdivision of such land involving additional use of a private road will be considered as a new subdivision and will not be exempt from these regulations. The plat of any subdivision with a private road shall show such road and refer to any applicable legal documents that establish such road. A private road shall connect to a public road that is maintained by the Virginia Department of Transportation or to a former County road as defined in section 2-33, and shall have a minimum right-of-way width of 50 feet as required by the Virginia Department of Transportation; however, a private road does not have to meet any other requirements of the Virginia Department of Transportation. Neither Madison County nor any other public agency shall have any obligation for the maintenance or improvement of a private road. The maintenance and improvement of a private road shall be the mutual obligation of the landowners in the subdivision abutting said private road. A private road shall not be taken into the State Secondary Roadway System unless and until the abutting landowners shall have constructed and dedicated such private road in accordance with the Virginia Department of Transportation specification, and thereafter such private road is accepted into the State Secondary System by the Board of Supervisors.

The plat of the lots served by any private road shall have the following statements: "Any further subdivision of the tract(s) of land or any further extension of the private road shown hereon is subject to review by the Planning Commission and approval by the Board of Supervisors. The private road shown hereon will not be maintained or improved by Madison County or any other public agency."

4-8-2. Private roads legally recorded in the Clerk's Office of the Circuit Court of Madison County prior to March 29, 1974, may have widths of less than 50) feet.

4-8-3. A private road shall serve no more than four lots which use said private road for access to a public road or former County road. Any subdivision of more than four lots shall be on a public road as set forth in article 4-7A or on a former County road as set forth in section 4-9.

4-8-4. All lots that are created from the same tax parcel and adjoin a private road shall use said private road as access to the public road or former County road to which it connects, except as follows:

1. When a private road is located on a lot that is a portion of the parcel of land being subdivided and said lot is improved with a dwelling and with an entrance that was legally created prior to June 20, 1990; or

2. When a private road is created as access to a parcel of land that has no other access to a public road or former County road and was created prior to March 29, 1974.

(Ord. of 6-20-1990; Ord. of 2-20-1991; Ord. of 1-21-1998)

4-9. Former County Road-Subdivision.

Subdivision on a former County road as defined in article 2 shall be permitted provided each lot conforms with the area, setback, frontage and other applicable regulations of the Madison County zoning, subdivision, site development plan, soil erosion and sedimentation, and floodplain ordinances, and provided further, that the plat of the lots served by any former County road shall have the following statements: "Any further subdivision of the tract(s) of land shown hereon is subject to review by the Planning Commission and approval by the Board of Supervisors. The former County road shown hereon will not be maintained or improved by Madison County or any other public agency."

4-10. Approval by Virginia Department of Transportation.

No subdivision shall be approved until written approval thereof has been obtained from the Virginia Department of Transportation.

(Ord. of 6-20-1990)

ARTICLE 5. ROADS - GENERAL STANDARDS OF DESIGN

5-1. Road Alignment.

Provisions shall be made wherever practicable for the continuation of planned, existing or platted roads into adjoining areas.

(Ord. of 6-20-1990)

5-2. Road Angle.

The angle of intersection between roads shall be as close to a right angle as possible and in no case less than 80 degrees unless approved by the Board of Supervisors or its agent upon recommendation of the Virginia Department of Highways and Transportation Engineer for specific reasons of contour, terrain, or matching of existing patterns.

(Ord. of 6-20-1990)

5-3. Road Access.

The road arrangement shall provide adequate access to adjoining parcels where necessary to provide for the orderly development of the County.

(Ord. of 6-20-1990)

5-4. Road Grade and Ditches.

Maximum road grades and ditches shall be approved by the Virginia Department of Highways and Transportation. On certain steep grades, paved ditches may be required.

(Ord. of 6-20-1990)

5-5. Road Width.

The right-of-way width for roads shall conform to the widths designated in the Comprehensive Plan of Madison County or established by the Virginia Department of Transportation. The right-of- way width for roads shall not be less than 50 feet, unless the road was legally recorded in the Clerk's Office of the Circuit Court of Madison County prior to March 29, 1974.
(Ord. of 6-20-1990)

5-6. Cul-de-sac Roads.

Cul-de-sacs and dead end roads shall provide a terminal turn-around having a right-of-way radius of not less than 55 feet and a surfaced radius of not less than 45 feet.
(Ord. of 6-20-1990)

5-7. Temporary Cul-de-sacs.

Roads more than 300 feet in length from an intersection or proposed to serve more than four residences that terminate temporarily shall have a temporary cul-de-sac having a radius of not less than 55 feet. The temporary cul-de-sac shall remain until such time as road extensions are added.
(Ord. of 6-20-1990)

5-8. Alleys.

Alleys not less than 20 feet in right-of-way width may be provided in the rear of all commercial and industrial properties unless other provisions are made for parking and service. Alleys shall not be permitted in residential subdivisions. No dead end alleys of any kind shall be allowed.

5-9. Reserved Strips.

Reserved or spite strips restricting access to roads or alleys shall not be permitted provided that nothing herein shall prohibit areas for scenic planting and landscaping where adequate access is otherwise available.
(Ord. of 6-20-1990)

5-10. Service Roads.

Whenever a proposed subdivision contains or is adjacent to a primary highway, major collector or arterial highway, provisions may be required for service roads or service roads approximately parallel to such right-of-way. Except where impractical by reason of topographic hardship, the area between the road and the major thoroughfare or artery shall be sufficient to provide area for scenic planting and screening. The dimensions of the area between service road and major thoroughfare or artery and the points of access between the same shall be determined after due consideration of traffic safety requirements.
(Ord. of 6-20-1990)

ARTICLE 6. ROAD DESIGN AND STANDARDS

6-1. Design.

All roads, except private access easements as set forth in section 4-8 of this ordinance and restricted roads, shall be designed as required for acceptance into the secondary highway system of the Virginia Department of Highways and Transportation. Such roads shall be designed as to provide adequate drainage and drainage facilities and to have geometric design in compliance with the Virginia Department of Transportation, as evidenced by the written approval of the Highway Engineer. Private access easements shall be designed as set forth in section 4-8 of this ordinance.
(Ord. of 6-20-1990)

6-2. Standards.

All construction of roads, except private access easement as set forth in section 4-8 of this ordinance, shall conform to construction specifications and standards of the Virginia Department of Transportation in effect at the time of the filing of the final plat, and all construction of private access easement shall conform to the provision of section 4-8 of this ordinance.
(Ord. of 6-20-1990)

6-3. Street Names.

Proposed streets which are obviously in alignment with other already existing main streets shall bear the names of the existing street. It shall be the developer's responsibility that in no case shall the names of proposed streets duplicate the existing street names irrespective of the use of the suffix street, avenue, boulevard, drive, way, place, lane or court.

6-4. Road Cuts.

All road cuts made in paved roads shall be replaced in accordance with the construction standards of the Virginia Department of Highways and Transportation. The method shall be subject to modifications according to special conditions as approved by the Board of Supervisors or its agent.
(Ord. of 6-20-1990)

6-5. Permanent Monument Requirements.

Permanent monuments shall be placed in the ground at all corners, and angle points in the outer lines of the subdivision and at all points of angles and curvature in the right-of-way lines of all roads, and at all lot corners within the subdivision, and at designated points in the outer lines of the subdivision, and at a minimum of at least two points in each block. All required monuments shall be clearly visible.
(Ord. of 6-20-1990)

6-6. Landscaping.

All cut and fill slopes shall be landscaped, either seeded and stabilized, or sodded, with grass or plants suitable for such slopes. Erosion control measures may be required under the Madison County Soil and Erosion Sediment Control Ordinance.

ARTICLE 7. FINAL PLAT: FILING APPROVAL PROCEDURE

7-1. Filing Requirements.

An applicant shall file 17 prints of the final plat, prepared by a land surveyor or certified professional engineer licensed by the Commonwealth of Virginia to practice as such. Subdivisions approved administratively shall require one print of the final plat to be maintained and held in County records for a minimum of ten years from the date of approval. The said surveyor or professional engineer shall affix upon each plat a signed certificate and also indicate thereon the source of the title of the owner of the land subdivided. Any supporting data or plans shall also be filed with the Commission or its agent. A final plat is recommended to have all required plat details and approval signatures from the Virginia Department of Health and Virginia Department of Transportation. Lots/parcels recorded without such approval signatures shall not be issued a zoning or building permit until such approvals are obtained in writing from said departments.
(Ord. of 12-7-2005; Ord. No. 2020-5, 3-4-2020)

7-1A. Public Notice.

Public notice of a request for a subdivision of land shall be given in accordance with Virginia Code, § 15.2-2204, as amended.
(Ord. of 12-7-2005)

7-2. Recommendation of the Planning Commission.

A recommendation on a final plat shall be made by the Planning Commission to the Board of Supervisors within 60 days after the date of its first public hearing thereon; provided, however, the 60-day period may be extended with the consent of the applicant.
(Ord. of 6-20-1990)

7-3. Final Approval.

The Board of Supervisors, Zoning Administrator or County Administrator, retains unto itself the authority of final approval of final plats. The Planning Commission shall consider final plats and make recommendations to the Board of Supervisors. Single lot non-family subdivisions do not require consideration by the Planning Commission or approval of Board of Supervisors; such subdivision may be approved administratively by the Board of Supervisors' designee provided the subdivision meets all requirements of this ordinance. For all other subdivision applications the Board of Supervisors shall indicate approval or disapproval of all subdivisions received for consideration as a final plat within 60 days from the date of its first public hearing, provided, however, the 60-day period may be extended with the consent of the applicant. Approval of the final plat by the Board of Supervisors shall be void unless the approved plat is recorded within six months after approval. All approved final plats shall be filed in the Clerk's Office of the Circuit Court of Madison County. No such plat of any subdivision shall be recorded by the Clerk of said Court unless it has been approved by the Board of Supervisors, or its designee.
(Ord. of 6-20-1990; Ord. No. 2020-5, 3-4-2020)

7-4. Final Plat Approval Conditions.

The final plat shall not be approved until the subdivider has complied with the requirements and standards of design in accordance with this ordinance and has provided any performance bond required by the Board of Supervisors. Approval of the final plat by the Board of Supervisors shall be evidenced by the signature of the agent of the Board of Supervisors on such final plat.

7-5. Plat Details.

The final plat shall meet the standard for plats established by regulations issued by the State Library Board pursuant to the Virginia Public Records Act (Code of Virginia, § 42.1-82, as amended). Any plat which provides for the creation, expansion or enlargement of public road shall be accompanied by a written approval from the Virginia Department of Transportation.

7-5-1. The name of the owner; a certificate signed by the land surveyor or professional engineer who prepared the plat; the source of title of the owner of the subdivided land; and the name or number of the lot or parcel if a part of a larger tract.

7-5-2. When the plat describes land acquired from more than one source of title, the outlines of the several tracts shall be indicated on the plat.

7-5-3. The boundary lines of the area being subdivided shall be determined by an accurate survey with bearings shown in degrees, minutes, and seconds to the nearest ten seconds; and dimensions to be shown in feet to the nearest hundredth of a foot. Total acres in each proposed use plus floodplain delineation shall be shown.

7-5-4. Roads shall be named but shall not duplicate existing or platted road names unless the new road is a continuation of existing or platted road. All dimensions both linear and angular for locating lots, roads, alleys, public easements, and private easements; the linear dimensions shall be expressed in feet to the hundredths of a foot and all angular measurements shall be expressed by bearings or angles expressed to the nearest ten seconds. All curves shall be defined by their radius, central angle, and arc lengths. Such curve data shall be expressed by a curve table lettered on the face of the plat, each curve being tabulated and numbered to correspond with the respective numbered curve shown throughout the plat.

7-5-5. Lot numbers in numerical order and block identification.

7-5-6. Location and material of all permanent reference monuments. Monuments found or installed prior to plat recordation may be referenced if permanent and undisturbed.

7-5-7. A definite bearing and distance tie shown between not less than two permanent monuments on the exterior boundary of the subdivision, and further tie to existing street intersections where possible and reasonably convenient.

7-5-8. Date and north pointer or north arrow.

7-5-9. Private or public restrictions and their period of existence. If these restrictions are of such length as to make their lettering on the plat impractical, reference shall be made on the plat to the document which details said restrictions.

7-5-10. Signature panel shall be provided for the owner, Health Department, Virginia Department of Transportation and the Board of Supervisors.

7-5-11. Temporary cul-de-sacs where needed.

7-5-12. Supporting data shall include any plans for water supply and sewage disposal; soil erosion and sedimentation control measures; existing sewers, water mains, culverts and other underground structures within the tract or parcel of land.

7-5-13. Tax map and parcel number of parcel(s) or tract(s) that are being subdivided.

7-5-14. Any grave or burial area located within the subdivided area.

7-5-15. A new or existing easement with a minimum width of 15 feet shall be required for utilities on each lot, tract or parcel of land.

(Ord. of 6-20-1990; Ord. of 12-7-2005)

ARTICLE 8. ADMINISTRATION AND ENFORCEMENT

8-1. Compliance with Chapter.

No permit will be issued by any administrative officer of Madison County, Virginia, for the construction or any building, or other improvements requiring a permit, upon any land concerning which a plat is required by this ordinance, unless and until the requirements of this ordinance have been complied with.

8-2. Appeals.

The decision of the Board of Supervisors on an application for subdivision approval may be appealed to the Circuit Court of Madison County.

8-2-1. The Planning Commission may reverse the decision of the agent of the Board of Supervisors or submit the request for appeal to the Board of Supervisors without recommendation.

(Ord. of 6-20-1990)

8-3. Violations and Penalties.

Any owner or proprietor of any tract of land who subdivides that tract of land and violates any of the provisions of this ordinance shall be guilty of a misdemeanor punishable by a fine of not less than $10.00 and no more than $250.00 and each day during which violation shall continue shall constitute a separate violation.

8-3-1. Violation Prevention or Correction: The Board of Supervisors (in addition to other remedies) may institute any appropriate action or proceedings to prevent violation or attempted violation, to restrain, correct, or abate such violation, or to prevent any act which would constitute such a violation.

8-4. Changes or Amendments.

Any regulation or provision of this ordinance may be changed or amended from time to time by the Madison County Board of Supervisors in accordance with Code of Virginia, § 15.1-431, as amended.

8-5. Validity.

If any article, subarticle, clause or phrase of this ordinance is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declare that it would have passed this ordinance and each article, subarticle, sentence, clause and phrase thereof, irrespective of the fact that any one or more article, subarticle, sentences, clauses, or phrases be declared invalid.
(Ord. of 6-20-1990)

8-6. Effective Date.

The effective date of this ordinance and any amendment thereto shall be the day following its adoption by the Board of Supervisors; provided, however, unless otherwise specifically set forth in an amendment, any application filed prior to the adoption of any amendment shall be acted upon in accordance with the provisions of the ordinance in effect on the date such application was filed.
(Ord. of 6-20-1990)

8-7. Certified Copy.

A certified copy of this subdivision ordinance and all amendments thereto shall be filed in the office of the Zoning Administrator of Madison County and in the Clerk's Office of the Circuit Court of Madison County.
(Ord. of 6-20-1990)