EFFECTIVE JAN. 1, 2021

ZONING ORDINANCE
CITY OF BRISTOL, VIRGINIA

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CHAPTER 50 – LAND USE, ARTICLE II -- ZONING

Chapter 50 LAND USE[1]

ARTICLE I. IN GENERAL

Secs. 50-1—50-3. Reserved.

ARTICLE II. ZONING[2]

[1]Charter reference(s)—Powers relating to public works, utilities and properties, § 2.04; collection and disposal of demolition waste materials, § 2.04(2); building regulations, § 2.06(9); environs control, § 5.10; building code department, § 7.07; board of building code appeals, § 8.09; purposes for which bonds or notes may be issued, § 12.04; comprehensive city plan, § 13.01 et seq.; certain permits construed as revocable licenses, § 15.04.

Cross reference(s)—Businesses, ch. 18; community development, ch. 22; environment, ch. 38; human relations, ch. 46; solid waste, ch. 70; utilities, ch. 90; vegetation, ch. 93.

State law reference(s)—Access to and use of buildings by handicapped, Code of Virginia, § 2.1-517; dangerous buildings and other structures, Code of Virginia, § 15.1-11.2; certification of tradesmen, Code of Virginia, §§ 15.1-11.4, 36-99.1; regulations concerning the building of houses, Code of Virginia, § 15.1-15(1); fences around swimming pools, Code of Virginia, § 15.1-29; display of numbers on buildings, Code of Virginia, § 15.1-29.11; buildings, monuments and lands of local governments, Code of Virginia, § 15.1-257 et seq.; buildings for municipal functions, purposes, etc., Code of Virginia, § 15.1-846; light, ventilation and sanitation of buildings and premises, Code of Virginia, § 15.1-869; Virginia Industrialized Building Safety Law, Code of Virginia, § 36-70 et seq.; Uniform Statewide Building Code, Code of Virginia, § 36-97 et seq.; local licensing of certain contractors, Code of Virginia, § 54.1-1117.

[2]Ord. No. 20-4, adopted November 24, 2020, repealed the former chapter 50, §§ 50-26—50-45, 50-56—50-61, 50-71—50-73, 50-86—50-93, 50-106—50-109, 50-121—50-123, 50-130—50-133, 50-136—50-140, 50-156—50-159, 50-171—50-177, 50-186—50-190, 50-201, 50-202, 50-216—50-220, 50-231—50-249 and 50-251—50-264, and enacted a new chapter 50 as set out herein. The former chapter 50 pertained to similar subject matter and derived from the of Code of 1966, app. tit. I, art. II—§ 19.1; Ord. No. 78.2, adopted February 28, 1978; Ord. No. 90.17, adopted August 28, 1990; Ord. No. 90.22, adopted August 28, 1990; Ord. No. 91.08, adopted June 11, 1991; Ord. No. 91.09, adopted June 28, 1991; Ord. No. 92.22, adopted November 24, 1992; Ord. No. 95.02, adopted January 10, 1995; Ord. No. 95.03, adopted January 10, 1995; Ord. No. 96.04, adopted April 9, 1996; Ord. No. 97.10a, adopted October 18, 1997; Ord. No. 98.18, adopted November 24, 1998; Ord. No. 98.19, adopted November 24, 1998; Ord. No. 98.20, adopted November 24, 1998; Ord. No. 98.21, adopted November 24, 1998; Ord. No. 98.22, adopted November 24, 1998; Ord. No. 99.16, adopted May 11, 1999; Ord. No. 99.17, adopted June 8, 1999; Ord. No. 99.18, adopted June 8, 1999; Ord. No. 99.19, adopted June 8, 1999; Ord. No. 99.27, adopted September 28, 1999; Ord. No. 00.01, adopted January 11, 2000; Ord. No. 00.05, adopted June 13, 2000; Ord. No. 02.02, adopted February 26, 2002; Ord. No. 02.08, adopted May 28, 2002; Ord. No. 02.14, adopted July 9, 2002; Ord. No. 02.15, adopted July 9, 2002; Ord. No. 03.02, adopted March 11, 2003; Ord. No. 04.02, adopted January 13, 2004; Ord. No. 04.03, adopted January 13, 2004; Ord. No. 04.04, adopted January 27, 2004; Ord. No. 04.07, adopted March 9, 2004; Ord. No. 04.08, adopted March 9, 2004; Ord. No. 04.15, adopted May 11, 2004; Ord. No. 04.16, adopted May 11, 2004; Ord.

No. 05.05, adopted April 26, 2005; Ord. No. 05.06, adopted April 26, 2005; Ord. No. 05.07, adopted May 10, 2005; Ord. No. 06.11, adopted August 22, 2006; Ord. No. 09.03, adopted February 10, 2009; Ord. No. 10.06, adopted September 28, 2010; Ord. No. 11.06, adopted October 25, 2011; Ord. No. 12.04, adopted May 8, 2012; Ord. No. 13.14, adopted November 26, 2013; Ord. No. 16.02, adopted April 26, 2016; Ord. No. 16.11, adopted September 27, 2016; Ord. No. 19-1, adopted January 22, 2019 and Ord. No. 19-6, adopted July 9, 2019.

Charter reference(s)—Waste disposal by private enterprise, § 2.04(2); comprehensive city plan, § 2.07; public works department, § 7.06; building code department, § 7.07; department of planning, § 7.08; city planning commission, § 8.04; zoning, § 13.04; injunctive relief, § 13.06.

Cross reference(s)—Alcoholic beverages, ch. 6; amusements and entertainments, ch. 10; animals, ch. 14.

DIVISION 1. GENERALLY

Sec. 50-4. Short title.

This article shall be known and may be cited as the "Zoning Ordinance of Bristol, Virginia," and the map herein referred to, which is identified by the title "Bristol, Virginia Zoning Map," shall be known as the "Zoning Map of Bristol, Virginia." The zoning map and all explanatory matter thereon is hereby adopted and made a part of this article.

(Ord. No. 20-4, 11-24-20)

Sec. 50-5. Purpose.

The general purposes of this article are to promote the health, safety, convenience, order, prosperity, and general welfare of the people of the city. The districts shown on the zoning map have been designated after consideration as to the character of each district, its suitability for particular uses, its relation to the general land use plan for the city, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the city to the end that this city may become a better city in which to live.

More specifically, this article is designed to give reasonable consideration to each of the purposes of zoning ordinances identified in the Code of Virginia, § 15.2-2283, as amended, and to implement the Comprehensive Plan of Bristol, Virginia.

(Ord. No. 20-4, 11-24-20)

Sec. 50-6. Legislative authority.

This article and map are adopted according to the authority of the Code of Virginia, § 15.2-2280 et seq., as amended. As specified therein, the City of Bristol is authorized to provide for the establishment of districts within the corporate limits in which the city may regulate, restrict, permit, prohibit and determine:

(1) The use of land, buildings, structures and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;

(2) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;

(3) The areas and dimensions of land, water, and air space to be occupied by buildings, structures and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and 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

(4) The excavation or mining of soil or other natural resources.

(Ord No. 20-4, 11-24-20)

Sec. 50-7. Compliance.

No building or land shall be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this article.

(Ord. No. 20-4, 11-24-20)

Sec. 50-8. Nonconforming uses, buildings and structures.

(a) Nothing in this article shall be construed to authorize the impairment of any vested right, except that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a substantially similar or more limited use continues and such use is not discontinued for more than two years; and that the uses of such buildings or structures shall conform to such regulations whenever they are enlarged, extended, reconstructed or structurally altered; and no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

(b) A building or structure that is nonconforming or is devoted to a nonconforming use and is damaged or destroyed by an accidental fire, natural disaster, or other act of God may be repaired, rebuilt, or replaced such that the nonconforming features are eliminated or reduced to the extent possible. If such building is damaged to the extent greater than 50 percent of its fair market value and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so within two years of the damage as long as the work is in compliance with all applicable building code regulations and the floodplain provisions found in this article.

(c) If the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the property owner is provided with an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph.

(d) For purposes of this section, "act of God" shall include any natural disaster or phenomena including a tornado, storm, flood, high water, wind-driven water, earthquake or fire caused by lightning or wildfire. Nothing herein shall be construed to enable the property owner to commit an arson and obtain vested rights under this section.

(e) For purposes of this section, more limited use will not include a residential building or structure situated in a manufacturing zone as prohibited by section 50-135.

(f) A nonconforming structure may be enlarged, extended, reconstructed or structurally altered as long as the degree of the nonconformity is not increased.

(g) A nonconforming use may be extended throughout any part of a structure which was arranged or designed for such use at the time of passage or amendment of this article.

(Ord. No. 20-4, 11-24-20)

Sec. 50-9. Private restrictions.

This article is not intended to override any easement, covenant, or any other private agreements provided that where the regulations of this article are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this article shall govern.

(Ord. No. 20-4, 11-24-20)

Sec. 50-10. Severability.

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

(Ord. No. 20-4, 11-24-20)

Sec. 50-11. Lots of record.

(a) Where a lot at the time of the adoption of the ordinance or at the time of subsequent amendment to this article does not meet the minimum lot size for the district in which it is situated, such lot may be used as a building site for a single-family residence in a district where residences are permitted, provided the yard space and other requirements are met.

(b) If two or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of the ordinance or its subsequent amendment and such lots individually have less frontage or area than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot.

(Ord. No. 20-4, 11-24-20)

Sec. 50-12. Only one principal building on any lot.

In single- and two-family residence districts, only one principal building and its customary accessory building or buildings may hereafter be erected on any lot.

(Ord. No. 20-4, 11-24-20)

Sec. 50-13. Reduction of lot area prohibited.

No lot shall be reduced in area so that yards, lot area per dwelling unit, lot width, building area or other requirements of this article are not maintained. This section shall not apply when a portion of lot is acquired for a public purpose.

(Ord. No. 20-4, 11-24-20)

Sec. 50-14. Obstructions to vision at street intersections prohibited.

At all street intersections, adequate sight distances shall be maintained, except within the B-2 central business district. Although the B-2 central business district requires no front setback distance, sight distance shall be provided to the greatest extent possible.

(Ord. No. 20-4, 11-24-20)

Sec. 50-15. Annexation.

In case of annexation to the city, or in case property comes into the territorial jurisdiction of the city other than by annexation, the regulations applying to existing county zoning shall be construed to apply to all such annexed or new territory pending amendment to this article.

(Ord. No. 20-4, 11-24-20)

Sec. 50-16. Street frontage.

No residential building shall be erected on a lot which does not about a public street for a minimum of 50 feet, unless it meets one of the following exceptions:

(1) Such lot is legally recorded prior to the adoption of the city subdivision ordinance and has an easement or right-of-way legally platted and/or recorded to a public street or road. A street connection for such easements or private rights-of-way shall be subject to the entrance requirements of the city. Nothing contained in this section shall be construed to permit the subdivision or re-subdivision of lots or tracts abutting such private easements or rights-of-way in such manner as to violate any provision of the subdivision ordinance of the city.

(2) Lots which front on a cul-de-sac shall not be required to meet the minimum frontage requirement, provided that the frontage is sufficient to permit the construction of a state department of transportation standard residential entrance, including required radii; the front building restriction line is moved toward the rear of the lot a sufficient distance to provide the full lot width requirement for the zoning district; the rear and side yard requirements are maintained; and the lot meets the minimum area requirement for the zoning district. Any lot shall have been subdivided and/or recorded prior to the adoption of the city's subdivision ordinance, or the lot shall have been subdivided in accordance with the applicable city subdivision ordinance.

(3) Lots may front on private streets within condominium and multifamily apartment complexes and in other types of developments as set forth in the city's subdivision ordinance and the design criteria for subdivision streets set forth in the VDOT Road Design Manual — Subdivision Street Design Guide, except that no right-of-way shall be required. A plan of perpetual maintenance shall be established with provisions satisfactory to the planning commission to assure that such private streets shall be maintained in a satisfactory manner without expense to the city.

(Ord. No. 20-4, 11-24-20)

Sec. 50-17. Amendment.

(a) The planning commission may, and at the direction of the governing body shall, consider amendments to this article, by the process prescribed in Code of Virginia, § 15.2-2285, including a change to the zoning map commonly called a "rezoning." The commission shall hold at least one public hearing on any amendment, after notice as required by Code of Virginia, § 15.2-2204, and may make appropriate changes in the proposed amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed amendment to the city council together with its recommendations and appropriate explanatory materials.

(b) No amendment shall be approved unless the city council has referred the proposed amendment to the planning commission for its recommendation. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment has been referred to the commission, or such

shorter period as may be prescribed by the city council, shall be deemed approval, unless the proposed amendment has been withdrawn by the applicant prior to the expiration of the time period. In the event of and upon such withdrawal, processing of the proposed amendment shall cease without further action.

(c) Before approving and adopting any amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by Code of Virginia, § 15.2-2204, including the practice of holding a joint public hearing together with the planning commission. After such public hearing, the governing body may make appropriate changes or corrections in the proposed amendment. In the case of a proposed amendment to the zoning map, the public notice shall state the general usage and density range of the proposed amendment and the general usage and density range, if any, set forth in the applicable part of the comprehensive plan. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by Code of Virginia, § 15.2-2204. Zoning ordinance amendments shall be enacted in the same manner as all other ordinances.

(d) An amendment of this article may be initiated by any one of the following three means:

a. The zoning amendment application of one or more persons interested in the proposed amendment, which application shall be filed with the planning commission and shall be accompanied by a fee as provided in the appendix to this chapter.

b. The resolution of intention of the city council.

c. The resolution of intention of the planning commission.

(e) A petition for an amendment will not be considered for six months if the request has been previously denied by city council.

(Ord. No. 20-4, 11-24-20)

Secs. 50-18—50-21. Reserved.

DIVISION 2. ESTABLISHMENT OF DISTRICTS

Sec. 50-22. Districts and purposes.

The general purposes of this article are to promote the health, safety, convenience, order, prosperity, and general welfare of the people of the city. For the purpose of this article, the city is hereby divided into the districts designated below which are shown on the zoning map. The districts have been designated after consideration of the character of each district, its suitability for particular uses and its relation to the future land use plan for the city. It is the intent of this article to conserve the value of buildings; encourage the most appropriate use of land throughout the city; reduce congestion in the streets; provide adequate light and air; prevent the overcrowding of land; and facilitate adequate provisions of transportation, water, sewer, schools, and parks, to the end that this city may become a better city in which to live.

(1) *Single-family residential—Limited (R-1A).* The purpose of this district is to protect single-family uses in areas of established development with lots of at least 15,000 square feet in size.

(2) *Single-family residential—General (R-1).* The purpose of this district is to provide low-density, single-family residential uses in protected surroundings. This district is intended to be located away from the center of the city where the environment is conducive to this type of use and more suburban in nature. Development in this district is encouraged to preserve natural features, allow flexibility in subdivision

development planning and provide distinctive developments in conformity with existing residential patterns.

(3) *Single- and two-family residential (R-2).* The purpose of this district is to provide areas for the development of moderate-density residential uses and structures in moderately spacious surroundings. This district is to be located in the intermediate portions of the city where a protected environment suitable for moderate-density residential uses can be provided and in established moderate-density residential areas to ensure their continuance.

(4) *Moderate-density residential (R-3).* The purpose of this district is to provide areas for the development of moderate-density residential uses and structures in moderately spacious surroundings. This district is to be located in the intermediate portions of the city where a protected environment suitable for moderate-density residential uses can be provided, and in established moderate-density residential areas, to ensure their continuance. This district is also appropriate on a smaller scale in the suburban portions of the city as a transitional or buffer zone between low-density residential districts and commercial districts, industrial districts or major transportation arteries, and other uses that are not compatible with a low-density residential environment. This district allows for single-family attached dwellings or townhouses (through the townhouse development standards) connected horizontally with compacted front, rear, and side yards, and typically having their own entry from the street or sidewalk.

(5) *High-density multi-family residential (R-4).* The purpose of this district is to provide for the development of moderate- to high-density residential uses and structures in areas with adequate community facilities, public utilities, and other public services. This district is appropriate for apartment buildings, condominiums, and townhouses. It is intended that large-scale use of this district be confined to the intermediate and central portions of the city.

(6) *Golf course residential district (GCR).* The purpose of this district is to provide a protected area for golf course and residential development connected with a golf course, including both detached and attached single-family dwellings.

(7) *Manufactured home park residential (R-MH).* The purpose of this district is to provide for needed and properly planned mobile home parks in which spaces are offered on a rental or lease basis for owner or tenant occupied mobile homes. These districts may be located only in such areas as will not adversely affect the established residential subdivisions and residential densities in the city. Such location shall have necessary public services, a healthful living environment and normal amenities associated with residential districts of the city.

(8) *Neighborhood business district (B-1).* The purpose of this district is to provide attractive areas for the medium-density development of office buildings and restricted commercial uses. This district encourages high quality office-type development and neighborhood-type stores, services, and commercial centers compatible with residential development in a protected environment catering to the everyday needs of a limited residential area.

(9) *Central business district (B-2).* The purpose of this district is to provide for the preservation of retail and commercial enterprise in the central business district that serves the entire city and the surrounding area. It is for those uses which require a central location and which provide businesses and services to be used by the entire community and its surrounding area.

(10) *General business district (B-3).* The purpose of this district is to provide a place for business uses that do not require a central location. It shall provide areas for the development of retail and personal-service commercial, community and regional shopping centers of integrated design and high-density development of commercial businesses in certain areas adjacent to major transportation arteries or thoroughfares within the city.

(11) *Office and institutional (O-I).* The purpose of this district is to provide relatively quiet, attractive, and spacious areas for the development of office and institutional uses that do not generate substantial volumes of vehicular traffic.

(12) *Light industrial district (M-1).* The purpose of this district is to provide for the development of commercial and light manufacturing industries, which do not have large space requirements and do not generate odors, smoke, fumes, or excessive noise. This district is also for warehousing and storage. A court of record must not have declared such use a nuisance.

(13) *General industrial district (M-2).* The purpose of this district is to provide areas for development of heavy industrial uses that have extensive space requirements and/or generate substantial amounts of noise, vibrations, odors, or possess other characteristics that may be detrimental, hazardous, or otherwise offensive and incompatible with other land uses.

(14) *Agricultural (A).* This district is to protect rural, open type uses, including farming operations within the corporate limits. It allows for an orderly transition from the open rural uses to the more intensive urban uses as the need occurs. Domestic water and sewage facilities, police and fire protection, and other services necessary to accommodate urban type development already exist in the area or can be economically extended as urbanization takes place.

(15) *Floodplain district (F).* These districts are established to meet the needs of Beaver Creek, Little Creek, and other streams and drainage ways designated by the Federal Emergency Management Agency to carry abnormal flows of water in time of flood; to prevent encroachments in the districts which will increase flood height and damage; and to prevent the loss and excessive damage to property in the areas of greatest flood hazard.

(16) *Historic overlay district (HO).* This district is established in accordance with Code of Virginia, § 15.2-2306 to protect and enhance valuable historic resources of the city. The purpose of the district is to encourage preservation and rehabilitation of historic structures and prevent loss of irreplaceable historic resources and diminishment of the city's historic districts. Protection of historic resources enhances tourism and economic opportunities, preserves property values, contributes to more attractive neighborhoods, and implements the objectives of the city comprehensive plan.

(17) *Economic development overlay districts.* These districts serve to further enhance investment and development in these designated areas, but do not change the underlying zoning district.

a. The purpose of the arts and entertainment district is to promote mixed use and commercial development that expands the presence of and enhances the arts, culture, and entertainment within the district.

b. The purpose of the tourism zone overlay is to promote investment in the tourism industry through economic incentives and regulatory flexibility for eligible businesses that attract visitors.

c. The purpose of the enterprise zone is to stimulate business and industrial growth by means of incentives for real property investment and job creation, particularly in older areas of the city that have experienced loss of jobs and are in need of new capital investment.

(18) *Planned unit development district (PUD).* The purpose of the planned unit development is to provide more desirable environments through the application of flexible and diversified land development standards under a master plan. The PUD is to encourage the appropriate mix of residential and commercial/office uses in a unified development with an interconnected system of roads, sidewalks, and paths. Benefits of a PUD include proximity of living units to employment, less infrastructure costs, more efficient provision of services, less environmental impact, and provision of attractive housing opportunities and amenities.

(19) *Flexible redevelopment district (FRD).* The purpose of this district is to encourage the creative redevelopment of certain previously-developed properties by allowing a mix of compatible land uses in conformity with the city comprehensive plan and with an approved site plan. This may entail the re-use of existing structures or the redevelopment of former commercial or industrial sites for new construction, or a combination of both activities. The intent is to rejuvenate economic activity to relatively large tracts that have been vacant, thereby providing jobs and increased tax base.

(20) *Railroad zone (RR).* The purpose of this district is to delineate all properties owned by the railroad and used for rail transportation purposes and closely related uses.

(Ord. No. 20-4, 11-24-20)

Sec. 50-23. District boundaries and zoning map.

District boundaries are hereby established as shown on the Zoning Map of Bristol, Virginia, dated October 20, 2020 and as amended by action of the city council on November 24, 2020. The zoning map and all notations, amendments, and other information thereon are hereby made a part of these regulations to the same extent as if such information set forth on the map were all fully described and incorporated herein. Any change made to the zoning map must follow the amendment procedure contained in section 50-17 and in compliance with the Code of Virginia. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts, the following rules shall apply:

(1) Where district boundaries are indicated as approximately following the centerlines of streets, alleys, or highways or railroad right-of-way lines or such lines extended, such centerlines or railroad right-of-way lines or such lines extended shall be construed to be such boundaries.

(2) Where district boundaries are indicated as approximately following the corporate limits line of the city, such corporate limits line shall be construed to be such boundaries.

(3) Where district boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended shall be construed to be such boundaries.

(4) Where district boundaries are indicated as approximately following the centerline of stream beds, such centerlines shall be construed to be such boundaries.

(5) Where district boundary lines as appearing on the zoning map divide a lot in single ownership, the requirements for the district in which the greater portion of the lot lies may be extended to the balance of the lot by approval of the planning commission; provided that this provision shall not apply to a double frontage lot. In the case of a double frontage lot, the provisions of the district in which each part of such lot is situated shall apply.

(Ord. No. 20-4, 11-24-20)

Secs. 50-24—50-30. Reserved.

DIVISION 3. LAND USES

Sec. 50-31. Residential districts.

The following chart lists types of residential land uses and those permitted by right and those permitted with a special use permit by the process prescribed in division 14. Unless otherwise allowed by this article, any uses not listed are prohibited. Accessory uses not listed and as defined in division 18 are permitted in every district subject

to the standards in section 50-134. Standards for the manufactured home park residential district are contained in section 50-119:

(1) *R-1A zone—Single-family residential—Low density.*

Permitted by Right		Permitted with Special Use Permit
RESIDENTIAL		RESIDENTIAL
Single-Family Dwelling Group Home Accessory Uses, as regulated in § 50-134	Home Occupation as regulated in § 50-133 Temporary Family Health Care Structure Gardening Agricultural uses as regulated in § 50-136	
COMMUNITY OR CIVIC USES		COMMUNITY OR CIVIC USES
Community Gardens Public Park/Playground Utilities, Minor	Municipal, state, federal uses, including public schools Church or place of worship Cemetery	Day Care Center Private School Community Center

(2) *R-1 zone—Single-family residential.*

Permitted by Right		Permitted with Special Use Permit
RESIDENTIAL		RESIDENTIAL
Single-Family Dwelling Group Home Accessory Uses, as regulated in § 50-134	Home Occupation as regulated in § 50-133 Temporary Family Health Care Structure Family day care home Gardening Agricultural uses, as regulated in § 50-136	Accessory Dwelling, as regulated in § 50-134 (f)
COMMUNITY OR CIVIC USES		COMMUNITY OR CIVIC USES
Community Gardens Public Park/Playground Utilities, Minor	Municipal, state, federal uses, including public schools Church or place of worship Cemetery	Day Care Center Private School Community Center

(3) *R-2 zone—Single- and two-family residential.*

Permitted by Right		Permitted with Special Use Permit
RESIDENTIAL		RESIDENTIAL
Single-Family Dwelling Two-Family Dwelling Townhouse, as regulated in § 50-118 Group Home	Home Occupation as regulated in § 50-133 Family day care home Temporary Family Health Care Structure	Bed and Breakfast

Accessory Uses and Accessory Dwelling, as regulated in § 50-134	Gardening Agricultural uses as regulated in § 50-136	
COMMUNITY OR CIVIC USES		COMMUNITY OR CIVIC USES
Community Gardens Public Park/Playground Utilities, Minor	Municipal, state, federal uses, including public schools Church or place of worship Cemetery	Day Care Center Private School Community Center Museum

(4) *R-3 zone—Moderate-density residential.*

Permitted by Right		Permitted with Special Use Permit
RESIDENTIAL		RESIDENTIAL
Single-Family Dwelling Two-Family Dwelling Townhouse, as regulated in § 50-118 Multi-family dwelling (Moderate density) Group Home Family day care home	Accessory Uses and Accessory Dwelling, as regulated in § 50-134 Home Occupation as regulated in § 50-133 Temporary Family Health Care Structure Gardening	Bed and Breakfast Elderly Care Facility Children's Residential Facility Transitional Housing
COMMUNITY OR CIVIC USES		COMMUNITY OR CIVIC USES
Community Gardens Public Park/Playground Utilities, Minor Cemetery	Municipal, state, federal uses, including public schools Church or place of worship Community Center Day Care Center	Private School Museum

(5) *R-4 zone—High density residential.*

Permitted by Right		Permitted with Special Use Permit
RESIDENTIAL		RESIDENTIAL
Single-Family Dwelling Two-Family Dwelling Townhouse, as regulated in § 50-118 Multi-family Dwelling (Moderate density) Multi-family Dwelling (High Density) Accessory Uses, as regulated in § 50-134	Group Home Home Occupation (as regulated in § 50-133) Temporary Family Health Care Structure Family day care home Gardening	Elderly Care Facility Children's Residential Facility Transitional Housing
COMMUNITY OR CIVIC USES		COMMUNITY OR CIVIC USES
Community Gardens Public Park/Playground Utilities, Minor Cemetery	Municipal, state, federal uses, including public schools Church or place of worship	Private School

	Community Center Day Care Center	

(6) *GCR—Golf course residential.*

Permitted by Right		Permitted with Special Use Permit
RESIDENTIAL		RESIDENTIAL
Single-Family Dwelling Townhouse, as regulated in § 50-118	Group Home Temporary Family Health Care Structure Accessory Uses, as regulated in § 50-134 Gardening	
COMMUNITY OR CIVIC USES		COMMUNITY OR CIVIC USES
Community Gardens Public Park/Playground Utilities, Minor	Municipal, state, federal uses, including public schools Church or place or worship Cemetery	

(7) *R-MH—Residential—Manufactured home park district.*

Permitted by Right	Permitted with Special Use Permit	
RESIDENTIAL	RESIDENTIAL	
Manufactured Homes Accessory Uses, including office, service buildings, and recreational uses		

(Ord. No. 20-4, 11-24-20; Ord. No. 23-3, 3-14-23)

Sec. 50-32. Non-residential districts.

The following charts list types of non-residential land uses and those permitted by right and those permitted with a special use permit by the process prescribed in division 14. Unless otherwise allowed by this chapter, any uses not listed are prohibited. Accessory uses not listed and as defined in division 18 are permitted in every district subject to the standards in section 50-134. Supplemental regulations are included in division 11. Uses allowed in mixed use and special purpose districts are listed in division 9:

(1) *B-1 neighborhood business district.*

Permitted by Right		Permitted with Special Use Permit
COMMERCIAL		COMMERCIAL
Art Studio or Gallery Business Support Service Dance or Music Studio Day Care Center Family Day Care Home	Office, General Office, Medical Personal Services Print Shop Restaurant, General	Automotive Sales and Leasing Automotive Services and Parts Sales Bed and Breakfast Consumer Repair Service

Financial Institution Funeral Home Health Club or Fitness Center Laundry	Store, Neighborhood Store, Specialty	Custom Manufacturing Garden Center Gas Station Greenhouse Pawn Shop Small Equipment Repair
MISCELLANEOUS		MISCELLANEOUS
Accessory Uses, as per § 50-134 Amateur Radio Tower (§ 50-156) Church or Place of Worship Community or Public Building	Single or Two Family Residential as per § 50-135 Park or Playground Utilities, Minor	

(2) *B-2 central business district.*

Permitted by Right		Permitted with Special Use Permit
COMMERCIAL		COMMERCIAL
Art Studio or Gallery Bed and Breakfast Business or trade school Business Support Service Catering Service College or university Communication Services Custom Manufacturing Dance or Music Studio Data or Call Center Day Care Center Family Day Care Home Farmers' Market Financial Institution	Heath Club or Fitness Center Hotel Indoor Amusement or Entertainment Facility Micro-brewery Office, General Office, Medical Pawn Shop Personal Services Print Shop Restaurant, General Store, General Retail Store, Neighborhood Store, Specialty	
MISCELLANEOUS		MISCELLANEOUS
Accessory Uses (§ 50-134) Amateur Radio Tower (§ 50-156) Church or Place of Worship Civic, Social, Fraternal Club Meeting Facility Community or Public building Conference or Convention Center Multi-family Dwelling as per § 50-135	Dwelling, Single or Two Family as per § 50-135 Museum Park or Playground Parking Garage or Lot Passenger Terminal Private School Utilities, Minor Terminal, rail	

(3) *B-3 general business district.*

Permitted by Right		Permitted with Special Use Permit
COMMERCIAL		COMMERCIAL
Art Studio or Gallery Animal Clinic or Hospital	Gas Station Greenhouse, Commercial	Construction Yard Outdoor Entertainment Facility

Automotive Repair Service Automotive Sales and Leasing Automotive Services and Parts Sales Bed and Breakfast	Health Club or Fitness Center Hospital Hotel Indoor Amusement or Entertainment Facility	Outdoor Sports and Recreation Facility
Business and Trade School Business Support Service Cannabis Dispensing Facility Car or Truck Wash Catering Services College or university Commercial Vehicle/ Heavy Equipment Repair Communication Services Construction Sales and Service Consumer Repair Service Custom Manufacturing Dance or Music Studio Data or Call Center Day Care Center Elderly Care Facility Equipment Sales and Rental Family Day Care Home Farmers' Market Financial Institution Flea Market Funeral Home Garden Center	Indoor Sports and Recreation Facility Kennel or Animal Shelter (no outside kennels) Laundry Micro-Brewery Mini warehouse Office, General Office, Medical Pawn Shop Personal Services Print Shop Restaurant, Fast Food Restaurant, General Small Equipment Repair Store, General Retail Store, Liquor Store, Neighborhood Store, Specialty Tattoo Shop or Body Piercing Salon Wholesale Business, as defined in division 18	
INDUSTRIAL		INDUSTRIAL
Pharmaceutical Processor	Research and Development Center	Laboratory for Products Testing and Research
MISCELLANEOUS		MISCELLANEOUS
Accessory Uses (§ 50-134) Amateur radio tower (§ 50-156) Church or Place of Worship Civic, Social, Fraternal Club Meeting Facility Community or Public Building Conference or convention center Dwelling, Single or Two Family as per § 50-135	Museum Overnight Recreational Development Park or Playground Parking garage or parking lot, as principal use Passenger Terminal Private school Utilities, Minor Terminal, bus Terminal, rail Unhoused/unsheltered day center	Multi-family Dwelling as per § 50-135 Utilities, Major

(4) *O-I office-institutional district.*

Permitted by Right	Permitted with Special Use Permit

COMMERCIAL		COMMERCIAL
Animal Hospital or Clinic Art studio or gallery Business or Trade School Business Support Service College or university Dance or Music Studio Data or Call Center Day Care Center	Elderly Care Facility Family Day Care Home Financial Institution Hospital Health Club or Fitness Center Office, General Office, Medical Personal Services	Methadone (or other controlled substance substitution) Clinic
INDUSTRIAL		INDUSTRIAL
Research and Development Center		Laboratory for Products Testing and Research
MISCELLANEOUS		MISCELLANEOUS
Accessory Uses (§ 50-134) Amateur Radio Tower (§ 50-156) Church or Place of Worship Children's' Residential Facility Community or Public Building Group Home	Museum Park or Playground Parking garage or parking lot, as a principal use Private School Utilities, Minor	Multi-family Dwelling as per § 50-135 Utilities, Major

(5) *M-1 light industrial district.*

Permitted by Right		Permitted with Special Use Permit
COMMERCIAL		COMMERCIAL
Animal Clinic or Hospital Automotive Sales and Leasing Automotive Services and Parts Sales Automotive Repair Business and Trade School Business Support Services Car and Truck Wash Catering Services Commercial Vehicle/Heavy Equipment Repair Construction Sales and Service Construction Yard	Gas Station Greenhouse, Commercial Indoor Amusement or Entertainment Facility Indoor Sports and Recreation Facility Kennel or Animal Shelter (no outside kennels) Laundry Micro-Brewery Mini-warehouse/Mini-storage Office, General Office, Medical	Adult Establishment Day Care Center Family Day Care Home Health Club or Fitness Center Pawn Shop
Consumer Repair Service Custom Manufacturing Dance or Music Studio Data or Call Center Equipment Sales and Rental Financial Institution Flea Market	Outdoor Entertainment Facility Outdoor Sports and Recreation Facility Parking Garage or Parking Lot Personal Services Restaurant, Fast food Small Equipment Repair Shooting Range, Indoor Wholesale Business	
INDUSTRIAL		INDUSTRIAL

Food and Beverage Production Laboratory for Products Testing and Research Manufacture of Plastics or Fiberglass products Manufacture or Assembly of equipment, instruments, appliances, and other electrical items Manufacture of Pharmaceutical Products Manufacture of Products made from paper or cardboard Manufacture of wood products with no outside storage Metalworking including fabrication and welding Publication printing facility Recycling facility Research and Development Center Textile or apparel manufacturing, including upholstery and assembly Truck terminal Vehicle or equipment storage Warehouse	Manufacture, processing, or storage of animal feed Manufacture of concrete, aggregate, stone, tile or other similar building products Manufacture of wood products with outside storage
MISCELLANEOUS	MISCELLANEOUS
Accessory Uses (§ 50-134) Amateur radio tower (§ 50-156) Civic, Social Fraternal Club Meeting Facility Parking garage or parking lot, as a principal use Terminal, bus Terminal, rail Utilities, Minor	Utilities, Major

(6) *M-2 general industrial district.*

Permitted by Right	Permitted with Special Use Permit
COMMERCIAL	COMMERCIAL
Animal Clinic or Hospital Automotive Repair Service Car or Truck Wash Commercial Vehicle/Heavy Equipment Repair Construction Sales and Service	Adult Establishment Automotive Sales and Leasing Business or Trade School Business Support Service
Construction Yard Consumer Repair Service Custom Manufacturing Dance or Music Studio Equipment Sales and Rental Financial Institution Gas Station Greenhouse, Commercial Kennel or Animal Shelter, no outside kennels Laundry Mini-warehouse, Mini-storage Shooting Range, Indoor Small Equipment Repair Wholesale Business	Catering Service Day Care Center Indoor Amusement or Entertainment Facility Indoor Sports and Recreation Facility Micro-Brewery Office, Medical (Clinic) Outdoor Entertainment Facility Outdoor Sports or Recreation Facility Personal Services Restaurant, Fast Food
INDUSTRIAL	INDUSTRIAL

Asphalt or Cement Production Chemical Manufacturing and processing Food and Beverage Production Foundry Laboratory for Products Testing and Research Manufacture, processing, or storage of animal feed Manufacture of concrete, aggregate, stone, tile or other similar building products Manufacture of Plastics or Fiberglass products Manufacture or Assembly of equipment, instruments, appliances, and other electrical items Manufacture of Pharmaceutical Products	Salvage and Scrap Service Solid Waste Facility
Manufacture of Products made from paper or cardboard Manufacture of wood products with no outside storage Manufacture of wood products with outside storage Metalworking including fabrication and welding Processing and storage of fertilizer Publication printing facility Recycling facility Research and Development Center Sawmill Textile or apparel manufacturing, including upholstery and assembly Truck terminal Vehicle or equipment storage Warehouse	
MISCELLANEOUS	MISCELLANEOUS
Accessory Uses (§ 50-134) Amateur radio tower (§ 50-156) Civic, Social, Fraternal Club Meeting Facility Parking garage or parking lot as a principal use Terminal, bus Terminal, rail Utilities, Minor	Utilities, Major

(7) *A agricultural district.*

Permitted by Right		Permitted with Special Use Permit
COMMERCIAL		COMMERCIAL
Agricultural Production Greenhouse, Commercial Kennel or Animal Shelter (inside and outside kennels)	Nursery Winery	Bed and Breakfast Farmers' Market
INDUSTRIAL		INDUSTRIAL
		Sawmill
MISCELLANEOUS		MISCELLANEOUS
Accessory Uses and Accessory Dwelling (§ 50-134)	Dwelling, Single or Two-Family Home Occupation as per § 50-133	Utilities, Major

Amateur radio tower (§ 50-156) Cemetery Church or Place of Worship Community or Public Building	Overnight Recreational Development Park or Playground Utilities, Minor	

(Ord. No. 20-4, 11-24-20; Ord. No. 22-5, 5-10-22; Ord. No. 23-3, 3-14-23)

Sec. 50-33. Similar uses.

(a) For all non-residential districts in the land use matrix, if a use is not found in the charts above, a similar use may be permitted if, in the opinion of the planning commission, the use is similar in character to those listed as permitted by right and will not be detrimental to the district in which it is located or to adjacent properties, and subject to such conditions and safeguards as may be required by the planning commission.

(b) The planning commission may also make a determination that a proposed use not found in the charts above is similar in nature to a use or uses listed as allowed by special use permit and therefore could be allowed through the special use permit process.

(Ord. No. 20-4, 11-24-20)

Secs. 50-34—50-40. Reserved.

Sec. 50-41. Residential districts.

The following chart lists the yard requirements for residential districts. These requirements pertain to principal structures. Accessory structures are addressed in section 50-134:

Residential Districts	Minimum Lot Size/Density	Minimum Setback Distances (in feet) for principal structures			Lot Width	Lot Coverage	Height See section 50-43(c) for exceptions
		Front Yard	Rear Yard	Side Yard			
R-1A Single-Family Residential	15,000 s.f. (0.34 ac)	35' dwelling 50' other	35' dwelling 50' other	15' dwelling 30' other	100'	30%	Shall not exceed 3 stories or 35' unless each side yard is increased by 5 feet (or fraction thereof) for every five feet of height over 3 stories.
R-1 Single-Family Residential	12,000 s.f. (0.275 ac)	35' dwelling 50' other	35' dwelling 50' other	10' for 1 to 2 story 15' for 3 story	75'	30%	Same as R-1A
R-2 Single- and Two-Family	7,500 s.f. (0.17 ac) 3,750 s.f. per unit	30' dwelling 35' other	30' dwelling 35' other	For dwelling, 8' with total of 20' for both; 25' for other	50'	30%	Shall not exceed two stories unless each side yard is

				structure. More if over 2 stories. (See Height).			increased by 5 feet (or fraction thereof) for every five feet of height over two stories.
R-3 Moderate Density Residential	5,000 s.f. (0.11 ac) 2,000 s.f. per unit	25' dwelling 35' other	25' dwelling 35' other	6' for 1 to 2 story with total both 30% of lot width or 20' whichever is smaller. 10' for 3 story bldg. and 40% of lot width or 30 feet (whichever is greater) for both widths combined	50'	40%	Same as R-1A.
R-4 High Density Residential	10,000 s.f. (0.23 ac) 1,500 s.f. per unit.	20' plus 1' more for each 2 ft. of building height above 25'	30'	15% of width of lot on each side plus 1' more for every 2 ' of building height above 25'	100'	Depends on height of building. See section 50-44	None

GCR Golf Course Residential	15,000 s.f. (0.34 ac)	35' dwelling 50' other	25' dwelling 50' other	10' for 1 to 2 story 25' for 3 story	80'	30%	Shall not exceed 3 stories or 35' unless each side yard is increased by 5 feet (or fraction thereof) for every five feet of height over 3 stories.
R-MH Manuf. Home Park	3 acres	See section 50-119 for details on manufactured home lots					
Townhouses	2,000 s.f. per unit	See section 50-118 for details on townhouse standards					

(Ord. No. 20-4, 11-24-20)

Sec. 50-42. Non-residential districts.

The following chart lists the yard requirements for non-residential districts. These requirements pertain to principal structures. Accessory structures are addressed in section 50-134:

Non-Residential Districts	Minimum Lot Size	Minimum Setback Distances (in feet) for principal structures			Lot Width	Lot Coverage	Height See section 50-43(c) for exceptions
		Front Yard	Rear Yard	Side Yard			
Office-Institutional (O-I)	None	25'	20'	10' each side	None	40%	Cannot exceed 2 stories (except public hospitals) unless each side yard is increased over

							the minimum by 5' for every 5' of height over 2 stories
Neighborhood Business (B-1)	None	25'	20'	10' if adjoining residential district	None	None	Must comply with height limit of most restrictive adjoining residential district
Central Business District (B-2)	None	None	None	None	None	None	Buildings cannot exceed 100 feet in height unless by special permission of the building official
General Business (B-3)	None	10'	20'	10' if adjoining residential district	None	None	Buildings cannot exceed 100 feet in height unless by special permission of the building official
Light Industrial (M-1)	None	10'	20'	10'	None	None	Buildings cannot exceed ten stories or 100 feet in height unless by special permission of the building official
General Industrial (M-2)	None	10'	25'	10'	None	None	Buildings cannot exceed 100 feet in height unless by special permission of

							the building official
Agricultural (A)	Farms 5 ac. Other uses 1 ac.	50' (Note: If roadway is less than 50' width, the setback is 100' from the center line).	50'	25'	150'	None	No building can exceed 2 stories or 35' unless each side yard is increased over the minimum by 1' for every 1' of height over 35'. Nonresidential buildings may be up to 60' provided that all required front, rear, and side yards are increased 1' for each foot over 35'.

(Ord. No. 20-4, 11-24-20)

Sec. 50-43. Exceptions to yard requirements.

(a) *Front yard setback.* The setback requirements of this article for principal buildings shall not apply to any lot where the average setback on developed lots located wholly or in part within 200 feet on each side of such lot for residential zones and within 50 feet in non-residential zones, and within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots.

(b) *Side yard on corner lots.*

(1) In residential districts, the minimum width of the side yard along an intersecting street shall be 50 percent greater than the minimum side yard requirements of the district in which the lot is located. Accessory buildings shall also comply with this setback from the intersecting street. In the R-2 and R-3 districts where the side yard could be less than ten feet, the minimum side yard on a corner lot shall be 15 feet.

(2) In non-residential districts, the required front setback distance shall be maintained on any street frontage on a corner lot unless the front setback exception allowed in subsection (a) applies.

(c) *Exceptions on height limits.* The height limitations of this article shall not apply to church spires, belfries, cupolas, and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derrick conveyors, flagpoles, radio and television towers, masts, or aerials, except as provided in division 12, Wireless Communications Facilities.

(Ord. No. 20-4, 11-24-20)

Sec. 50-44. Lot coverage in R-4 district.

The lot coverage permitted in the R-4 zoning district shall not exceed the following:

(1) Three stories or less: 40 percent; three to ten stories: 30 percent; and over ten stories: 20 percent.

(2) For each multifamily dwelling unit, a minimum of 200 square feet of usable open space shall be provided on the site, suitable for recreation, gardens, or lounging. Such space must be at least 75 percent open to the sky, free of automotive traffic, parking and undue hazard, and readily accessible by all those residents in the development.

(Ord. No. 20-4, 11-24-20)

Secs. 50-45—50-50. Reserved.

DIVISION 5. FLOODPLAIN DISTRICT

Sec. 50-51. General provisions.

(a) *Purpose.* In accordance with the general purpose of this article as stated in section 50-5, and the legislative authority for zoning provided for in Code of Virginia, § 15.2-2280, the purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruption of commerce,

institutional and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

(1) Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies.

(2) Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding.

(3) Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage.

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

(b) *Applicability.* These provisions shall apply to all lands within the jurisdiction of the City of Bristol and identified as being in the special flood hazard area (SFHA) by the Federal Insurance Administration.

(c) *Compliance and liability.*

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

(2) The degree of flood protection sought by the provisions of this division is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This division does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.

(3) This division shall not create liability on the part of the City of Bristol or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(4) Any person who fails to comply with any provisions of this division shall be subject to penalties, corrections, and remedies. The VA USBC addresses building code violations and associated penalties. Violations and associated penalties of this article are addressed in division 17.

(d) *Abrogation and greater restrictions.* This division supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this division.

(e) *Severability.* If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this division. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this division are hereby declared to be severable.

(f) *Administration.* The zoning administrator is responsible for administering the provisions of this division and serves as the community floodplain administrator with duties including, but not limited to, the following:

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

(2) Approve permits for new construction and substantial improvements that meet the requirements of these regulations.

(3) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(4) Review applications to determine that all necessary permits have been obtained, and in particular permits from state agencies for construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water.

(5) Review elevation certificates and require incomplete or deficient certificates to be corrected.

(6) Submit to the Federal Emergency Management Authority (FEMA), or require applicants to submit to FEMA, data and information necessary to maintain flood insurance rate maps, including hydrologic and hydraulic engineering analysis prepared by or for the city, within six months after such data and information becomes available if the analyses indicated changes in base flood elevation (BFE).

(7) Maintain and permanently keep records that are necessary for the administration of these regulations, including flood insurance studies, flood insurance rate maps, letters of map changes, documentation supporting issuance and denial of permits, elevation certificates, variances, and records of enforcement action.

(8) Prepare staff reports and recommendations to the board of zoning appeals for each application for a variance.

(Ord. No. 20-4, 11-24-20)

Sec. 50-52. Establishment of zoning districts.

(a) *Description of districts.*

(1) *Basis of districts.* The various floodplain districts shall include areas subject to inundation by waters of the base flood. The basis for the delineation of these districts shall be the flood insurance study (FIS) and flood insurance rate map (FIRM) for the City of Bristol prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated February 4, 2004, and any subsequent revisions or amendments thereto.

a. The floodway district is delineated, for purposes of this article, using the criterion that certain area within the floodplain must be capable of carrying the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point. The areas included in this district are specifically defined in Table 3 of the above-referenced flood insurance study and shown on the accompanying FIRM.

b. The flood-fringe district shall be that area of the SFHA not included in the floodway district. The basis for the outermost boundary of the district shall be the base flood elevation (BFE) contained in the flood profiles of the above-referenced flood insurance study and as shown on the accompanying FIRM. The AE zone shown on the FIRM comprises both floodway and flood-fringe districts, although there may be flood-fringe districts without floodway.

c. The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a SFHA boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the flood insurance study. For these areas, the BFE and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific BFE cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers (USACE) Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for any proposed use, development and/or activity that exceeds either five acres or five lots shall

determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the city.

d. The city reserves the right to require that base flood elevation be provided for development in flood-prone areas within 50 feet of any main drainage channel or stream that is not included in the flood insurance study. The BFE shall be determined by the same methods indicated in subsection c. of this subsection.

(2) *Overlay concept.*

a. The floodplain districts described above shall be overlays to the existing underlying districts as shown on the official zoning map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

b. 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.

c. In the event any provision concerning a floodplain district is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

(b) *Official zoning map.* The boundaries of the floodplain districts are established as shown on the FIRM which is declared to be a part of this article and which shall be kept on file at the City of Bristol offices.

(c) *District boundary changes.* The delineation of any of the floodplain districts may be revised by the city where natural or manmade changes have occurred and/or where more detailed studies have been conducted or undertaken by the USACE or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the federal insurance administration.

(d) *Interpretation of district boundaries.* The zoning administrator shall make initial interpretations of the boundaries of the floodplain districts. 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.

(Ord. No. 20-4, 11-24-20)

Sec. 50-53. District provisions.

(a) *General provisions.*

(1) *Permit requirement.* All uses, activities, and development occurring within any floodplain district shall be undertaken only upon the issuance of the necessary permit(s). Such development shall be undertaken only in strict compliance with the provisions of the division and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the City of Bristol Subdivision Ordinance. Prior to the issuance of any such permit, the zoning administrator shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

(2) *Alteration or relocation of watercourse.* Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within the city a permit shall be obtained from the USACE, the Virginia Department of Environmental Quality (DEQ), 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 Virginia Department of Conservation and Recreation (Division Dam Safety and Floodplain Management), and other appropriate agencies (such as the DEQ and the USACE) and copies of such notifications shall be submitted to FEMA.

(3) *Drainage facilities.* Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(4) *Site plans and permit applications.* All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

a. For structures to be elevated, the elevation of the lowest floor (including basement).

b. For structures to be flood-proofed, the elevation to which the structure will be flood-proofed.

c. The elevation of the base flood at the site.

d. Topographic information showing existing and proposed ground elevations.

(5) *Construction requirements.* The building official shall review all permit applications for new construction or substantial improvements to determine if the proposed building site(s) will be reasonably safe from flooding. If a proposed site is located in the SFHA (i.e. AE zone) all new construction or substantial improvements shall:

a. Be designed or modified and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. Be constructed with materials resistant to flood damage.

c. Be constructed by methods and practices that minimize flood damages.

d. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

e. For new or replacement water and sanitary sewer system projects, be designed to minimize or eliminate infiltration of flood waters into the system.

f. For any on-site waste disposal systems, be located and constructed to avoid impairment or contamination.

(6) *Recreational vehicles* are considered 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. Any such vehicle placed on a site must either:

a. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use, or

b. Meet the permit requirements for placement and the elevation and anchoring requirements for manufactured homes as contained in the Virginia Uniform Statewide Building Code.

(7) *Certification.* For all new or substantially improved structures located in the SFHA, the applicant shall furnish the following information to the building official, as determined by a professional engineer, architect, or other qualified professional:

a. The as-built elevation (in relation to NGVD, 1988) of the lowest floor (including basement) and include whether or not such structures contain a basement.

b. If the structure has been flood-proofed, the as-built elevation to which the structure was flood-proofed.

c. Any certification of flood-proofing.

(8) *Manufactured homes.* All manufactured homes to be placed or substantially improved within the SFHA shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation; and be securely anchored to resist floatation, 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.

(9) *New construction and substantial improvements.* Fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:

a. The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage,

b. The area is not a basement,

c. The area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers and other coverings or devices provided that they permit automatic entry and exit of floodwater.

(10) *Subdivisions.*

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.

(11) *Accessory structures.* Accessory structures in the SFHA shall comply with all applicable requirements of this division. If not elevated to one foot above BFE or dry flood-proofed, the structure shall meet the following requirements:

a. Shall not be used for human habitation;

b. Shall be limited to no more than 600 square feet in total floor area;

c. Shall be used only for parking of vehicles or limited storage, and any electrical or mechanical equipment elevated above the BFE;

d. Shall be constructed with flood damage-resistant materials below the BFE, and be anchored to prevent flotation, collapse, and lateral movement;

e. Shall meet the design requirements in section 50-53(9)c. regarding openings to allow entry and exit of floodwaters.

(b) *Floodway district.* In the floodway district no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the BFE. If any such development is allowed, it must also meet the requirements of the flood fringe district in (c).

(c) *Flood-fringe and approximated floodplain districts.* In the flood-fringe and approximated floodplain districts, the development and/or use of land shall be permitted in accordance with the regulations of the underlying area provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the flood-proofing and related provisions contained in the Virginia Uniform Statewide Building Code and all other applicable codes and ordinances. In the flood-fringe district, the elevation of the lowest floor of approved residential structures shall be one foot above the base flood elevation Non-residential structures must have the lowest floor elevated or flood-proofed to one foot above the base flood elevation or more.

Within the approximated floodplain district, all new subdivision proposals and other proposed developments shall include within such proposals base flood elevation data. The applicant shall also delineate a floodway area based on the requirement that all existing and future development does not increase the BFE more than one foot at any one point. Within the floodway area delineated by the applicant, the provisions of subsection (b) shall apply.

Non-residential buildings located in the flood-fringe district may be floodproofed in lieu of being elevated, provided that all areas of 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 area satisfied. Such certification include the specific elevation (in relation to mean seal level) to which such structures are floodproofed, shall be maintained by the zoning administrator.

For any flood-fringe district without a designated floodway, new development shall not be permitted unless it is demonstrated that the cumulative effect of all past and projected development will not increase the BFE by more than one foot.

(Ord. No. 20-4, 11-24-20)

Sec. 50-54. Variances; factors to be considered.

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.

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases. Variances may be issued by the board of zoning appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

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.

(1) 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 BFE.

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 the time of flood.

k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

l. Such other factors which are relevant to the purposes of this division.

(2) 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.

(3) Variances shall be issued only after the board of zoning appeals has determined that the granting of such will not result in: 1) unacceptable or prohibited increases in flood heights, 2) additional threats to public safety, 3) extraordinary public expense; and will not 4) create nuisances, 5) cause fraud or victimization of the public, or 6) conflict with local laws or ordinances.

(4) Variances shall be issued only after the board of zoning appeals has determined that variance will be the minimum required to provide relief from any hardship to the applicant.

(5) 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 BFE: (a) increases the risks to life and property, and (b) will result in increased premium rates for flood insurance.

(6) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the federal insurance administrator.

(Ord. No. 20-4, 11-24-20)

Sec. 50-55. Existing structures in floodplain districts.

(a) 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:

(1) Existing structures in the floodway district shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed expansion would not result in any increase in the base flood elevation.

(2) Any modifications, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain area to an extent or amount of less than 50 percent of its market value, elevation and/or flood-proofing should be considered to the greatest extent possible.

(3) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its locations 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 the provisions of this division and the Virginia Uniform Statewide Building Code.

(Ord. No. 20-4, 11-24-20)

Secs. 50-56—50-62. Reserved.

DIVISION 6. HISTORIC OVERLAY DISTRICT (H-O)

Sec. 50-63. General provisions.

(a) *Purpose.* The H-O district is established, in accordance with Code of Virginia § 15.2-2306, to protect and enhance valuable historic resources of the nation, state and the city. Protection of historic resources promotes the general welfare by generating economic opportunities and attracting visitors; encouraging interest and education in architecture, design and history; and making the city an attractive and desirable place to live and work. Specifically, the H-O district is intended to:

(1) Encourage the preservation and rehabilitation of important historic, architectural and cultural resources;

(2) Prevent the loss of irreplaceable historic resources and diminishment of the city's historic districts;

(3) Promote resources that link present and future generations to the city's unique history and thereby contribute to a shared sense of community;

(4) Enhance tourism and economic development opportunities;

(5) Preserve property values and contribute to pleasant and attractive neighborhoods; and

(6) Pursue the comprehensive plan goals for historic preservation.

(b) *Applicability.* The H-O district shall apply to contributing structures in the following historic districts, as shown on the zoning map, and individual landmarks as described by the Virginia Landmarks Register and the National Register of Historic Places:

(1) *Historic districts.*

a. Solar Hill Historic District.

b. Bristol Commercial Historic District, including Piedmont Avenue Boundary Increase.

c. Bristol Warehouse Historic District.

(2) *Historic landmarks.*

a. Bristol Railroad Station.

b. Bristol Virginia-Tennessee Slogan Sign.

c. The Douglass School.

d. East Hill Cemetery.

e. First Baptist Church.

f. Virginia Intermont College.

g. King-Lancaster-McCoy-Mitchell House.

h. Virginia High School (now Virginia Middle School).

(c) *Designation of historic districts and landmarks.*

(1) Additional parcels, structures and buildings may be added to the H-O district as new landmarks and districts or as additions to existing districts through an inventory and designation process in keeping with the Virginia Department of Historic Resource requirements for district and landmark designation.

(2) Designation of parcels or landmarks to the historic overlay district requires a zoning district map amendment (rezoning) as described in § 50-17.

(d) *Permitted uses.* All permitted and special uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each use classification.

(e) *Maintenance and building code provisions.* Owners of historic landmarks or contributing historic buildings and structures shall not allow them to fall into a state of disrepair so as to endanger their physical integrity or the public health and safety.

(f) *Exceptions for unsafe conditions or nuisance.* Nothing in this article shall apply to or in any way prevent the moving or demolition, in whole or in part, of any building or structure in the city which is in such a dangerous, hazardous or unsafe condition that it has been ordered demolished by the building official or which is declared a public nuisance pursuant to chapter 50, article VI. Demolition for these reasons, or any demolition required by a final, non-appealable ruling of a court, is not subject to the requirements of this division.

(Ord. No. 20-4, 11-24-20)

Sec. 50-64. Certificate of appropriateness—General.

(a) *Applicability.* A certificate of appropriateness is required prior to demolition or relocation of an historic structure.

(b) *Application requirements.* An application for certificate of appropriateness shall be submitted in accordance with requirements and procedure established by the planning commission and city staff.

(c) *Notice and public hearing.* The planning commission shall hold a required public hearing and give notice in accordance with Code of Virginia, § 15.2-2204.

(d) *Action by city staff.* The director of planning and community development shall review the application and, considering the review criteria in section 50-65 and make a recommendation to the planning commission.

(e) *Action by planning commission.*

(1) Following a properly advertised public hearing and after having reviewed relevant information on the matter the planning commission may approve the application as proposed, approve the application with modifications or deny the application in which case written reasons for denial shall be forwarded to the applicant.

(2) The director of planning and community development shall forward written notice of approval, modification or denial to the zoning administrator.

(Ord. No. 20-4, 11-24-20)

Sec. 50-65. Criteria for consideration of certificate of appropriateness.

(a) *Demolition criteria.* The planning commission may consider any or all of the following criteria when deliberating on an application for certificate of appropriateness to demolish a landmark or structure or building within the H-O district:

(1) Whether or not the building or structure embodies distinctive characteristics of a type, period, style, method of construction, represents the work of a master, possesses high artistic values or is associated with events that make a significant contribution to the broad local history or is associated with historically significant persons.

(2) Whether or not the building or structure contributes visible architectural value to and provides historic continuity with properties within the same block, including both sides of the street, and the viewshed.

(3) Whether the building or structure is of such age, authenticity and unusual or uncommon design, setting, workmanship, and materials, and whether such design, quality and workmanship and traditional materials could be reproduced.

(4) Specific plans for the site should the structure or building be demolished and the architectural compatibility of those plans and uses with properties within the same block, including both sides of the street and the viewshed.

(5) Whether it is economically and practically feasible in the opinion of a qualified structural engineer and/or building trades professional to preserve or restore the structure.

(6) Whether the property owner can make alternate, economically viable uses of the property.

(7) Whether relocation may be appropriate and feasible as an alternative to demolition.

(8) Whether the existing structure is suited to or can be adapted to a proposed change in land use.

(b) *Relocation criteria.* The planning commission may consider any or all of the following criteria when deliberating on an application for certificate of appropriateness to relocate a landmark or structure or building within the H-O district:

(1) Whether or not the building or structure embodies distinctive characteristics of a type, period, style, method of construction, represents the work of a master, possesses high artistic values or is associated with events that make a significant contribution to the broad local history or is associated with historically significant persons.

(2) Whether or not the building or structure contributes visible architectural value to and provides historic continuity with properties within the same block, including both sides of the street, and the viewshed.

(3) Specific plans for the site, should the structure or building be demolished; and the architectural compatibility of those plans and uses with properties within the same block, including both sides of the street, and the viewshed.

(4) Whether the structure or building can be moved without harm or damage to its physical integrity.

(5) Whether the proposed relocation area is compatible with the building or structure's documented historic, scenic, cultural, aesthetic or architectural character in terms of architectural style and period of construction and furthers preservation of the building or structure and is located within the city.

(6) Where appropriate, relocation should be encouraged by allowing improvements to be sold separate from the underlying property at an offering price not to exceed the fair market value as determined according to section 50-67(c).

(7) Whether the existing structure is suited to or can be adapted to a proposed change in land use.

(Ord. No. 20-4, 11-24-20)

Sec. 50-66. Appeals.

If an application for a certificate of appropriateness is denied or modified, the applicant may appeal such decision within 30 days to the city council. The city council shall consider the application following a review of the planning director's report and the full written record of the planning commission's meeting and decision on the matter. The applicant shall have the right to appeal a decision of city council to the circuit court as provided in Code of Virginia, § 15.2-2306(3).

(Ord. No. 20-4, 11-24-20)

Sec. 50-67. Right to relocate or demolish.

(a) In addition to the right of appeal, and in accordance with Code of Virginia, § 15.2-2306(3), the owner of any historic landmark, building or structure shall have the right to relocate or demolish such landmark, building or structure so long as:

(1) The owner has applied to the city for the right to do so in a manner as described herein; and

(2) The owner has, for a time period as listed herein and at a price reasonably related to its fair market value (as defined in this section), made a bona fide offer to sell:

a. The landmark, structure or building and the land pertaining thereto; or

b. The landmark, building or structure for sale separate from the land to any individual or entity which gives reasonable assurance to preserve the landmark, structure or building.

(3) No bona fide contract, binding on all parties thereto, shall have been executed for the sale of landmark, structure or building and the land pertaining thereto, prior to the applicable time period as listed below:

a. Three months when the offering price is less than $25,000.00;

b. Four months when the offering price is $25,000.00 or more but less than $40,000.00;

c. Five months when the offering price is $40,000.00 or more but less than $55,000.00;

d. Six months when the offering price is $55,000.00 or more but less than $75,000.00;

e. Seven months when the offering price is $75,000.00 or more but less than $90,000.00; and

f. Twelve months when the offering price is $90,000.00 or more.

(b) *Bona fide offer to sell.*

(1) The applicant shall, in writing, notify the zoning administrator of the bona fide offer to sell to begin the offer time period as listed above. The applicant shall provide the zoning administrator evidence of normal efforts of an earnest seller to aggressively market the property including conspicuous and regular advertising in publications of local circulation or advertising with various listing services. The applicant shall also place conspicuous advertising on the property in a location and of such size as might normally be expected for the sale of any property by an earnest seller. The zoning administrator shall review the applicant's offer to sell and any proposed conditions to that sale within ten days of the original notice to determine that a bona fide offer has been initiated. If at any time the seller fails to follow or maintain the bona fide offer to sell, the time period for sale shall lapse.

(2) If no bona fide contract to sell has been executed at the termination of the offer period, the seller shall provide the zoning administrator an affidavit demonstrating their efforts to sell, detailing inquiries and attesting to the fact that no viable purchase offer was made.

(3) Sale of the property shall terminate the petition to demolish and any new owner would be required to follow the procedures as listed (herein) in order to demolish or relocate a regulated structure.

(c) *Fair market value.* Fair market value shall be considered a price not exceeding the assessed value of the property, as determined by the city's real estate assessor, such assessment being performed upon indication by the owner/applicant that he/she wishes to pursue demolition after denial of a certificate of appropriateness by the planning commission or an appeal made to city council. This assessment shall be based on both an interior and exterior inspection of the property and shall represent a current assessment of the property's fair market value. The owner/applicant may challenge the assessed value as a fair market value by seeking at his/her sole expense an independent appraisal of the property in question completed by a licensed appraiser. Should the city's real estate assessor and the independent appraiser not agree upon the said fair market value, they shall choose a third qualified appraiser. A median value shall be established by the three appraisers, which shall be final and binding. The bona fide offer to sell period shall commence once a fair market value is established.

(Ord. No. 20-4, 11-24-20)

Secs. 50-68—50-74. Reserved.

DIVISION 7. ECONOMIC DEVELOPMENT OVERLAY DISTRICTS

Sec. 50-75. Purpose.

(a) For the purpose of this article, the city shall recognize overlay districts as providing additional regulation or development tools as it relates to use, development, and administration in addition to those regulations governing the use district.

(b) An overlay district is a special purpose zoning device that does not change the underlying district intent. Overlay districts can provide additional restriction and/or flexibility designed to ensure compatibility of uses and activities with those found within the district. In some cases an overlay district can be used to provide additional protections for valuable community assets or to attract certain types of uses to a particular area of the community where such uses are most suitable.

(Ord. No. 20-4, 11-24-20)

Sec. 50-76. Arts and entertainment overlay district (AE).

(a) *Purpose.* The purpose of this overlay is to promote investment through mixed use and commercial development that expands the presence of and/or otherwise enhances the arts, culture and entertainment within the overlay.

(b) *Overlay district boundaries.* The arts and entertainment overlay district boundaries shall be as depicted on the official Bristol, Virginia Arts and Entertainment Overlay District Map. Expansion or reduction of the area included with the overlay district may be approved by city council as an amendment to the official Bristol, Virginia Arts and Entertainment Overlay District Map. Petition for expansion shall be submitted to the department of community development for evaluation. The director may request a recommendation from the arts and entertainment district steering committee prior to beginning the official zoning amendment process.

(c) *Permitted uses.* The following permitted uses shall supplement the uses permitted in the underlying use districts.

(1) Principal permitted uses:

a. Art galleries, including art sales;

b. Art, music and dance studios;

c. Teaching of visual and performing arts;

d. Performing art facilities and theaters;

e. Museums, art libraries and other similar cultural facilities;

f. Artist live/work space;

(2) Supporting principal uses:

a. Hotel;

b. Restaurants, general;

c. Retail uses associated with and directly related to an arts and culture use on the same lot or as part of the same development project;

d. Residences not located on the ground floor of a mixed use building.

(d) *Steering committee.*

(1) The business of the overlay district shall be administered by the arts and entertainment district steering committee with oversight by city council.

(2) The composition of the committee shall include representatives of the arts and entertainment community, as nominated and approved by city council, and as an ex-officio non-voting member, the city manager or designee. The committee shall not exceed seven voting members. Members of this committee shall serve at the pleasure of the city council.

(3) The city council may, through resolution, assign the creation and management of the committee to an appropriately suited civic organization, conforming to the structure and terms of this section.

(4) The responsibilities of the committee shall be:

a. Oversight of any committee staff and/or volunteers;

b. Marketing and promotion of the district for cultural and heritage tourism;

c. Annual reporting to the city council at a public meeting on the actions of the committee to include review of all efforts to sustain the overlay district as a viable economic development tool.

(Ord. No. 20-4, 11-24-20)

Sec. 50-77. Tourism zone overlay.

(a) *Purpose.* The purpose of this overlay is to promote investment through mixed use and commercial development that expands the presence of and/or otherwise enhances the tourism industry within the overlay and to provide economic incentives and regulatory flexibility for eligible business entities which will attract visitors.

(b) *Overlay district boundaries.* The tourism zone overlay district boundaries shall be as depicted on the official Bristol, Virginia Overlay District Map. Expansion or reduction of the area included with the overlay district may be approved by city council as an amendment to the official Bristol, Virginia Overlay District Map. Petition for expansion shall be submitted to the department of community development for evaluation. The director may request a recommendation from the Bristol Convention and Visitors Bureau prior to beginning the official zoning amendment process.

(c) *Permitted uses.* The permitted uses of the underlying zoning district shall govern the uses that can occur within a tourism zone.

(d) *Incentives.* The city council may, at their discretion, administer incentives pursuant to Code of Virginia, § 58.1-3851. Creation of local tourism zones as from time to time amended or re-codified. These incentives may include:

(1) Reduction of permit fees.

(2) Reduction of user fees.

(3) Reduction of any type of gross receipts tax.

(4) Permit process reform.

(5) Exemption from ordinances as permitted by state law.

(6) Gap financing pursuant to Code of Virginia, § 58.1-3851.1 Entitlement to tax revenues from tourism project of the Code of Virginia as from time to time amended or re-codified.

(e) *Administration.* The city manager is authorized to administer the tourism zone, through the director of economic development. The director of economic development shall present applications for use of tourism zone incentives to the economic development committee, which shall provide a recommendation on said applications to the city council. The economic development director and city attorney shall have the authority to negotiate performance agreements with potential new or expanded businesses. The city council shall have final approval authority for performance agreements utilizing tourism zone incentives. However, nothing herein shall preclude the city council from requesting the industrial development authority to provide gap financing to an applicant pursuant to subsection 50-77(d)(6).

(f) *Public notice.* No performance agreement utilizing this chapter may be approved or authorized by the city council until after a notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the city. Such notices shall specify the time and place of hearing, at which time persons affected may appear and present their views, not less than five days nor more than 21 days after final publication. Additionally, commensurate with the above described public notice the zoning administrator shall give all adjoining property owners written notice of the intent to utilize this chapter, and an opportunity to respond to the proposal within two weeks of the date of the notice.

(Ord. No. 20-4, 11-24-20)

Sec. 50-78. Enterprise zone overlay district (EZ).

(a) *Purpose.* The purpose of the enterprise zone is to stimulate business and industrial growth by means of real property investment grants, job creation grants, and local incentives as set forth herein.

(b) *Overlay district boundaries.* The enterprise zone overlay district boundaries shall be as depicted on the official Bristol, Virginia Enterprise Zone Overlay District Map, which is on file at the City of Bristol Community Development and Planning Department. These specific areas were established as enterprise zones on January 1, 2015 by the governor of the Commonwealth of Virginia for a period of ten years in accordance with the Virginia Enterprise Zone Act. Expansion or reduction of the area included with the overlay district may be approved by city council as an amendment to the official Bristol, Virginia Enterprise Zone Overlay District Map. Petition for expansion shall be submitted to the department of community development for evaluation. Any petition for expansion or alteration shall not become effective until such time as it has been approved by both the city council and the Commonwealth of Virginia.

(c) *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. Words and terms not herein defined shall have the meaning customarily assigned to them. Words used in the present tense include the future tense; the singular includes the plural, and the plural the singular; the word "shall" is mandatory; the word "may" is permissive.

(1) *Base assessed value of real property* means the assessed value of any structure, improved as defined by this section, prior to commencement of rehabilitation, as determined by the city commissioner of revenue at the time of the application for a real estate exemption for rehabilitation property.

(2) *Business firm* means any business entity authorized to do business in the Commonwealth of Virginia, including those entities subject to the state income tax on net corporate rate income (Code of Virginia, § 58.1-400 et seq.), or a public service company subject to a franchise or license tax on gross receipts; or a bank, mutual savings bank or savings and loan association; or a partnership or sole proprietorship. A business firm includes partnerships and small business corporations electing to be taxed under subchapter S of the Federal Internal Revenue Code, and which are not subject to state income taxes as partnerships or corporations, and includes limited liability companies, the taxable income of which is passed through to and taxed on individual partners and shareholders. However, a business firm does not include organizations which are exempt from state income tax on all income except unrelated business taxable income as defined in the Federal Internal Revenue Code, 26 U.S.C. § 512, nor does it include homeowners' associations as defined in the Federal Internal Revenue Code, 26 U.S.C. § 528.

(3) *City* means the City of Bristol, Virginia.

(4) *Eligible structure* means any structure which qualifies pursuant to requirements of this article for the rehabilitated real estate tax exemption.

(5) *Enterprise zone* means the Bristol Enterprise Zone, an area declared or to be applied for declaration by the governor of the Commonwealth of Virginia to be eligible for the benefits accruing under the Virginia Enterprise Zone Act, Code of Virginia, § 59.1-539 et seq.

(6) *Equivalent employment or job or FTE* means 40 hours per week of an hourly week (or the salaried equivalent). A single equivalent job may be represented by one employed individual, or by multiple employed individuals whose aggregate hours of employment (or salaried equivalent) equal 40 hours per week.

(7) *Existing business* means any business firm operating or located within the enterprise zone on January 1, 2015, or within the City of Bristol prior to its designation as an enterprise zone. A business which retains the same ownership and which was operating or located within the enterprise zone on January

1, 2015, or within the City of Bristol prior to location within the enterprise zone shall not be defined as a new business, even if the name or entity (corporate or otherwise) has changed.

(8) *New business* means a business operating within the enterprise zone after January 1, 2015, having had no prior business location within the City of Bristol, Virginia.

(9) *Owner* means the person or entity in whose name the structure is titled, or a lessee who is legally obligated to pay real estate taxes assessed against the structure.

(10) *Rehabilitate and rehabilitation* mean to restore, renovate, or update construction of or the restoration, renovation, or rehabilitation of eligible structures. Other site improvements, fees, or non-construction costs will not be considered. The demolition or razing of a building and construction of a replacement structure may be included, unless it is located in a designated historic district, is a registered Virginia landmark, or is determined by the department of historic resources to contribute to the significance of a registered historic landmark. This definition does not include construction of an addition to a building so as to increase the total square footage of the building.

(11) *Rehabilitated real estate tax exemption* means a five-year decreasing exemption from payment of a portion of the real estate taxes, based on rehabilitation value and the schedule of decreasing percentages of rehabilitated value to be allowed as a partial tax exemption for an eligible structure, as set forth in this section.

(12) *Rehabilitation value* means an amount as determined by the commissioner of revenue equal to the difference in the assessed value of the structure immediately before rehabilitation and the assessed value of the structure immediately after rehabilitation. This amount, on a fixed basis, shall constitute the value to be used for calculation of the rehabilitated real estate tax exemption, and that calculation shall not include any subsequent assessment or reassessment.

(d) *Permitted uses.* The permitted uses within the enterprise zone overlay district shall be governed by the underlying zoning district.

(e) *Qualification for local incentives.* The city council shall administer local incentives pursuant to Code of Virginia, § 59.1-538 (Enterprise Zone Grant Act 2005 and subsequent amendments) and Code of Virginia, § 59.1-543. These incentives may be amended or re-codified from time to time and may include the following benefits for commercial or industrial properties or businesses:

(1) *Façade improvement grant.* This incentive will provide grants to cover 50 percent of the cost of making improvements to building facades, not to exceed $8,000.00 for any one grant. The work to be paid for can include painting, cleaning, repairing windows and doors, awnings, and signs. It can also include landscaping and beautification improvements. The priority for this incentive is on downtown business establishments to improve storefronts and building appearances, however other businesses in the EZ are eligible. It is a reimbursable grant based on documentation of actual expenditures. The following requirements shall be satisfied prior to qualification for a façade improvement grant:

a. Location in the enterprise zone overlay district;

b. Provision and documentation of a 1:1 match for awarded grant funds;

c. Payment of all taxes and fees due to the city in a timely manner during the grant period; and

d. Satisfactory completion of the application process.

(2) *Location assistance to business owners.* The purpose of this incentive is to encourage new businesses to locate downtown. Businesses that create and maintain at least four FTE positions as well as stay within their location for at least two years are eligible to apply at signing of lease or purchase agreement. The total award of location assistance is not to exceed $500.00 monthly for six months. This grant will be in the form of a forgivable loan with 50 percent to be forgiven at the end of year one

and 100 percent to be forgiven at the end of year two. Existing businesses are eligible upon expansion if the expansion includes creation of at least four FTE positions and maintenance of those positions for at least two years. The following requirements shall be satisfied prior to qualification for a location assistance grant:

a. Location in enterprise zone overlay district and main street district;

b. The creation of at least four new full-time positions or full-time equivalent positions, to be maintained for at least two years;

c. Payment of all taxes and fees due to the city in a timely manner during the grant period;

d. Entrance into a grant performance agreement with the City of Bristol Industrial Development Authority, acting on behalf of the City of Bristol; and

e. Satisfactory completion of the application process.

(3) *Job training grant.* This incentive will provide a grant to eligible businesses that are creating or retaining jobs to offset job training costs. The grant will be provided on a reimbursement basis after the business has documented the type of training and cost. The total job training grant award will be capped at 50 percent of the cost not to exceed $500.00 per employee. The grant can be used for pre-employment or new employee training for jobs that are available to low and moderate income persons or training to upgrade the skills of existing workers. This grant can supplement other job training funds including but not limited to the Virginia Jobs Investment Program. The following requirements shall be satisfied prior to qualification for a job training grant:

a. Location in enterprise zone overlay district;

b. Provision and documentation of a 1:1 match for awarded grant funds;

c. Workers trained must be documented low or moderate income and must have been in the position and on the payroll for at least 90 days;

d. Payment of all taxes and fees due to the city in a timely manner during the grant period; and

e. Satisfactory completion of the application process.

(4) *Rehabilitated real estate tax exemption.* There is hereby granted, as provided in this section, an exemption from city taxation of real estate located within the enterprise zone overlay district which has been substantially rehabilitated for commercial or industrial use, as allowed by Code of Virginia, § 58.1-3221, as amended. For the purposes of this section, any real estate shall be deemed to have been substantially rehabilitated when a structure, which is no less than 15 years of age, has been so improved as to increase the assessed value of the structure by no less than 50 percent and by an amount of at least $50,000.00.

a. *Amount; duration.* The exemption provided in subsection d) of this section shall not exceed an amount equal to the increase in assessed value resulting from the rehabilitation of the commercial or industrial structure as determined by the commissioner of the revenue. The exemption as set out below shall commence on January 1 of the year following completion of the rehabilitation or replacement and shall run with the real estate as set out. The exemption shall be computed in accordance with the following schedule:

1. During the first year through the fifth year the exemption allowed shall be 100 percent of the increase in assessed value resulting from the rehabilitation of the commercial or industrial structure.

2. In the sixth year the exemption allowed shall be 80 percent of the increase in assessed value resulting from the rehabilitation of the commercial or industrial structure.

3. In the seventh year the exemption allowed shall be 60 percent of the increase in assessed value resulting from the rehabilitation of the commercial or industrial structure.

4. In the eighth year the exemption allowed shall be 40 percent of the increase in assessed value resulting from the rehabilitation of the commercial or industrial structure.

5. In the ninth year the exemption allowed shall be 20 percent of the increase in assessed value resulting from the rehabilitation of the commercial or industrial structure.

6. In the tenth year and thereafter the exemption shall terminate. The exemption as set out above shall commence on January 1 of the year following completion of the rehabilitation or replacement and shall run with the real estate as set out.

b. *Effect on land book assessment.* Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land books any reduced value due to the exemption determined as provided in section 50-78(e)(4)a.

c. *Application; fee and process.* Any qualified commercial or industrial real estate owner desiring the exemption provided by this section shall file an application, and pay any associated fee, with the community development and planning department. The application shall be filed and processed in accordance with the following procedures:

1. The owner shall file an application with the department of community development prior to the initiation of the rehabilitation of the structure and shall include the non-refundable processing fee. A copy of the application will be forwarded to the commissioner of revenue.

2. Within a reasonable time after receipt of an application, the commissioner shall determine if the structure described by the application meets the age, location, and use criteria of an eligible structure and shall determine the assessed base value of the structure if it is an eligible structure. If the structure is not an eligible structure, the commissioner shall, in a timely manner, provide the owner with written notice of such determination.

3. The rehabilitation must be completed (and evidenced by the date of the certificate of occupancy issued by the city building official) within two years after the date of the filing of the application.

4. Within 60 days of the issue date of the certificate of occupancy, the owner shall notify the commissioner in writing that the rehabilitation is complete, and the commissioner shall, within a reasonable time period, inspect the property to determine whether the subject of the application is an eligible structure and to determine the amount of the rehabilitated real estate tax exemption based on the rehabilitation value.

5. Upon determination of the tax exemption amount, the commissioner shall provide timely notice to the city manager, enterprise zone administrator, and city treasurer. Following this notification, the city council may authorize the commissioner of revenue to exonerate the appropriate value in order to carry out the tax exemption.

6. The exemption resulting from the rehabilitation of an eligible structure shall commence on January 1 of the next tax year following completion of the rehabilitation, as defined by the date of issuance of the certificate occupancy, and the commissioner's determination that the structure is eligible for the tax exemption.

7. The rehabilitated real estate tax exemption shall run with the real estate for a period of ten years from the commencement of the exemption as set forth in this section. The owner of such real property, during each of the years of exemption, shall be entitled to the amount

of exemption as described in the ten-year decreasing exemption schedule described in subsection (4)a. above, subject to the requirement in subsection 8 below.

8. Only one tax exemption under this section may be applicable to any eligible structure during the life of the structure.

9. The making of any false statement in any application, affidavit or other information supplied for the purpose of determination of eligibility and the amount of the rehabilitated real estate tax exemption shall constitute a class 2 misdemeanor.

10. The commissioner, with advice of the city manager and city treasurer, may adopt and promulgate rules and regulations not inconsistent with the provisions of this section as are deemed necessary for the effective administration of this article.

d. *Verification of eligibility.* No property shall be eligible for such exemption unless the appropriate building permits, including a certificate of occupancy, have been acquired and the commissioner of the revenue has verified that the rehabilitation indicated on the application has been completed, and evidence is provided that the rehabilitation has met the threshold requirements in subsection (4) above. In addition, all current city taxes on the real estate must be paid for the property to be eligible for the real estate tax exemption.

e. *Avoidance of duplicative incentives.* The amount of exemption may be limited by other incentives or cash grants that could provide greater monetary benefit to the property owner. An applicant may not be eligible for both an exemption under this section in addition to a cash grant based on anticipated real estate tax revenue. The director of economic development may make a determination, considering also the preference of the applicant, as to the preferred incentive method, and shall make that determination known to the commissioner of revenue.

f. The exemption created by subsection (e)(4) shall be available to an owner for only so long as the real estate continues to be used for commercial and industrial use. For any property to qualify, the real estate must be in use as solely commercial or industrial use at the time of the initial notification of completion of the rehabilitation, and at the beginning of the tax year (January 1) for subsequent years of eligibility.

(5) *Expedited permitting.* The incentive is meant to assist companies that are locating or expanding inside the enterprise zone overlay district with getting active assistance from the city in expediting any permitting process that may be required at the local level.

(f) *Application.* Any new business firm seeking to receive local enterprise zone incentives shall make application to the local zone administrator on forms provided by City of Bristol Community Development and Planning Department.

(1) The local zone administrator may require the new business firm to provide documentation establishing that said new business firm has met the requirements for the receipt of local enterprise zone incentives. Failure to provide requested documentation shall result in a denial of the new business firm's application for local incentives.

(2) Upon approval of any new business firm application for local enterprise zone incentives, the local zone administrator shall submit a written report to the city manager indicating the name and address of the qualifying business firm and the local enterprise zone incentives for which it is qualified. The local zone administrator may require the new business firm to provide additional documentation from time to time to assure that said new business firm retains the requisite qualifications for the receipt of local enterprise zone incentives.

(3) In the event that any new business firm fails to maintain the requisite qualifications for the receipt of local enterprise zone incentives, the local zone administrator shall inform the new business firm, in

writing, that it is no longer qualified for the receipt of local incentives and shall send a copy of said notice to the city manager.

(Ord. No. 20-4, 11-24-20)

Secs. 50-79—50-85. Reserved.

DIVISION 8. PLANNED UNIT DEVELOPMENT DISTRICT (PUD)

Sec. 50-86. Intent and purpose.

The purpose of the planned unit development is to provide more desirable environments through the application of flexible and diversified land development standards under a master plan, and to implement the goals of the city comprehensive plan. The PUD district is intended to encourage the appropriate mix of residential and commercial/office uses in a unified development with an interconnected system of roads, sidewalks, and paths as well as managed access points along existing roads in order to maximize safety and the efficiency of existing roads. Pavement widths of internal and external roads shall minimize paving requirements as described in the comprehensive plan while accommodating projected traffic generated from the district.

Planned developments allow for a higher density of development and a more efficient use of the land. Benefits of a PUD include proximity of living units to employment, less infrastructure costs, more efficient provision of services, less environmental impact, and provision of attractive housing opportunities and amenities. Through a planned unit development district approach, the regulations of this division are intended to accomplish the purposes of zoning and other applicable regulations to the same extent as regulations of conventional districts, however allowing mixed uses and flexibility in the design of development.

(Ord. No. 20-4, 11-24-20)

Sec. 50-87. Character of development.

The goal of a planned unit development district is to encourage a development form and character that is aesthetically pleasing and is different from conventional suburban development by providing the following characteristics:

(1) Pedestrian orientation;

(2) Neighborhood friendly streets and paths;

(3) Interconnected streets and transportation networks;

(4) Parks and open space as amenities;

(5) Neighborhood centers;

(6) Buildings and spaces of appropriate scale;

(7) Relegated parking;

(8) Mixture of uses and use types;

(9) Mixture of housing types and affordability;

(10) Environmentally sensitive design; and

(11) Clear boundaries with any surrounding rural areas.

An application is not necessarily required to possess every characteristic of the planned unit development district in order to be approved. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic.

(Ord. No. 20-4, 11-24-20)

Sec. 50-88. Permitted uses.

In the planned unit development district, all uses permitted by-right or by special use permit in the residential, commercial, and industrial districts may be permitted. Additional uses specifically enumerated in the final master plan may be permitted at the discretion of the city council. Specific uses may also be excluded. Any use desired but not documented in the approved master plan requires an application to amend the master plan.

(Ord. No. 20-4, 11-24-20)

Sec. 50-89. Mixture of uses.

A variety of housing types and non-residential uses are strongly encouraged. The mixture of uses shall be based upon the uses recommended in the comprehensive plan. This mixture may be obtained with different uses in different buildings or a mixture of uses within the same building.

(Ord. No. 20-4, 11-24-20)

Sec. 50-90. Minimum area for a planned unit development.

(a) Minimum area required for the establishment of a planned unit development district shall be five acres.

(b) Additional area may be added to an established planned unit development district if it adjoins and forms a logical addition to the approved development. The procedure for the addition of land to the planned unit development district shall be the same as if an original application was filed and all requirements shall apply except the minimum lot area requirement as set forth above.

(Ord. No. 20-4, 11-24-20)

Sec. 50-91. Open space.

Open space promotes attractive and unique developments that are also environmentally conscious. Planned unit developments shall include the following:

(1) Not less than 20 percent of total acreage shall be open space, whether dedicated to public use or retained privately;

(2) If the percentage of total acreage in open space is increased above 20 percent, then a corresponding percentage increase is allowed in the density up to a maximum of 50 percent increase in density;

(3) A minimum usable area of 5,000 square feet every five acres shall be provided for active or passive recreational activities;

(4) Open space shall be dedicated in a logical relationship to the site and in accordance with any guidance from the comprehensive plan regarding significant open space;

(5) Improvements shall be configured to accommodate permitted, accessory and conditional uses in an orderly relationship with one another, with the greatest amount of open area and with the least disturbance to natural features.

(Ord. No. 20-4, 11-24-20)

Sec. 50-92. Densities.

(a) The gross and net residential densities shall be shown on the approved final master plan by area and for the development as a whole in dwelling units per acre, and shall be binding upon its approval. The overall gross density so approved shall not exceed 20 dwelling units per acre, unless the density is increased with the provisions of section 50-91(2).

(b) Non-residential density should be expressed in terms of total square footage by area and for the development as a whole. There is no maximum square footage for non-residential uses but the proposed uses should be in proportion to the overall intent and functionality of the planned district concept.

(Ord. No. 20-4, 11-24-20)

Sec. 50-93. Setback regulations.

Within the planned unit development district, minimum setback ranges shall be specifically established during the review and approval of the master plan. Specific setbacks may be approved administratively in the site plan process if they are in conformance with the established ranges, or a modification to the master plan will be required if the provided setbacks are not within the established ranges. The following guidelines shall be used in establishing the building spacing and setbacks:

(1) Areas between buildings used as service yards, storage of trash, or other utility purposes should be designed so as to be compatible with adjoining buildings;

(2) Building spacing and design shall incorporate privacy for outdoor activity areas (patios, decks, etc.) associated with individual dwelling units whenever feasible; and,

(3) Yards located at the perimeter of the planned unit development district shall be a minimum of 20 feet.

In no case shall setbacks interfere with public safety issues such as sight distance and utilities, including other public infrastructure such as sidewalks and open space.

(Ord. No. 20-4, 11-24-20)

Sec. 50-94. Height of buildings.

In the planned unit development district, the maximum building height shall be:

(1) Single-family residences: 45 feet.

(2) Multi-family residences, commercial and office buildings, and hotels: 60 feet.

(3) Exceptions to height limitations in section 50-43(c) shall apply.

(4) All accessory buildings shall generally be less than the main building in height.

(Ord. No. 20-4, 11-24-20)

Sec. 50-95. Parking.

Within the planned unit development district, the applicant shall establish parking regulations for consideration by the city council. The proposed regulations should be based on a parking needs study or equivalent data. Such regulations shall reflect the intent of the comprehensive plan to decrease impervious cover by reducing parking requirements, considering alternative transportation modes and using pervious surfaces for spillover parking areas. Shared parking areas, especially with non-residential uses is encouraged.

(Ord. No. 20-4, 11-24-20)

Sec. 50-96. Utilities.

All new utility lines, electric, telephone, and telecommunication lines shall be placed underground.

(Ord. No. 20-4, 11-24-20)

Sec. 50-97. Application for rezoning.

(a) The applicant shall file an application for rezoning with the zoning administrator. The application shall consist of three primary sections: a narrative, an existing conditions map, and a master plan prepared by a registered professional engineer, architect, or surveyor.

(1) *Narrative.*

a. A general statement of objectives to be achieved by the planned district including a description of the character of the proposed development and the market for which the development is oriented;

b. A list of all adjacent property owners;

c. Site development standards including, but not limited to density, setbacks, maximum heights, and lot coverage;

d. Utilities requirement and implementation plan;

e. Phased implementation plan;

f. Comprehensive sign plan;

g. Statements pertaining to any architectural and community design guidelines shall be submitted in sufficient detail to provide information on building designs, orientations, styles, and exterior lighting plans;

h. Statement pertaining to the proposed arrangement for all common area maintenance responsibility including internal streets, walkways, and open space.

(2) *Existing conditions map.*

a. Topography, including steep slopes (>15 percent);

b. Water features;

c. Roadways;

d. Structures;

e. Tree lines;

f. Major utilities;

g. Significant environmental features;

h. Existing and proposed ownership of the site along with all adjacent property owners.

(3) *Master plan.* The proposed master plan shall be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed planned unit development district. At a minimum, the master plan shall include the following:

a. Proposed layout of the planned unit development district including the general location of uses, types of uses, and density range of uses;

b. Methods of access from existing public streets to proposed areas of development;

c. General road alignments;

d. General alignments of sidewalks, bicycle and pedestrian facilities;

e. A general water layout plan indicating the intended size and location of primary lines and the general location of fire hydrants;

f. A general sanitary sewer layout indicating the size and location of primary lines, and the location of pump stations; and

g. A general plan showing the location and acreage of the active and passive recreation spaces, parks and other public open areas.

(b) Additionally, a storm water management plan and a traffic study are also required to be submitted as part of the application package. The storm water management plan should detail both storm water quantity and quality mitigation measures and best practices. The traffic study should quantify existing and projected traffic levels on all adjacent streets, and at all proposed entrances.

(c) The city attorney shall review any property owners or other association charter and regulations prior to final site plan approval in particular to assure that all common area maintenance including streets and storm water management facilities are maintained.

(d) The planning commission shall review the proposed master plan for the proposed planned unit development district in light of the goals enumerated in the comprehensive plan, consider it at a scheduled public hearing, and forward its recommendation along with the proposed master plan to the city council for consideration. The city council shall hold a public hearing thereon, pursuant to public notice as required by the Code of Virginia, § 15.2-2204, after which the city council may make appropriate changes or corrections in the ordinance or proposed amendment. However, no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by the Code of Virginia, § 15.2-2204. As allowed for a zoning amendment application, the planning commission may request to hold a joint public hearing with the city council if it so chooses. An ordinance to adopt a PUD shall be enacted in the same manner as all other ordinances. The plan approved by the city council shall constitute the final master plan for the planned unit development district.

(e) Once the city council has approved the final master plan, all accepted conditions and elements of the plan shall constitute proffers, enforceable by the zoning administrator.

(f) A final site plan shall be submitted to the city engineer and it shall be in substantial conformance with the approved final master plan. Such final site plan may include one or more sections of the overall planned unit development district, and shall meet all applicable federal, state, and city regulations.

(Ord. No. 20-4, 11-24-20)

Sec. 50-98. Waivers and modifications.

Where sections of the zoning or subdivision ordinance are deemed to be in conflict with the goals of the final master plan, the rezoning application shall be considered a waiver or modification to these sections and so specified in the final master plan.

(Ord. No. 20-4, 11-24-20)

Secs. 50-99—50-106. Reserved.

DIVISION 9. MIXED USE AND SPECIAL PURPOSE DISTRICTS

Sec. 50-107. Flexible redevelopment district (FRD).

(a) *Purpose.* The purpose of this district is to encourage the creative redevelopment of certain previously-developed properties by allowing a mix of compatible land uses in conformity with the city comprehensive plan and with an approved site plan. This may entail the re-use of existing structures or the redevelopment of former commercial or industrial sites for new construction, or a combination of both activities. The intent is to rejuvenate economic activity to relatively large tracts that have been vacant, thereby providing jobs and increased tax base. This district would be appropriate for those areas shown on the future land use map as "flex" land uses, and it may be suitable for other redevelopment projects. As an alternative, mixed use development can be achieved through the planned unit development (PUD) zone (division 8) that provides more flexibility in yard requirements and a wider range of land uses in a unified, cohesive manner through a master plan.

(b) *Permitted uses.*

(1) Art studio or gallery.

(2) Business support services.

(3) Business or trade school.

(4) Catering services.

(5) Communication services.

(6) Conference center.

(7) Consumer repair service.

(8) Dance or music studio.

(9) Data center or call center.

(10) Financial institution.

(11) Food and beverage production, processing, packaging, or bottling.

(12) Health club or fitness center.

(13) Hotel.

(14) Indoor amusement or entertainment facility.

(15) Indoor sports and recreation facility.

(16) Laboratory.

(17) Light manufacturing involving only assembly and packaging of products or components with no heavy machining or outside noise, vibration, odors, or storage. Includes custom manufacturing.

(18) Micro-brewery.

(19) Mini-warehouse.

(20) Museum.

(21) Office, general.

(22) Office, medical.

(23) Personal services.

(24) Plant production, indoor.

(25) Print shop and/or publication printing.

(26) Research and development center.

(27) Residential uses, in conformity with R-3 uses in section 50-31(d).

(28) Restaurant, general.

(29) Store, general retail.

(30) Store, neighborhood.

(31) Store, specialty.

(32) Terminal, rail.

(33) Utilities, minor.

(34) Wholesale business.

(35) Similar uses to those above, as determined by the planning commission as per section 50-33(a).

(c) *Permitted uses with special use permit.*

(1) Manufacturing with more intense activity than light assembly and packaging.

(2) Outdoor entertainment facility.

(3) Outdoor recreation and sports facility.

(4) Outdoor horticulture and nursery.

(5) Outdoor vehicle and equipment sales.

(6) Outdoor storage associated with light manufacturing or distribution.

(7) Utilities, major.

(8) Similar uses to those above, as determined by the planning commission as per section 50-33(b).

(d) *Accessory uses.* Any accessory building or use customarily incidental to the above permitted and special uses is permitted.

(e) *Minimum lot area.* There shall be no minimum lot area for non-residential uses, but developments with residential uses shall conform to the following: Single-family dwellings (R-1 lot area in 50-41), townhouses (section 50-118), two-family dwellings (R-2 lot area in 50-41), and multi-family dwellings and other residential structures (R-3 lot area in section 50-41).

(f) *Lot coverage.* Lot coverage shall not exceed 40 percent of the total area with green space and common area, including parking, comprising the other 60 percent or more of the total acreage.

(g) *Height.* Height limit of 100 feet, excluding items listed in section 50-43(c).

(h) *Setbacks.* The yard requirements for non-residential uses shall comply with setbacks of the B-1 district found in section 50-42. The setbacks for residential uses shall conform to the following: For single-family dwellings (R-1 in 50-41), townhouses (section 50-118), two-family dwellings (R-2 in 50-41), and multiple family dwellings and other residential structures (R-3 in section 50-41).

(i) *Compatibility of land uses.* The land uses proposed shall be arranged so that compatibility both internal to the site and external to adjoining land uses is maximized and use conflicts are minimized.

(Ord. No. 20-4, 11-24-20; Ord. No. 23-3, 3-14-23)

Sec. 50-108. Railroad district.

(a) *Purpose.* The purpose of this district is to delineate all properties owned by the railroad and used for rail transportation purposes and closely related uses.

(b) *Permitted uses.* The permitted uses in this district are railroad infrastructure and any ancillary use related to rail transportation including depots, loading facilities, offices, and maintenance uses.

(c) *Yard requirements.* The yard requirements shall be the same as for the M-1 light industrial district in section 50-42, except that no side yard setback is required if adjoining a manufacturing district.

(Ord. No. 20-4, 11-24-20)

Secs. 50-109—50-117. Reserved.

DIVISION 10. DESIGN AND USE STANDARDS

Sec. 50-118. Townhouses.

(a) *Purpose.* The regulations set forth in this section or set forth elsewhere in this article, when referred to in this section, are the regulations for townhouses, as defined in division 18 and permitted in division 3. The purpose of this section is to provide for the special nature of townhouse development in which single-family dwelling units are attached and share common walls, and smaller lots are appropriate as long as certain standards are maintained to ensure a reasonable amount of open space, recreational facilities, and accessory uses as may be deemed necessary and compatible with residential surroundings.

(b) *Setbacks.*

(1) The minimum front and rear setbacks for townhouses shall be the setback for the district in which the units are located.

(2) Where a group of townhouses adjoins a single-family residential district (R-1 or R-1A), a side yard of 20 feet shall be provided from the end townhouse to the adjoining property line.

(3) Where a group of townhouses adjoins a private drive, parking area or walkway intended for the common use of townhouse occupants, or adjoins a boundary line within the same zoning district, a side yard of ten feet shall be provided for each end residence in the group.

(4) Where a group of townhouses adjoins another group or series within the boundaries of the same townhouse development, a side yard of ten feet in width shall be provided for the end residence within each group.

(c) *Area and density.* Density of development shall not, under any circumstances, exceed 12 dwelling units per gross acre, with gross acreage defined as all land within the exterior boundaries of the tract on which the development is located, including private lots, private drives, parking areas, green area, and public streets and other public or semipublic uses established as part of the development plan.

(d) *Dwelling lot width.* The minimum width for interior lots measured at the building line shall be 16 feet and shall average not less than 18 feet within the same structure or group.

(e) *Dwelling lot area.* The minimum lot area required for townhouses is 2,000 square feet per dwelling unit.

(f) *Height.* The height of all structures shall be limited to 30 feet or two and one-half stories.

(g) *Limitation on number of units.* Not more than ten townhouses shall be included in one structure or group.

(h) *Streets.* Lots may front on private streets that meet the requirements of article III.

(i) *Requirements for common areas.* A plan of perpetual maintenance shall be established with provision satisfactory to the planning commission to assure that common areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants, shall be maintained in a satisfactory manner without expense to the city.

(j) *Parking.* Required off-street parking space of one and one-half spaces per dwelling unit shall be provided on the lot.

(k) *Site plan required.* Any application for the construction of townhouses shall comply with the provisions of City Code relating to site plans.

(Ord. No. 20-4, 11-24-20)

Sec. 50-119. Manufactured home parks.

(a) *Purpose.* The regulations set forth in this section, or set forth elsewhere in this article when referred to in this section, are the regulations for manufactured home parks in which spaces are offered on a lease basis for owner or tenant occupied manufactured homes.

(b) *Minimum acreage.* The minimum area for a manufactured home park shall be three acres.

(c) *Required lot area.* Individual manufactured home spaces shall be provided consisting of a minimum of 3,600 square feet for each space and shall be marked by iron pins at each corner.

(d) *Maximum density.* The park shall have no more than eight spaces per gross acre.

(e) *Yard requirements.* Each space shall be at least 40 feet wide and each manufactured home shall be located at least ten feet from the side line of the designated space. There shall be at least a 15-foot side yard clearance between mobile homes parked end-to-end. No manufactured home shall be located closer than 30 feet to any building within the park nor closer than 15 feet to any interior drive.

(f) *Drainage.* The park shall be located on a well-drained and properly graded site. Necessary site drainage improvements shall be as approved by the city engineer.

(g) *Interior drives and walkways.* All manufactured home spaces shall abut upon an approved interior drive, of not less than 24 feet in pavement width, which shall have unobstructed access to a public street or highway. Walkways not less than four feet wide shall be provided to all accessory buildings or service facilities of the

park. All interior drives and walkways within the park shall be paved in accordance with standards for local streets or minor residential streets as defined in the appendix to article III, Subdivisions.

(h) *Off-drive parking.* Each manufactured home space shall be provided with at least two off-drive parking spaces, hard-surfaced and adequately marked.

(i) *Recreation area.* Any manufactured home park designed shall provide, on the same lot, a centrally located area to be designated and set aside for recreation use. Such recreation area shall contain a minimum area of 200 square feet for each manufactured home space in the park and one off-drive parking space for each ten manufactured home spaces.

(j) *Recreational vehicles* are not allowed in manufactured home parks.

(k) *Water, sewerage, and electricity.* Each manufactured home space shall be provided with, and each manufactured home shall be connected to public water and sewer, and to electric service that meets all applicable codes and standards.

(l) *Lighting.* Streets, drives, and walkways shall be illuminated as required by the city for streets. Lighting shall be designed to eliminate adverse impact on adjoining properties.

(m) *Refuse collection facilities.* One refuse collection station shall be provided for each 20 manufactured homes at a location not more than 200 feet from any home served. This collection station shall be conveniently located for collection and the station, or stations, approved by the public works director during the site plan process. If individual refuse containers are used at the manufactured home space, stands may be used to hold the cans and screens shall be used to cover the cans from conspicuous view. The collection station and individual cans shall be kept in a sanitary condition at all times.

(n) *Service, administration and other buildings.*

(1) One manufactured home may be used as an administrative office, provided that the park administrator is resident in the home. Other administrative and service buildings shall be of permanent structure and comply with all applicable ordinances and codes.

(2) Service buildings shall be well lighted at all times of the day and night and shall be well ventilated.

(3) No building shall be located closer than 30 feet from any manufactured home.

(4) All service buildings and the grounds of the park shall be maintained in a clean and safe condition and not adversely impact the health, safety, and welfare of the park occupants or constitute a nuisance.

(o) *Structural additions.* Structural additions to manufactured homes, other than entrance porches and canopies, are prohibited. Structural canopies and porches with roofs are considered part of the manufactured home and must meet the yard requirements in (e) above.

(p) *Fire protection.* Every mobile home park shall be equipped at all times with fire extinguishing equipment in good condition, of such size, type, and number and so located within the park as to satisfy applicable regulations of the city fire department. No open fires shall be permitted at any time. Fire hydrants shall be located as required by the fire marshal.

(q) *Fuel storage.* Individual fuel containers and outdoor storage facilities and connections shall be inspected and approved by the fire marshal.

(r) *Skirting and anchoring.* All manufactured homes shall be completely skirted such that no part of the undercarriage shall be visible to the casual observer and with a durable material with a life expectancy of at least five years. All anchoring shall be done in compliance with current building code standards.

(s) *Landscaping and screening.* The park shall have perimeter vegetative landscaping in a manner to provide an adequate buffer with adjacent residential neighborhoods to be approved by the city engineer during the site plan process.

(t) *Certificate of occupancy.* The building inspector shall issue a certificate of occupancy when all provisions of this division have been met and before any unit is parked.

(Ord. No. 20-4, 11-24-20)

Sec. 50-120. Overnight recreational development.

(a) *Purpose.* The purpose of these standards is to provide regulations for the development of attractive, well-maintained commercial campgrounds, recreational vehicle parks, and recreational cabins. This section is intended for unified developments occupying a single or adjacent tracts of land under one ownership, and not a subdivision with individual landowners.

(b) *Procedure for application.* Each application for an overnight recreational development shall follow the following procedure:

(1) *Initial application meeting.* Prior to submittal of a site plan for an overnight recreational development and before any site improvements are made, the applicant shall meet with appropriate city staff to review conceptual site plans, and other information relating to the proposed application.

(2) *Formal application.* Following the initial meeting, a formal application shall be filed with a preliminary site plan drawn on a scale of not less than one inch equals 50 feet with the following information. If the proposed location requires a special exception permit, this step shall be required as part of the special exception application.

a. Project location, present zoning, adjacent zoning, adjacent land use, acreage and general topographic contours;

b. Proposed private street layout and dimensions, including a typical cross section of proposed streets and proposed minimum and maximum grades;

c. Location of all individual campsites, structures, parking spaces and pads, and common recreational space facilities;

d. Existing utilities and proposed connections to existing or proposed new water, sewer, electric, and storm water drainage facilities;

e. Landscaping and buffering plan for the development;

f. Flood plain information, including identified floodway and flood elevation data;

g. Existing easements, covenants, right-of-ways, or other restrictions located on the property;

h. Other additional information as may be reasonably required by city staff on the preliminary site plan, including but not limited to, utilities, drainage, lighting, and other features.

(3) *Final site plan and final construction drawings.* Following approval of the preliminary site plan or the application for special exception, if applicable, the applicant shall prepare a final site plan and construction drawings consistent with the provisions of article VII, division 3.

(c) *Phased development.* In the case of a phased development, final approval may be granted in phases. All improvements for each phase shall be completed prior to the issuance of a letter of completion, and no campsites or overnight cabins shall be occupied in the applicable phase until a certificate of occupancy or letter of completion has been issued. Improvements may be required within the development but outside the proposed phase, when it is determined by the city engineer, building official, or the Virginia Department of Health to be necessary for public health or safety.

(d) In accordance with section 50-601(d), the final site plan is null and void if construction or development has not commenced within six months of site plan approval. A time extension may be granted in compliance with

50-601(d)(3). In the case of a required special exception, any substantial design changes in the final site plan from the preliminary site plan as presented to the planning commission shall require approval of the planning commission and city council through the special exception process, provided in division 14.

(e) *Applicable state or city requirements.* An overnight recreational development shall comply with the following requirements:

(1) Any campground shall be properly approved by the Virginia Department of Health and comply with applicable standards in Code of Virginia, tit. 35.1 and related Virginia administrative code;

(2) Any cabin structures must meet requirements of the Virginia Residential Code;

(3) Any development under this section shall comply with city and/or state standards for land disturbance, storm water management, and any other applicable city or state requirements.

(f) *Development standards.*

(1) There shall be a minimum total contiguous lot area of ten acres for any development.

(2) All campsites and cabins shall be designed to provide a setback of at least 35 feet from a public right-of-way and 25 feet from any adjoining property boundary, and each site shall be a width of at least 25 feet.

(3) Any accessory uses or structures shall meet the setbacks in subsection (f)(1). Any accessory structure shall be at least 15 feet from the edge of any internal street.

(4) Each campsite shall have pads and/or parking spaces improved with asphalt, concrete, crushed stone, impermeable or permeable pavers, or other material if approved by the city engineer.

(g) *Road access and internal streets.* An overnight recreational development shall meet the following street access and construction requirements:

(1) The development shall have a minimum of 50 feet of street frontage on a public, city-maintained street which provides sufficient access to an arterial roadway.

(2) Each campsite and overnight cabin must have direct access to an internal street in the development. All internal streets shall be private and shall, at a minimum, be constructed to standards contained in this section.

(3) Access shall be constructed to ensure all vehicles utilize transportation circulation within the development and are only permitted ingress and egress from the development from approved, limited access driveway entrances, as shown on the approved site plan.

(4) Private streets shall be indicated on the approved site plan. All private streets shall:

a. Be a minimum 16 feet in width if two-way streets are utilized or a minimum ten feet in width if one-way streets are utilized, with adequate turning radius at all intersections.

b. Be paved for a minimum of 40 feet from the intersection with the public, city-maintained street or the full length of the street if it is less than 40 feet in length from the public street. The remaining portion of the internal streets shall be improved with asphalt, concrete, crushed stone, impermeable or permeable pavers, or other material if approved by the city engineer.

c. Unless otherwise approved, all dead end streets/drives shall be designed with a cul-de-sac having a minimum pavement radius of 30 feet.

(h) *Utilities.* Overnight recreational developments shall meet the following utility infrastructure requirements:

(1) The development shall be provided with public water service with adequate fire flow.

(2) Fire hydrants shall be located at each entrance of the development.

(3) The development shall provide for solid waste disposal utilizing an adequate number of waste dumpsters that are shielded from view with proper screening.

(i) *Fires.* Any fire pits for recreational use and cooking shall be no more than a three-foot by three-foot in size. Any local, state, and federal restrictions on burning bans shall apply within the development.

(j) *Accessory uses.* The overnight recreational development may include other structures and uses that are a component of the overall development and for use only by those guests staying at the development. These uses shall be only incidental to the primary use of the property for overnight accommodations. These types of uses would include the following:

(1) Small grocery store and concessions.

(2) Bathhouse and restroom facilities.

(3) Laundry facilities.

(4) Common living or clubhouse space.

(5) Recreational facilities such as playgrounds, swimming pools, tennis courts, ballfields, picnic areas, and game rooms.

(k) *Landscaping and buffering.* The overnight recreational development shall meet the following requirements to provide sufficient open space and protect adjoining properties:

(1) A minimum of 25 percent of the overall overnight recreational development must be green space including the required landscaping and buffering areas.

(2) The green space should be dispersed to provide a break in the impervious surfacing of the development and be landscaped to improve the esthetic quality of the development.

(3) A peripheral boundary shall be provided. The area within the peripheral boundary shall remain as open space without any type of development, except for the direct ingress and egress to and from the property, signage, and fencing.

(4) The peripheral boundary shall be along the full length of all outer property line boundaries of the proposed development site. Its width shall be a minimum of 25 feet along the length of property lines that abut residentially used or zoned property and shall be a minimum width of ten feet along the length of property lines which abut non-residentially used or zoned property and along public roadways.

(l) *Permanent and long-term occupancy prohibited.* No campsite or overnight cabin shall be used as a permanent or long-term living place.

(1) Continuous occupancy beyond 30 days in any 12-month period shall be presumed to be permanent occupancy and is prohibited.

(2) Any action toward removal of wheels of an RV, except for temporary short-term repair, is prohibited.

(3) No permanent external appurtenances such as carports, additions, or patio may be attached to any camping unit or RV.

(4) Any operator of a campground, RV park, or overnight cabin development shall maintain records of occupancy sufficient to demonstrate compliance with the prohibition against permanent occupancy. Such records shall include the initial date of arrival and final departure for the party of each responsible camper, RV, or cabin renter.

(Ord. No. 20-4, 11-24-20)

Sec. 50-121. Landscaping and screening.

Where any business or manufacturing district abuts a residential district, any new construction or development within such business or manufacturing district on property that is contiguous with such residential district shall be provided with either masonry- or evergreen-vegetation-type screening, or such other type as may be acceptable to the planning commission.

(Ord. No. 20-4, 11-24-20)

Secs. 50-122—50-130. Reserved.

DIVISION 11. SUPPLEMENTAL REGULATIONS

Sec. 50-131. Parking.

(a) Off-street parking and off-street loading space shall meet the requirements in article VII, division 2 of this chapter.

(b) In the B-2 district, the following regulations apply:

(1) A parking garage is allowed as a primary use of a property if it is compatible with other buildings in the immediate area in terms of building size, setbacks, and height of the structure.

(2) A parking lot as a primary use of a property is allowed if a design is approved by the planning commission that provides a landscape buffer between the parking lot and the sidewalks or streets of a minimum of five feet in width consisting of earthen berms, tree and/or shrub plantings, or a combination of these. The design of such buffer shall be such that it provides separation between vehicular and pedestrian areas without creating safety or security concerns.

(3) Buildings hereafter constructed, extended, or converted to commercial use, and which have access to a public alley shall provide off-street facilities as required in article VII, division 2, of this chapter for the loading and unloading of merchandise and goods, whether within the building or adjacent to a public alley, in such a manner as not to obstruct freedom of traffic movement on the public alley.

(4) There are no requirements for off-street parking for the B-2 district, other than for hotels and multi-family dwellings as the principal use of the property. Off-street parking for these uses shall be provided as required in article VII, division 2, of this chapter. Such parking areas shall be separated from pedestrian areas by use of earthen berms, planted buffers, decorative fences, decorative walls, or some combination of these, designed to provide attractive visual separation without creating safety or security concerns.

(Ord. No. 20-4, 11-24-20)

Sec. 50-132. Fences and walls.

Fences and walls shall be permitted in all districts provided they comply with the following restrictions:

(1) In all districts, fences or walls shall be a minimum of 36 inches in height.

(2) In all districts, fences or walls shall not be erected across any public way or easement so as to deny access or obstruct the normal flow of water in the case of drainage easements.

(3) In all districts on corner lots, no fence or wall shall be erected which would restrict sight distance or obstruct vision to a greater degree than as required by the current standards of the Virginia Department of Transportation.

(4) Any wall which will not permit air and vision to penetrate 80 percent of its surface area measured along its length and from grade level to the highest point on the fence shall be prohibited on a corner lot where it would obstruct vision or sight distance.

(5) No fence or wall hereafter constructed shall be greater than 96 inches above grade level.

(6) No provision of this section shall be construed to prohibit any retaining wall, supportive structure or security fencing where such fence or structure is deemed necessary by the building code official or governmental authority having jurisdiction.

(7) Barbed or razor wire and electrified fences are prohibited in all residential districts unless approved by the zoning administrator as necessary and safe.

(8) Fences shall not be constructed using construction waste or demolition waste. For purposes of this section, "construction waste" means solid waste, which is produced or generated during construction of structures. Construction waste consists of discarded lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Specialty and/or repurposed building materials which have been restored in good condition may be acceptable if approved by the building official.

(Ord. No. 20-4, 11-24-20)

Sec. 50-133. Home occupations.

(a) It is the intent of this article to allow an occupation for gain or support in the dwelling unit, provided that the use does not adversely affect the immediate neighborhood by excessive traffic generation, parking, noise, appearance, or other incompatible characteristics. Home occupations shall be allowed in all residential zoning districts except the golf course residential (GCR) district, unless prohibited by deed restrictions or homeowner association restrictions.

(b) *General standards.*

(1) No person who is not a resident of the dwelling may be engaged or employed in the home occupation.

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one non-illuminated sign, of dimensions no greater than two square feet. Any such sign must be attached to the exterior of the dwelling.

(4) No home occupation nor any phase thereof, including storage, processing or other activity associated with such business, shall be conducted in any accessory building. There shall be no outside storage of goods, products, equipment, or other materials associated with the home occupation.

(5) There shall be no goods or products sold or offered to purchasers on-site, other than goods or products that are accessory to a service delivered on-premises to a customer or client of the business. Sales of products other than the above of other items must be limited to off-site or on-line.

(6) All parking in connection with the home occupation (including parking of vehicles marked with advertising or signage for the home occupation) must be accommodated off the street, in driveway or

garage areas on the premises. No parking in connection with the home occupation shall be allowed in the front yard.

(7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, including transmittal through vertical or horizontal party walls. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, or causes fluctuations in line voltage off the premises, including through vertical or horizontal party walls.

(8) Customer or client visits to the home occupation may only take place between the hours of 9:00 a.m. and 8:00 p.m.

(c) *Approval process.* A business license from the office of the commissioner of the revenue is required in order to establish and operate a home occupation. To obtain a license, the applicant must first complete and sign a home occupation permit stating that the above general standards are understood and will be adhered to. Failure to comply with the general standards may result in revocation of the permit and the applicant's business license effective immediately. The home occupation permit is available at the office of community development.

(Ord. No. 20-4, 11-24-20)

Sec. 50-134. Accessory buildings and uses.

(a) It is the intent of this article to permit accessory buildings and uses, provided that they:

(1) Are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures.

(2) Do not involve the conduct of trade on the premises in residential districts.

(3) Are located on the same lot as the permitted use or structure.

(4) Do not involve operations not in keeping with the character of the area.

(b) No accessory building or use shall be located on any residential lot in front of the plane of the rear wall of the principal building, except in the following circumstances:

(1) This provision shall not be applicable to garages or carports for row or townhouse attached dwellings, nor shall it be applicable to garages or carports for multi-structure apartment or condominium complexes when all the buildings in such multi-structure complex are situated on the same lot, tract or parcel.

(2) A single-family residence may have a detached garage or carport in the side yard, not extending beyond the front wall of the dwelling, as long as it meets subsection (c)(1) below and other provisions of this section.

(c) All accessory buildings must be at least ten feet from the side and rear property line with the following exceptions:

(1) In residential districts, if a detached garage or carport is located in front of the rear wall but not extending beyond the front wall of the dwelling, it must meet the same required side yard setback that applies to the principal structure for that district.

(2) The setback on the side and rear may be reduced to five feet if contiguous to an alley on the rear property line, or in the event, excluding the R-1A and R-1 districts, that the accessory building is not

more than 256 square feet in size and is not in front of the plane of the rear wall of the principal building.

(d) In residential districts, accessory buildings cannot exceed one story in height if situated within 15 feet of lot line. Otherwise the maximum height shall not exceed the height of the principal structure.

(e) The square footage for all accessory buildings situated on a lot shall not exceed ten percent of the maximum lot coverage or 720 square feet, whichever is greater.

(f) One accessory dwelling unit is allowed on a lot with a principal single-family dwelling in R-2 and R-3 zoning districts, provided it meets the definition in division 18, and the following requirements:

(1) The accessory dwelling unit meets subsections (a) through (d) above;

(2) The size of the unit meets subsection (e) above and is less than 50 percent of the square footage of the principal dwelling whichever is less;

(3) Total lot coverage requirements in division 4 are met;

(4) Two additional off-street parking spaces shall be required for each accessory dwelling unit in addition to that required for the single-family residence, unless the unit is less than 360 square feet in which only one additional space is required.

(Ord. No. 20-4, 11-24-20)

Sec. 50-135. Residential uses in business and industrial zones.

(a) Residential uses existing in business and manufacturing districts at the time of the adoption of the ordinance from which this article was derived shall be permitted to expand in conformance with the requirements for the R-3 district; provided, however, that the construction of new residences within manufacturing districts shall be prohibited except as allowed under section 50-5 for nonconforming structures damaged by accidental fire, natural disaster, or other act of God.

(b) New single-family and two-family dwellings may be permitted in business districts upon approval of the planning commission, provided that such residential structures are of such design and use as to be compatible with other structures and uses in the area and they meet the yard and density requirements of the R-3 district. This includes the new construction or substantial reconstruction of single-family or two-family structures or the conversion of non-residential structures to single or two-family residential use.

(c) The new construction, substantial reconstruction, or expansion of a multiple-family dwelling in the B-3 and O-I zones is allowed by special use permit in accordance with division 14, while multiple family dwellings are a permitted by right use in the B-2 and FRD zoning districts in accordance with the density and yard requirements for R-3 in division 4.

(d) Dwelling units are allowed in B-2 district above the first floor and as a secondary use located in the rear of the structure (without meeting the R-3 density and yard requirements).

(Ord. No. 20-4, 11-24-20)

Sec. 50-136. Agricultural uses on residential property.

(a) Backyard chickens may be permitted as an accessory use on single-family residential lots in R-1A, R-1, and R-2, provided the following conditions are met:

(1) No more than six hens are allowed and no roosters are allowed;

(2) Chickens shall be kept inside an enclosed shelter and fenced pen with the following specifications:

a. A covered, predator-proof shelter that is thoroughly ventilated, provides sun, shade, and protection from the elements, and is at least five square feet per chicken in size;

b. An attached pen enclosed at all times and on all sides and the top with strong fence of mesh wire, and providing at least ten square feet of per chicken;

(3) Both shelters and pens must be kept in a neat and sanitary condition at all times. No person shall store, stockpile, or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies and other pests, or for any other reason, diminishes the rights of adjacent property owners to enjoy reasonable use of their property;

(4) The structure shall be located behind the plane of the rear wall of the residence;

(5) The structure must be at least 100 feet from any adjoining property line;

(6) There shall be no slaughter of chickens or sales of poultry or eggs at the site;

(7) All feed must be stored in an impenetrable container to prevent the attraction of rodents and other animals;

(8) An annual permit and fee shall be required to be obtained from the city. The applicant must be the owner of the property or have written permission from the property owner to keep chickens on the property.

(b) The keeping of honeybees may be permitted as an accessory use on single-family residential lots in R-1A and R-1, provided the following conditions are met:

(1) A minimum lot size of 10,000 square feet is required for up to two hives; a minimum lot size of 12,000 square feet is required for up to three hives; and a minimum lot size of 15,000 is required for up to a maximum of four hives. No hives are permitted on any lot less than 10,000 square feet.

(2) There shall be at least one adequate and accessible water source provided on-site exclusively for the hives and shall be located within 20 feet of all hives. A natural stream, pond, or spring may constitute an adequate source.

(3) The hives shall be located in the rear yard of the residence and at a minimum of 25 feet from any side or rear property line.

(4) If the landing platform of a hive faces and is within 50 feet of any lot or property line, there shall be a flight path barrier, consisting of a fence, structure or evergreen shrubs not less than six feet in height, located in front of and shielding of the hive or set of hives.

(5) Honeybees must be acquired and hives constructed and maintained in accordance with Code of Virginia, tit. 3.2, ch. 44.

(6) An annual permit and fee shall be required to be obtained from the city. The applicant must be the owner of the property or have written permission from the property owner to keep bees on the property.

(Ord. No. 20-4, 11-24-20)

Sec. 50-137. Temporary uses.

(a) *Mobile food vending units.* Mobile food vending units are allowed on property zoned either business or manufacturing (B-1, B-2, B-3, M-1, and M-2) provided a city temporary use permit is obtained and the following requirements are met:

(1) The operator shall have a current permit from the Virginia Department of Health for a mobile food vending unit;

(2) The operator shall have a current city business license;

(3) If the operator is not the property owner where the unit will be located, written permission from the property owner must be provided;

(4) The unit cannot be located in the public right-of-way, in loading zones or fire access zones, or consume otherwise necessary parking spaces; The unit shall not block site distance or create a hazardous traffic situation;

(5) The unit must meet the setbacks of the zoning district;

(6) The unit shall not remain stationary on the property overnight; other than at the location where it is being stored and serviced when not in operation;

(7) The mobile unit shall be not be permanently placed on the property and no permanent structure shall be attached to the mobile unit;

(8) Any signage shall be securely attached to the mobile food unit;

(9) There shall be a minimum buffer of 100 feet between the mobile vending unit and any primary residential structure;

(10) As part of the review process for an application for a temporary use permit, the zoning administrator may consider certain site conditions, such as, but not limited to, the size and condition of the parking area, and the safety of ingress and egress, and the proposed storage area for the unit when not in use. Any storage area for a unit shall also meet subsections (3), (4) and (5) above.

(b) *Temporary seasonal sales.* Temporary seasonal retail sales activity as defined in division 18 is allowed on property that is zoned either agricultural, business or manufacturing (A, B-1, B-2, B-3, M-1, and M-2) provided a city temporary use permit is obtained and the sales activity meets the following requirements:

(1) The operator of the sales activity shall have current business license;

(2) If the operator is not the property owner, written permission from the property owner must be provided;

(3) The activity shall meet the front yard setback for the district in which it is located;

(4) None of the sales activity shall block site distance or create a hazardous traffic situation;

(5) The duration of the outdoor sales activity shall be restricted to no more than 90 days. An extension of time may be allowed if a site plan meeting the requirements of article VII, division 3 is approved;

(6) Unless excluded from the definition of "temporary seasonal sales" as found in division 18, temporary outdoor retail sales of products that are not agricultural or horticultural in nature are not allowed.

(c) *Portable storage containers.* Portable storage containers are allowed in any zoning district provided that the following requirements are met:

(1) The container shall not be placed on any lot that does not contain an existing principal building or a principal building under construction; and shall only be permitted as an accessory use to the principal use of the lot on which such container is located;

(2) No container shall be placed in the public right-of-way;

(3) The container shall not be connected to utilities;

(4) The vertical stacking of portable storage containers and the stacking of any other materials or merchandise on top of any storage container shall be prohibited;

(5) On properties containing a residential use, a temporary use permit is required for the storage unit. No more than one storage container may be allowed on one lot, and the location of the container shall meet the required front yard setback area for the zoning district to the greatest extent possible, and the container shall be at least ten feet from side and rear property lines, or in a private driveway;

(6) On non-residential properties, more than one portable storage container may be allowed on a lot. The location of any container shall be in the side or rear yard of the structure and shall be located no closer than five feet to any side or rear property line. A temporary use permit is not required, however the unit must meet other requirements in this section, and the placement of multiple storage containers on the lot is subject to the site plan review process;

(7) No portable storage container shall be located on or block access to, a required parking space, public sidewalk, circulation aisle, or fire access lane, or cause a visual obstruction to pedestrians or motor vehicles leaving or entering the property;

(8) The duration of the portable storage container on a residential lot shall be restricted to 60 days. A temporary use permit may be renewed for one additional 30-day period.

(d) *Permit and fees.* Temporary uses specified in (a), (b), and (c), unless specifically exempted, require a temporary use permit to be issued by the city. A temporary use permit may be revoked by the city if the requirements of section 50-137 are not met. The fee schedule for temporary use permits shall be established by city council.

(Ord. No. 20-4, 11-24-20)

Sec. 50-138. Manufactured homes and mobile homes.

(a) The placement of a mobile home, as defined, as a dwelling either on its own lot or in conjunction with another principal building, or in a manufactured home park is prohibited. No existing mobile home shall be used for any other purpose than that of a single-family dwelling.

(b) No manufactured home, as defined by the Virginia Manufactured Home Safety Regulations, shall be used for any purpose other than that of a single-family dwelling unit.

(c) Manufactured homes used or occupied in accordance with subsection (2) of this section shall hereafter be located only within the R-MH district with the exception that manufactured homes may replace existing homes in manufactured home parks not zoned R-MH as long as they meet the National Manufactured Housing Construction and Safety Standards Act of 1976. In the event that a majority of the manufactured home spaces or units in a nonconforming manufactured home park are vacant for more than 12 months, any replacement of a manufactured home in that park can only occur if the entire park is rezoned to R-MH and brought into compliance with the standards in section 50-119.

(d) No person shall, park any manufactured or mobile home on any street, alley, highway, or other public place, or on any tract of land owned by any person without meeting the requirements of this section.

(Ord. No. 20-4, 11-24-20)

Sec. 50-139. Industrialized buildings.

(a) Any industrialized building unit meeting the requirements of the Virginia Industrialized Building Safety Regulations shall conform to all requirements of the zoning district and the statewide uniform building code for the use for which it is proposed or such use shall be prohibited.

(b) An industrialized building unit shall be allowed as a temporary office or storage buildings on a construction site provided such unit is removed upon completion of construction.

(Ord. No. 20-4, 11-24-20)

Sec. 50-140. Recreational vehicles.

(a) No person shall, park any recreational vehicle on any street, alley, highway, or other public place, or on any tract of land owned by any person except for emergency or temporary stopping or parking for not longer than one hour subject to any other and further prohibitions, regulations, or limitations imposed by traffic and parking regulations or ordinance for that street, alley, or highway.

(b) No person shall park or occupy any recreational vehicle on the premises of any occupied or unoccupied building or on any vacant lot or tract of land or in any manufactured home park, except the parking of only one unoccupied recreational vehicle in an accessory private garage building, or in a rear yard in any district when such recreational vehicle is located at least 15 feet from any property line, or in a private driveway, provided no living quarters shall be maintained or any business conducted in said recreational vehicle while such unit is parked or stored.

(c) The commercial or retail sale of manufactured homes, mobile homes, or recreational vehicles shall not be permitted under any circumstances from any manufactured home park.

(Ord. No. 20-4, 11-24-20)

Sec. 50-141. Methadone and other controlled substance substitution clinics.

Methadone clinics and drug treatment clinics that dispense other controlled substances may be located in the O-I district only upon the granting of a special use permit by the city council. In addition to the other findings the city council must make prerequisite to the issuance of a special use permit, city council shall make affirmative factual findings that said program is necessary to the welfare of the citizens of the city and that the presence of said program will not cause any danger to the persons of any said citizen or a decrease in the value of property in the area in which said program is intended to be located.

(Ord. No. 20-4, 11-24-20)

Sec. 50-142. Adult uses.

(a) Intent. Within the city, it is recognized that there are some adult uses as defined in division 18 that, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or located in direct proximity to residential neighborhoods. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse effects. Uses subject to these controls are as follows:

(1) Adult bookstore, video store, or retail store.

(2) Adult movie theater.

(3) Adult model studio.

(4) Adult nightclub, cabaret, or similar establishment.

(5) Adult massage parlor.

(b) These uses shall may only be allowed in an M-1 or M-2 zoning district with a special use permit.

(c) No adult use may be established within 1,000 feet of any other such adult use in any zoning district.

(d) No adult use may be established within 750 feet of a residentially zoned district (R-1A, R-1, R-2, R-3, R-4, PUD, GCR or RMH), nor within 750 feet of any property used for residential purposes or occupied by a church or other place of worship, public library, public or private school, educational institution, public park, playground, playfield, bed-and-breakfast establishment, child or adult day care center, hotel, or motel.

(e) The establishment of an adult use as referred to herein shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion, in whole or in part, of an existing business to any adult use.

(f) All distances specified in this division shall be measured from the property line of one use to another. The distance between an adult use and a residentially zoned district shall be measured from the property line of the use to the nearest point of the boundary line of the residentially zoned district.

(Ord. No. 20-4, 11-24-20)

Secs. 50-143—50-149. Reserved.

DIVISION 12. WIRELESS COMMUNICATIONS FACILITIES

Sec. 50-150. Purpose and applicability.

It is the intent of this division to encourage the provision of adequate wireless communications services and facilities where the adverse impact on the city is minimal. The requirements of this section govern the siting of wireless communication towers and facilities, including small cell facilities, except as specifically excluded herein. In the case of conflict with federal or state law, such laws shall supersede the requirements of this division.

(Ord. No. 20-4, 11-24-20)

Sec. 50-151. Placement on existing structures and towers.

(a) The placement of a wireless communications antenna and/or associated wireless equipment on existing structures, such as roofs, walls, water tanks, utility poles, traffic and street lights, and existing towers, is considered a minor utility facility as defined in division 18 and is a permitted by right use as shown on the land use chart in division 3, provided:

(1) It does not extend more than 20 feet above the highest part of the structure;

(2) It is not located on a residential structure of less than four stories in height;

(3) The appearance of the antenna and associated equipment shall be of a color that is identical to, or closely compatible with, the color of the existing structure or it shall be camouflaged in a manner so as to make the antenna and related equipment as visually unobtrusive as possible;

(4) Written permission is granted by the owner of the existing structure for the location of the antenna; and

(5) It meets all applicable standards of local, state, and federal building codes, or others applicable city regulations.

(b) Applications for such use must include:

(1) A site plan;

(2) A report prepared by a qualified engineer indicating the existing structure's suitability to accept the antenna and the proposed method of affixing the antenna to the structure; and

(3) A visual impact description, including digital photos showing "before and after" construction.

(c) The application for such use shall be reviewed administratively by the zoning administrator. The review process is subject to the timing requirements for small cell facilities contained in Code of Virginia, § 15.2-2316.4 as well as the application fee established by city council in accordance with that section. The zoning administrator may disapprove a proposed location or installation of such a facility for one or more of the reasons contained in Code of Virginia, § 15.2-2316.4(B)(4).

(Ord. No. 20-4, 11-24-20)

Sec. 50-152. Construction of new structures and towers.

(a) Any new free-standing facility or tower is considered a major utility facility and is allowed as a special use in certain districts, as shown on the land use chart in division 3. Any new wireless facility to be affixed to an existing structure but extending higher than 20 feet above the existing structure shall be considered a new facility subject to a special use permit.

(b) The requirements for the location and construction of all new telecommunications facilities regulated by this division shall include the following:

(1) A new wireless communications facility site shall not be permitted unless the applicant demonstrates to the reasonable satisfaction of the city that existing communications facilities or other existing structures cannot accommodate the applicant's proposed antenna.

(2) Communications towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration (FAA), be painted so as to reduce visual obtrusiveness. Dish antennas will be of a neutral, non-reflective color with no logos.

(3) At the wireless communications facility, the design of the buildings and related structures used in conjunction with telecommunications facilities shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunications facilities with the natural setting and the built environment.

(4) If an antenna is installed on an existing structure, the appearance of the antenna and associated equipment shall be of a color that is identical to, or closely compatible with, the color of the existing structure or it shall be camouflaged in a manner so as to make the antenna and related equipment as visually unobtrusive as possible.

(5) A wireless communications facility or communications tower shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the city may review the

available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

(6) No advertising of any type may be placed on the wireless communications facility, or other structures associated with the facility, except that a sign shall be required displaying the name, registration number and emergency contact number of the tower owner. The sign shall not exceed ten square feet in size and shall be located on the security fence or other approved location.

(7) Prior to the use or extension of a wireless communications tower, the owner shall have obtained approval of the structural integrity by a qualified engineer and a copy of such report shall be filed with the zoning administrator.

(8) To ensure the structural integrity of a wireless communications facility or communications tower, the owner or operator of a communications facility or communications tower shall ensure that it is maintained in compliance with standards contained in applicable federal, state and local building codes and regulations.

(c) The following setbacks and separation requirements shall apply to all new telecommunications facilities:

(1) Communications towers shall be setback a minimum of 110 percent of the height of the telecommunications tower from any residential structures, provided this provision shall not apply to monopole towers certified by a structural engineer. Such monopole towers shall comply with the setbacks of the underlying zoning district for principal structures.

(2) Any equipment and accessory facilities on site must be located at least 25 feet from all property lines or the required setback for principal structures in the zoning district, whichever is greater.

(d) Telecommunications towers and facilities shall be enclosed by security fencing not less than six feet in height.

(e) Maximum tower height shall be 250 feet unless specifically allowed by the special use permit due to topographic conditions located within one mile of the proposed wireless communication facility.

(Ord. No. 20-4, 11-24-20)

Sec. 50-153. Special use application process.

(a) The following items shall be provided as part of the special use permit application:

(1) Inventory and contour map of existing facilities within the city and at least one mile from the corporate limits, including specific information about the location, height, coverage and capacity zones, and design of each telecommunications facility, telecommunications tower and antenna;

(2) Calculations and necessary documentation, signed and sealed by appropriate licensed professionals, showing the location and dimensions of all existing and proposed improvements;

(3) Radio frequency coverage analysis;

(4) Height of telecommunications tower with proposed antenna;

(5) A visual impact analysis, including digital photos showing "before and after" construction;

(6) A co-location analysis showing that the equipment planned for a new tower cannot be accommodated, either due to space, structural capacity, radio interference, or other reasons, on an existing or approved tower located in the city or within one mile of the corporate limits;

(7) The extent to which co-location will be allowed on the new tower in the future; and

(8) Other information deemed by the city to be necessary to assess compliance with this division.

(Ord. No. 20-4, 11-24-20)

Sec. 50-154. Removal of defective or abandoned communication facilities.

(a) The following shall apply to the removal of defective or abandoned wireless communications facilities:

(1) Any antenna, telecommunications tower, or telecommunications facility found to be defective or unsafe shall be repaired to comply with federal, state and local safety standards, or removed within six months at the owner's expense.

(2) Any antenna, telecommunications tower or facility that is not operated for a continuous period of 24 months shall be considered abandoned, and the owner of the facility shall remove such telecommunications antenna, tower or facility within 180 days of receipt of notice from the city notifying the owner of such removal requirement. Removal includes the removal of the antennas, telecommunications towers, and telecommunications facilities, fence footers, underground cables and support buildings. The buildings and foundation may remain (with land owner's approval). Where there are two or more users of a single telecommunications facility or telecommunications tower, this provision shall not become effective until all users cease using the antennas and telecommunications tower.

(3) If the antenna, telecommunications tower and telecommunications facility are not removed as herein required, the city may either seek court enforcement of such removal or the city may, at its discretion, remove the antenna, telecommunications tower and facility at the expense of the owner.

(Ord. No. 20-4, 11-24-20)

Sec. 50-155. Supplemental regulations.

(a) Owners of new towers shall provide the city with co-location opportunities as a community benefit to improve radio communication for city departments and emergency services provided it does not conflict with the co-location requirements of this division.

(b) All telecommunications towers and antennas must comply with or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate such facilities. If such standards and regulations are changed, the owners of telecommunications towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards as required. Failure to bring telecommunications towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the telecommunications towers and antennas at the owner's expense.

(c) The site plan approved by the city staff shall be valid for a period not to exceed one year. If construction of the wireless communication facility is not completed within 18 months of city approval, the applicant shall be required to resubmit site plans and request an extension from the planning commission.

(d) The user shall provide the city with a letter of certification from the design engineers (electrical, structural and civil) indicating that the wireless communication facility was constructed according to the plans approved by the city. The letter shall be submitted within 30 days of completion of the facility.

(e) The user shall provide the city with a certified copy of the engineer's annual inspection report, which includes, but is not limited to: The condition of the grounding system, the structural integrity of the facility, any damage incurred over the past year, the condition of the bolts, and a plan to correct any deficiencies, certification that the wireless communication facility is in use for the purpose it was permitted plus evidence of the required surety and the surety is sufficient to cover the demolition of the wireless communication

facility. The user shall annually file a certificate of liability and comprehensive insurance policy in the amount of $1,000,000.00.

(f) Wireless communication facilities erected for use by the city, the Commonwealth of Virginia or the United States of America may exceed the provisions of this division with documented need.

(Ord. No. 20-4, 11-24-20)

Sec. 50-156. Exceptions.

Any amateur radio tower which, in combination with one or more affixed antennas, does not exceed 75 feet in height above the ground, shall be exempt from the provisions of this article. Such exempt towers shall, however, be subject to the following location restrictions:

(1) Towers, tower guys, and associated accessory structures shall meet the same setback requirements as is required for accessory structures in the zoning district in which such tower, tower guys and associated accessory structures are located, except that no such tower, tower guys or associated accessory structures may be located in front of the plane of the front wall of the principal building on the lot in any zoning district.

(Ord. No. 20-4, 11-24-20)

Secs. 50-157—50-162. Reserved.

DIVISION 13. SIGNS

Sec. 50-163. Purpose.

The purpose of the division is to:

(1) Ensure that businesses, individuals, and institutions have a reasonable opportunity to use signs as an effective means of communication;

(2) Preserve property values;

(3) Enhance the physical appearance of the city, and/or the natural scenic beauty;

(4) Reduce distractions, obstructions, and hazards to pedestrian and vehicular traffic; and

(5) Promote and protect the health, safety, and welfare of city residents and visitors.

(Ord. No. 20-4, 11-24-20)

Sec. 50-164. Permit required.

Except as otherwise provided in 50-165 below, all persons erecting, changing, installing, or otherwise placing signs must first obtain a sign permit. The changing of copy or sign facing on an existing sign or the painting, cleaning or other normal maintenance, not including a structural change to the sign, does not require a sign permit.

(Ord. No. 20-4, 11-24-20)

Sec. 50-165. Exceptions.

The following signs, if securely attached to real property and adequately maintained, are exempted from the requirement for a permit in section 50-164 and from the provisions of this division unless otherwise regulated:

(1) Historical markers authorized by the appropriate authorities;

(2) Highway markers, traffic control signs, and street signs;

(3) Public wayfinding signs;

(4) Displays of public art that do not display a commercial message;

(5) Signs on the inside of ballpark or stadium field fences, or displayed inside other large sports or entertainment venues;

(6) Public notices or other temporary signs if authorized by the city manager;

(7) Home occupation signs, as regulated in section 50-134;

(8) Temporary signs, as defined and regulated in section 50-172;

(9) Incidental signs, as defined in division 18;

(10) Flags and insignia of the United States of America, Commonwealth of Virginia, City of Bristol, or other official flags displayed for non-commercial purposes;

(11) Signs displayed inside a building, including those temporarily attached to windows;

(12) Street banners, as defined, subject to city policy and authorization;

(13) Air-activated or inflated advertisements, as long as they do not block sight distance or interfere with traffic or pedestrians, limited to one per business establishment and a display period of not more than 30 days per six-month period.

(Ord. No. 20-4, 11-24-20)

Sec. 50-166. Certain advertisements or structures prohibited.

The following advertisements or sign structures are prohibited:

(1) Signs that may be confused with traffic signs or signals, including those implying a requirement to stop or the existence of danger, or which imitate official highway signs or traffic signals with red, green, or amber lights or reflectorized material;

(2) Signs with intermittent or flashing lights, loud noises, or movable objects;

(3) Signs located near any public street intersection or near any curve in a public street that obstruct clear vision of traffic in any direction, as determined by current industry standards or evaluation by the city engineering or public works department;

(4) Signs that advertise activities which are illegal at the location of advertisement or at the location of such activities;

(5) Signs that are otherwise prohibited by this article, as amended, or applicable regulations adopted by the state department of transportation;

(6) Signs with lighting of such intensity, brightness, glare, or direction to the extent that it impairs the vision of any driver or otherwise interferes with that driver's operation of a motor vehicle;

(7) Banner signs stretched across the width of a street, highway, or alley; except when such sign is attached to standards erected and owned by the city and is duly authorized by the city and subject to city policies;

(8) Signs that are attached to any city or utility pole or street light or located in any part of a public right-of way unless approved and erected by the city, except temporary A-frame signs as regulated in section 50-172.

(9) Signs that are non-permanent in nature, made of plastic, paper, cloth, cardboard or similar material and are mounted on a wire frame, metal, wooden or plastic stakes and easily placed in the ground or attached to a wall or fence, except those that meet the requirements of section 50-172 for temporary signs.

(10) Off-premises signs.

(Ord. No. 20-4, 11-24-20)

Sec. 50-167. Freestanding signs.

The following standards shall apply to the number, location and type of freestanding, non-residential signs permitted within the city:

(1) *Pole signs.*

a. Pole signs shall only be allowed in the interstate advertising corridor, as defined in division 18 and if designed for the purpose of being visible to interstate traffic.

b. Such signs shall comply with the area and height requirements in the free-standing sign allowances chart in (e) below.

c. In no case shall land zoned for residential use be permitted a freestanding pole sign and no pole sign shall be allowed within 100 feet of a school property line.

d. In no case shall any parcel of land be permitted more than one pole sign.

e. No part of a pole sign shall be closer than five feet from any property line.

f. The maximum height for a pole sign is 40 feet from the adjacent grade with the exception of pole sign locations that are below the elevation of the adjacent interstate. These properties may measure the 40 feet from the crown of the nearest interstate.

(2) *Ground-mounted signs.*

a. Except pole signs as allowed in subsection (a) above, all freestanding signs in the city shall be ground-mounted monument or post signs, and shall conform to the area requirements in the free-standing sign allowances chart in subsection (e) below.

b. Establishments are permitted one ground-mounted sign per street frontage.

c. Ground-mounted signs shall not exceed ten feet in height as measured from adjacent grade in B-3, M-1, M-2, or O-I; and six feet in height as measured from adjacent grade in B-1 and B-2.

d. Ground-mounted signs shall have a minimum setback of ten feet as measured from any property line, except as may be allowed in subsections (d) and (e) below.

(3) *Multi-tenant signs.*

a. Multi-tenant signs shall be permitted in the B-1, B-3, O-I, M-1 and M-2 zoning districts.

b. Such signs shall be no more than 20 feet in height as measured from adjacent grade, and have no more than 600 square feet of total sign area, except for the B-1 district which is subject to section 50-167(e).

c. Multi-tenant signs in the B-1 district shall be no more than eight feet in height and have no more than 75 feet of total sign area.

d. Multi-tenant signs shall be subject to a minimum setback of ten feet as measured from any property line and shall not be permitted within 100 feet of any school property line.

e. Multi-tenant properties may construct a ground-mounted sign pursuant to the requirements of the free-standing sign allowances chart in (e) below or a multi-tenant sign as described above.

f. Multi-tenant properties located within the interstate advertisement corridor may construct a pole sign pursuant to the freestanding sign allowances chart in (e), a multi-tenant sign as described above, and a ground-mounted sign.

g. Each tenant advertising on a multi-tenant sign may construct an advertising area equal to that allowed for ground-mounted signage pursuant to the freestanding sign allowances chart in (e) below, considering the length of individual store frontage as the same as parcel frontage.

h. Multi-tenant signs constructed within the interstate advertisement corridor shall not exceed 40 feet in height as measured from:

1. The adjacent grade if directed toward an arterial road or a road of less designation.

2. The crown of the nearest interstate if directed toward an interstate.

(1) *Setback exception.* When the existing buildings along a road frontage are set back less than the minimum front yard requirements, new sign setback may be less than the minimum, but not less than the average setback of all signs in the same block or 200 feet on either side of the proposed sign, whichever is greater. No sign shall be located within a street right-of-way or obstruct clear vision as defined by industry standards or as determined by the city engineering or public works department.

(5) All freestanding signage shall not exceed the following maximum square footage:

Street Frontage or Store Frontage for Multi-tenant Properties (linear feet)	Maximum Area per Free-standing Sign Face (square feet)	Maximum Height
Pole Signs	150 s.f.	Up to 40 feet in height or for sign locations that are below the elevation of Interstate, the sign can be up to 40 feet above the crown of the nearest part of the adjacent Interstate
Ground-mounted Signs (Monument or post)		
Street or store frontage of 1—50 ft.	32 s.f.	10 feet for B-3, O-I, M-1, M-2 6 feet for B-1 and B-2
Street or store frontage of 51—150 ft.	48 s.f.	10 feet for B-3, O-I, M-1, M-2 6 feet for B-1 and B-2
Street or store frontage of over 150 ft.	75 s.f.	10 feet for B-3, O-I, M-1, M-2 6 feet for B-1 and B-2

Multi-tenant Signs	Same as ground-mounted for each individual tenant sign	Same for pole signs if location is Interstate Advertising Corridor
	For B-3, O-I, M-1, M-2, total sign area of 600 s.f.	20 feet for B-3, O-I, M-1, M-2
	For B-1, total sign area of 75 s.f.	8 feet for B-1

(Ord. No. 20-4, 11-24-20)

Sec. 50-168. Wall signs.

The following standards shall apply to wall signs within the City of Bristol.

(1) Allowable sign area shall be determined by the length of each street frontage pursuant to the requirements in the wall sign allowances chart in (9) below.

(2) Aggregate wall sign area shall not exceed 15 percent of the total area of the wall that the sign is placed on.

(3) Multi-tenant buildings shall be allowed sign area per tenant space in accordance with the wall sign allowances chart in subsection (9) below, measuring the tenant's individual unit frontage as street frontage.

(4) Wall signs shall not project more than one foot from the building wall nor shall they be within one foot of an established curb line. However, wall signs in the B-2 district may project up to four feet from the building wall.

(5) The lower edge of projecting or suspended wall signs shall be at a height at least eight feet above the sidewalk.

(6) Wall signs that project above the roofline of the building on which they are attached shall meet all requirements of the statewide building code and be counted as part of the total wall signage allowance.

(7) Canopy and suspended signs, shall be considered wall signs when calculating wall sign area.

(8) When calculating allowed wall signage for establishments with multiple buildings the allowed sign area per street frontage shall be considered aggregate for all buildings.

(9) All wall signage shall not exceed the following maximum square footage based on the location and length of the building frontage:

Street Frontage (linear feet) or width of leased unit frontage on multiple-tenant properties	Maximum Size of Wall Signage (in square feet) Per Street Frontage or Unit Frontage
For areas zoned B-3, M-1, M-2, and O-I or in Interstate Advertising Corridor	
1—50 ft.	50 s.f.
51—150 ft.	100 s.f.
151—300 ft.	175 s.f.
Over 300 ft.	250 s.f.
For B-1 and B-2 zones	

1—50 ft.	35 s.f.
51—150 ft.	50 s.f.
151—300 ft.	75 s.f.
Over 300 ft.	100 s.f.

(10) The maximum square footage may be divided between multiple signs and different sides of the building as long as the total sign area does not exceed 15 percent of the total wall space where the signage is located.

(Ord. No. 20-4, 11-24-20)

Sec. 50-169. Signs outside business and manufacturing zones.

(a) Residential signage shall be limited to one freestanding ground mounted sign per subdivision or development entrance not exceeding 18 square feet of advertising area per face, six feet in height, and shall be setback at least ten feet from any property line. A residential sign may be externally illuminated as long as any lighting is directed only on the sign and away from any residential property.

(b) Signs in the FRD and the PUD district shall correspond with the regulations for the B-1 district found in this division, and are subject to the sign allowance flexibility in section 50-171.

(c) Signs on residentially-zoned property for non-residential uses such as churches and schools shall correspond to the regulations for the B-1 district in this division.

(Ord. No. 20-4, 11-24-20)

Sec. 50-170. Sign illumination and electronic message centers.

(a) All non-residential signs may be illuminated either internally or externally, unless it distracts motorists as prohibited in subsections 50-166(2) and (6) or unless otherwise prohibited elsewhere in this division.

(b) Electronic message centers (EMC) may be used as freestanding or wall signs and shall be counted against total allowed sign square footages as outlined in the size allowance charts in subsections 50-167(5) and 50-168(9) with the following restrictions:

(1) EMC displays shall be allowed in the B-1, B-3, M-1, and M-2 districts; and churches and schools in all districts shall be permitted to utilize EMC displays.

(2) An EMC shall include automatic dimming features for low light conditions and shall not distract motorists, as prohibited in subsections 50-166(2) and (6).

(3) An EMC shall not contain video, continuous scrolling messages, or animation.

(4) Messages or images displayed shall be static, appearing using a fade transition.

(Ord. No. 20-4, 11-24-20)

Sec. 50-171. Sign allowance flexibility.

(a) In large-scale commercial and mixed use developments, a master sign plan can be approved by the planning commission if the following conditions are met: All signs are well-designed and complementary to each other; signs are no larger than necessary to ensure legibility and visibility; and the number of signs within the development shall be sufficient to provide necessary and safe internal vehicle and pedestrian circulation and

wayfinding. A master sign plan can result in an increase of 25 percent in area for wall signage and 50 percent in area and height for free-standing signs.

(b) For individual properties, a combined sign plan can be approved by the zoning administrator that allows the maximum allowance for free-standing signs and wall signs to be combined and distributed between those two kinds of signs, as long as subsection 50-168(2) is met for wall signage.

(c) For buildings that exceed three stories in height, the wall sign allowance can be increased by ten percent for every additional floor above three, as long as subsection 50-168(2) is met for each individual wall.

(d) Pole signs may be allowed for locations up to 500 feet beyond the interstate advertising corridor as long as the maximum size and height in subsection 50-167(5) is reduced by 25 percent for every 250 feet over the 1,000 foot distance. In these cases, sign height shall be measured from the adjacent grade.

(Ord. No. 20-4, 11-24-20)

Sec. 50-172. Temporary signs.

(a) Temporary signs may be erected without a permit in all zoning districts, however all applicable requirements in this division shall apply, in addition to the following regulations:

(b) All temporary signs must be securely attached to the ground, wall, or a fence; well-maintained; and must be removed if torn, damaged, falling down, or no longer legible, regardless of the time allowance provided in the temporary sign chart under (c) below.

(c) The following regulations apply to categories of temporary signs:

TEMPORARY SIGNS				
Type of Sign	Size Limit	Maximum No.	Location/Manner	Time limit
Wall banner	Same as allowed for wall signs in section 50-168	1 per street frontage or per occupied multi-tenant space	All business and manufacturing districts. Must be securely attached and flat against a wall or fence.	None
Free-standing banner	32 s.f.	1 per street frontage	B-1, B-3, M-1. M-2 districts. At least 5 feet from street right-of-way and property line	None
Vertical banner sign	12 ft. maximum height	1 per 25' of street frontage	B-1, B-3, M-1, M-2 districts. At least 5 feet from street right-of-way and property line	None
Yard sign or poster	6 s.f.	1 per 25' street frontage	B-1, B-3, M-1, M-2 districts. Off city right-of-way	Up to 30 days per 6-month period
Temporary activity sign	32 s.f.	1 per street frontage	On site of activity only. At least 5 feet from street right-of-way and property line	30 days before and after activity

Notice of property sale or lease signs	32 s.f. for non-residential 6 s.f. for residential	1 per street frontage	Only on property that is on market for sale or lease. 5 feet from street right-of-way or property line	30 days following removal from market
A-frame signs	16 s.f.	1 per street frontage	All business districts. If placed on sidewalk, must not impede pedestrian and wheelchair access	During business hours only
Portable sign	32 s.f.	1 per street frontage	B-3, M-1, M-2 districts. At least 5 feet from street right-of-way and property line.	None
Non-commercial message sign	32 s.f. for non-residential 6 s.f. for residential	No limit	Off city right-of-way	6 months

(d) The FRD and PUD districts, and non-residential uses in residential zones such as churches and schools, shall be treated the same as the B-1 district for temporary signage regulations in (c).

(Ord. No. 20-4, 11-24-20)

Sec. 50-173. Unsafe or unlawful signs.

(a) Every sign and its structure shall be maintained as safe and in good structural condition at all times, including the replacement of defective parts and wiring, painting, repainting, cleaning, and other acts required for general maintenance.

(b) Upon written notice from the city, the owner, person, or firm maintaining a sign shall remove the sign when it becomes unsafe, is in danger of falling, or it becomes so deteriorated that is no longer serve a useful purpose of communication; or it is determined by the city to be a nuisance, or it is deemed unsafe by the city; or is unlawfully erected in violation of any of the provisions of this division.

(Ord. No. 20-4, 11-24-20)

Sec. 50-174. Abandoned signs.

(a) Any on-premises sign that is determined to be an abandoned sign as defined in division 18 and does not conform to the minimum standards of this chapter shall be deemed a nonconforming sign and shall be either removed from the premises or made to conform to this chapter within 24 months from the date of cessation of the use, activity or product to which it pertains. Any on-premises sign that is determined to be an abandoned sign, but is otherwise conforming to the minimum standards of this chapter, shall be painted over within 12 months from the date of cessation of the use, activity or product to which it pertains.

(b) Any nonconforming off-premises sign which is determined to be an abandoned sign as defined in division 18 shall be removed including the sign face and all of its supporting structure within 24 months of its cessation of use.

(c) There may be some instances that an abandoned sign whether conforming or nonconforming may be determined to be exempt from this section if the sign possesses documented historic architectural value or unique design as determined by the Virginia Department of Historic Resources or the Bristol Historical Association such as a sign painted on a wall of a historic structure, as long as it is not unsafe to the public.

(Ord. No. 20-4, 11-24-20)

Sec. 50-175. Removal.

In requiring removal of unsafe, unlawful, or abandoned signs as regulated in sections 50-173 and 50-174, the zoning administrator shall provide 30 days from the date of the notice for compliance. If the property owner fails to comply within 30 days, the city may remove the sign and the cost of the removal shall be paid by the owner or person having the beneficial use of the premises. If the cost is not paid to the city within 30 days from the written statement requesting payment, the city may place a lien against the property until such cost is paid to be collected in the same manner as delinquent real property taxes.

(Ord. No. 20-4, 11-24-20)

Sec. 50-176. Nonconforming signs.

(a) Normal maintenance of a legal nonconforming sign, including changing of copy, nonstructural repairs, and incidental alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted. No structural alteration, enlargement, or extension shall be made to a legal nonconforming sign unless the alteration, enlargement, or extension will result in elimination or reduction of the nonconforming features of the sign. Alteration includes adding internal illumination or an electronic message center to a nonconforming sign.

(b) A nonconforming sign shall not be relocated unless the relocation results in the sign becoming a conforming sign at the new location. All provisions of this division apply to a relocated sign, including the requirement for a permit.

(c) Should any legal nonconforming sign be damaged by any means to an extent of 50 percent or more of its replacement cost at the time of damage, it shall not be reconstructed except in conformity with the provisions of this article. In the event damage or destruction of the sign is less than 50 percent of its replacement cost at that time, the sign may be rebuilt to its original condition and may continue to be displayed.

(d) Nonconforming signs shall be exempt from the provisions of this section if the sign possesses documented historic architectural value or unique design as determined by the Virginia Department of Historic Resources or the Bristol Historical Association; or if the sign is required to be moved because of public right-of-way improvements.

(Ord. No. 20-4, 11-24-20)

Secs. 50-177—50-182. Reserved.

DIVISION 14. SPECIAL USE PERMITS

Sec. 50-183. Purpose.

This division provides for the approval process for special uses as a discretionary, legislative action pursuant to the Code of Virginia, § 15.2-2286. The purpose of this division is to allow flexibility for certain uses to occur if they meet specific criteria set out below and any conditions that may be deemed appropriate to eliminate or mitigate adverse impacts on adjoining property or to address other public health, safety, or welfare concerns.

(Ord. No. 20-4, 11-24-20)

Sec. 50-184. Applicability.

Special uses within a zoning district are uses that are not permitted in a particular district except by special use permit granted under the provisions of this section. A special use permit shall be required for all special uses as set forth in the land use matrix in division 3.

(Ord. No. 20-4, 11-24-20)

Sec. 50-185. Authority.

Pursuant to Code of Virginia, § 15.2-2286(3), as amended, repealed, reenacted, or re-codified from time to time, the city council does hereby reserve unto itself the right to grant special use permits, subject to such suitable regulations and safeguards as may be determined appropriate for each special use.

(Ord. No. 20-4, 11-24-20)

Sec. 50-186. Application and review process.

An application for each special use permit shall be submitted to the city planning office together with an application fee as provided in the appendix to this chapter.

(1) The application shall provide a detailed description of the proposed use or activity, including any proposed building construction and site improvements and shall include a concept site plan. It is advised that the applicant attend a pre-application meeting with the city planning staff to review requirements of the application and the review process.

(2) The planning commission shall not recommend nor shall the city council approve any special use permit until public hearings are held by both the planning commission and the city council. The planning commission and city council may hold a joint public hearing after public notice as set forth below, and if such joint hearing is held, public notice as set forth below need be given only by the city council.

(3) The procedures for required notice for the public hearing on such special use permit application shall be in conformity with the requirements of Code of Virginia, § 15.2-2204 as amended, repealed, reenacted, or re-codified from time to time. The applicant is required to pay the cost of the required public notice in the newspaper as well as the postage cost for the mailings to adjoining property owners.

(4) Each such application shall be referred to the planning commission who, after due advertisement and hearing, shall make a positive or negative recommendation to the city council for final approval or disapproval. The planning commission, in determining whether to make a positive or negative recommendation, shall consider facts pertaining to the criteria listed in subsection (6) below.

(5) The city council, after due advertisement and public hearing as set forth above, and upon recommendation of the planning commission for approval or disapproval of the special use permit, shall approve or disapprove such permit after consideration of the evaluation factors listed in subsection (6) below. The city council may also consider testimony and other evidence presented by any citizen to the council at the public hearing or at the meeting in which the permit is approved or disapproved, and upon information provided to it by city staff. The council's decision shall be final, and it shall not be bound by the recommendation of the planning commission.

(6) The evaluation factors to be considered by the planning commission and council are:

a. The sufficiency of streets to accommodate increased traffic flow with the considered opinion of the city engineer, city transportation planner, and any certified traffic engineer being given particular weight;

b. The sufficiency of electrical, sewer and water services for the proposed project with the considered opinion of the city utility board being given particular weight;

c. The sufficiency of fire, police, solid waste, and other services of the city to meet the needs of the proposed project, the opinion of the department head of each department providing such city service being given particular weight;

d. The adequacy of protection to adjoining properties and to the air and water of the commonwealth from noise, odor, pollution and health hazards with the opinion of the state health department, state air pollution control board, and state water quality control board being given particular weight, as appropriate;

e. The impact of the proposed project upon the property values of contiguous property owners with the opinion of the city's economic development director, a certified property appraiser, or a licensed realtor with experience within the city being give particular weight;

f. Whether the natural topography, natural screening, or proposed screening to be put in place by the applicant is sufficient to promote the health, safety and general welfare of the community, to protect and conserve the value of contiguous properties, and to encourage the most appropriate use of contiguous properties;

g. Any other factor materially affecting the health, safety and general welfare of citizens; and

h. If the project is to construct a parking garage or a parking lot as a primary use of a property in the B-2 district, certain additional requirements must be met, as contained in section 50-131.

(Ord. No. 20-4, 11-24-20)

Sec. 50-187. Conditions on special use permits.

The planning commission may recommend and the city council may require certain conditions be placed on the special use permit that are deemed necessary to protect the public interest and mitigate adverse impacts on adjoining property.

(1) These conditions may include specific site improvements or restrictions, time of operation limits, duration of permit, or other conditions related to the development of the property or operation of the activity, including that the development must be in conformity with the submitted concept plan.

(2) As allowed by the Code of Virginia, § 15.2-2309, the council may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(3) Any conditions approved by city council shall become part of the permit and shall be binding on the original applicant as well as any successors, assigns, and heirs, unless otherwise stipulated as a part of the special use permit approval.

(4) Where conditions are imposed in connection with residential special use permits in which conditions specify materials, methods of construction, or design features, the city council shall consider the impact of conditions on affordability of housing, as required in the Code of Virginia, § 15.2-2286(3).

(Ord. No. 20-4, 11-24-20)

Sec. 50-188. Revocation.

The city council has the authority to revoke a special use permit if the council determines that there has not been compliance with the terms or conditions of the permit. No special use may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204 and including written notice to the permittee. However, when giving any required notice to the owners of abutting property and property immediately across the street or road from the property affected, the council may give such notice by first-class mail rather than by registered or certified mail.

(Ord. No. 20-4, 11-24-20)

Sec. 50-189. Commencement of construction.

Construction or operation shall commence within one year of the date of issuance or the special use permit shall become void.

(Ord. No. 20-4, 11-24-20)

Sec. 50-190. Reapplication.

No reapplication for a special use permit for the same or substantially the same application shall be submitted by any party for the subject property until 12 months have elapsed from the date of denial.

(Ord. No. 20-4, 11-24-20)

Secs. 50-191—50-199. Reserved.

DIVISION 15. CONDITIONAL ZONING

Sec. 50-200. Purpose.

It is the purpose of this section to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to the land similarly zoned, as allowed by the Code of Virginia, § 15.2-2296. The provisions of this section shall not be used for the purpose of discrimination in housing.

(Ord. No. 20-4, 11-24-20)

Sec. 50-201. Applicability and limitations.

A rezoning application may include and provide for the voluntary proffering in writing by the applicant of reasonable conditions in addition to the regulations provided for the zoning district by this article, provided that:

(1) The conditions must be proffered by the applicant prior to a public hearing before the city council;

(2) The rezoning itself must give rise for the need for the conditions;

(3) Such conditions shall have a reasonable relation to the rezoning;

(4) Such conditions shall not include a cash contribution to the city;

(5) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241, as amended, repealed, reenacted, or re-codified from time to time;

(6) The conditions shall not include a requirement that the applicant create a property owners' association under chapter 26 (Code of Virginia, § 55-508 et seq.) of tit. 55 which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments and other public facilities not otherwise provided for in Code of Virginia, § 15.2-2241; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the department of transportation;

(7) Such conditions shall not include payment for or construction of off-site improvements except those provided for in Code of Virginia, § 15.2-2241 as amended, repealed, reenacted, or re-codified from time to time;

(8) No condition shall be proffered that is not related to the physical development or physical operation of the property;

(9) All such conditions shall be in conformity with the comprehensive plan for the city as defined in Code of Virginia, § 15.2-2223; and

(10) All such conditions shall meet the requirements of the Code of Virginia, § 15.2-2297 as amended, repealed, reenacted, or re-codified from time to time.

(Ord. No. 20-4, 11-24-20)

Sec. 50-202. Enforcement of conditions.

The zoning administrator shall be vested with all necessary authority on behalf of the city council to administer and enforce conditions attached to a rezoning, including:

(1) The ordering in writing of the remedy of any noncompliance with such conditions;

(2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and

(3) Requiring a guarantee, satisfactory to the city council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the city council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

(Ord. No. 20-4, 11-24-20)

Sec. 50-203. Records.

The zoning map shall show, by an appropriate symbol on the map, the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his or her office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

(Ord. No. 20-4, 11-24-20)

Sec. 50-204. Petition for review of decision.

Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator made pursuant to the provisions of section 50-202 may petition the city council for review of the decision of the zoning administrator as provided in the Code of Virginia, § 15.2-2301.

(Ord. No. 20-4, 11-24-20)

Sec. 50-205. Amendments.

There shall be no amendment or variation of conditions created pursuant to the provisions of this division until after a public hearing before the city council advertised pursuant to the provisions of Code of Virginia, § 15.2-2204, as amended, repealed, reenacted, or re-codified from time to time.

(Ord. No. 20-4, 11-24-20)

Secs. 50-206—50-212. Reserved.

DIVISION 16. VARIANCES AND APPEALS

Sec. 50-213. Purpose.

This section provides for a procedure for the application for a zoning variance or for an appeal of a decision of the zoning administrator, including the role and duties of the board of zoning appeals as prescribed in the Code of Virginia, § 15.2-2309, and a provision for an administrative modification to the regulations herein, as allowed by Code of Virginia, § 15.2-2286.

(Ord. No. 20-4, 11-24-20)

Sec. 50-214. Organization of the board of zoning appeals.

Appointments to the board of zoning appeals (referred to herein as "the BZA" or the "board") and its membership, terms, and organization shall be in accordance with the Code of Virginia, § 15.2-2308. The BZA shall adopt rules and regulations as it may consider necessary for the conduct of its business, and shall keep minutes of its proceedings.

(Ord. No. 20-4, 11-24-20)

Sec. 50-215. Powers and duties of the board of zoning appeals.

The BZA, as authorized by Code of Virginia, § 15.2-2309, shall have the following powers and duties:

(1) To consider applications for variances from the terms of this division provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standard for a variance and the criteria set out in this section, and

(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 chapter or of any ordinance adopted pursuant hereto, and

(3) To hear and decide applications for interpretation of the zoning district map where there is any uncertainty as to the location of a district boundary.

(Ord. No. 20-4, 11-24-20)

Sec. 50-216. Board of zoning appeals—General procedure.

The BZA shall proceed with the following regarding its meetings:

(1) Meetings of the BZA shall be held at regular meeting times or at the call of the chairman and at such other times as the board shall determine.

(2) The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(3) All meetings shall be open to the public.

(4) The BZA shall keep minutes of its proceedings showing the vote of each member upon each questions, or if absent or failing to vote, indicating such fact.

(5) The BZA shall take all evidence necessary to justify or explain its action and shall keep records of its examinations and any other official actions.

(6) The BZA and city staff shall follow the provisions of the Code of Virginia, § 15.2-2308.1 regarding communications and proceedings.

(Ord. No. 20-4, 11-24-20)

Sec. 50-217. Procedure for variance applications.

The following shall be the procedure and criteria for consideration of variance applications:

(1) Any person, property owner, or organization may make application for a variance in accordance with rules adopted by the BZA and with all accompanying information deemed necessary along with the established application fee.

(2) The city staff shall forward the application to the BZA and schedule a public hearing for consideration of the application with public notice as required by the Code of Virginia, § 15.2-2204.

(3) Following the public hearing, the BZA shall grant a variance if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance.

a. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

b. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

c. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

d. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

e. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of Code of Virginia, § 15.2-2309 or the process for modification of a zoning ordinance pursuant to Code of Virginia, § 15.2-2286(A)(4) at the time of the filing of the variance application.

(d) In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(Ord. No. 20-4, 11-24-20)

Sec. 50-218. Procedure for hearing appeals.

An appeal to the BZA may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to the Code of Virginia, § 15.2-2286(4) and section 50-233 of city code.

(1) Such an appeal shall be taken within 30 days after the decision appealed from by filing with the administrator and with the BZA, a notice of appeal specifying the grounds thereof, along with an established fee for an administrative appeal.

(2) The administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed was taken.

(3) All provisions of the Code of Virginia, § 15.2-2311 shall be followed.

(4) 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 make its decision within 90 days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an 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.

(Ord. No. 20-4, 11-24-20)

Sec. 50-219. Procedure for review of decision of board of zoning appeals.

Any person or persons aggrieved by any decision of the BZA, or any aggrieved taxpayer or any officer or department of the city, may file a petition with the clerk of circuit court that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of the City of Bristol, Virginia" specifying the grounds on which aggrieved, within 30 days after the final decision of the BZA. The review process shall follow that prescribed by the Code of Virginia, § 15.2-2314.

(Ord. No. 20-4, 11-24-20)

Secs. 50-220—50-226. Reserved.

DIVISION 17. ADMINISTRATION AND ENFORCEMENT

Sec. 50-227. Purpose.

This division provides for the administration and enforcement of this section, and procedure for administrative modifications as allowed by the Code of Virginia, § 15.2-2286(4).

(Ord. No. 20-4, 11-24-20)

Sec. 50-228. Enforcing officer.

The planning director shall administer and enforce this section and as such shall serve as the zoning administrator for the city. The duties of the planning director shall include receiving applications for rezoning, and serving as staff for the planning commission, the board of zoning appeals, and city council on zoning matters that are before each entity. The city manager may designate another staff person to serve as zoning administrator under the direction of the planning director. The administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including:

(1) Ordering in writing the remedying of any condition found in violation of the chapter;

(2) Insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to Code of Virginia, § 15.2-2311;

(3) In specific cases, making findings of fact and, with concurrence of the city attorney, conclusions of law regarding determinations of rights accruing under Code of Virginia, § 15.2-2307 or Code of Virginia, § 15.2-2311(C);

(4) Accepting applications for administrative modifications and making determinations as allowed by the Code of Virginia, § 15.2-2286(4) and as described in section 50-233.

(Ord. No. 20-4, 11-24-20)

Sec. 50-229. Enforcement procedure.

Upon becoming aware of any violation of the provisions of this chapter, the administrator may issue written notice of such violation to the person committing or permitting the violations with the following stipulations:

(1) Notice shall be mailed by registered or certified mail or hand delivered.

(2) The notice of violation shall state the nature of the violation, date that it was observed, the remedy or remedies necessary to correct the violation and a reasonable time period for the correction of the violation.

(3) Every written notice of violation of the administrator shall include a statement informing the recipient that he or she may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with this section. The decision shall be final and unappealable if not appealed within 30 days.

(4) If the recipient chooses to appeal, an appeal fee shall be submitted as established by the city council adopted fee schedule.

(5) Appeals shall be heard by the board of zoning appeals in accordance with the procedures set forth in division 16 of this chapter.

(Ord. No. 20-4, 11-24-20)

Sec. 50-230. Inspection warrants.

The zoning administrator or his agent may make an affidavit under oath before a magistrate or circuit court, and if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court issue the zoning administrator or agent an inspection warrant to enter and inspect the subject dwelling. The zoning administrator or his agents shall make reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant.

(Ord. No. 20-4, 11-24-20)

Sec. 50-231. Penalties.

Violations of any portion of this article shall be subject to penalties as described in Code of Virginia, §§ 15.2-2209 and 15.2-2286 as well as any other applicable section of the Code of Virginia.

(1) The following shall be subject to penalties: The owner or general agent of a building or premises where a violation of any provision of this article has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any person who commits, takes part or assists in any such violation or who maintains any building or premises in which any violation shall exist.

(2) Upon becoming aware of any violation of the provisions of this chapter, the administrator may proceed to issue a civil summons.

(3) Any person summoned or issued a ticket for a violation may make an appearance in person or in writing by mail to the city treasurer prior to the date set for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the established penalty after first agreeing in writing to abate or remedy the violation within a specified timeframe. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgement of court.

(4) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law.

(5) Any such violation of this chapter shall be a misdemeanor subject to the maximum fines allowed by Code of Virginia, § 15.2-2209.

(6) The violation may be prosecuted as a criminal misdemeanor as allowed by the Code of Virginia in cases of injury to persons and when civil penalties total $5,000.00 or more.

(7) If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate offense punishable by an additional civil fine and any other penalties as ordered by the court.

(Ord. No. 20-4, 11-24-20)

Sec. 50-232. Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure or land is or is proposed to be used in violation of this article, the building code official, city attorney, or other appropriate authority of the city, or any adjacent or neighboring property owner who would be specially damaged by such violation may, in addition to other remedies, institute an injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such building, structure or land.

(Ord. No. 20-4, 11-24-20)

Sec. 50-233. Administrative modifications.

The zoning administrator is authorized to grant a modification from any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements. Administrative modifications shall not be granted for outdoor advertising.

(1) The administrator shall find in writing that:

a. The strict application of the ordinance would produce undue hardship;

b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and

c. The authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification.

(2) Prior to the granting of a modification, the zoning administrator shall give all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. If an adjoining owner, duly notified, objects to the granting of the modification the zoning administrator may:

a. Suggest an altered modification request from the applicant to accommodate the adjoining owner;

b. Determine that the modification is warranted despite the received objection and grant the modification notifying the adjoining owner of the decision and the availability of the appeal process; and/or

c. Determine that the received objection is valid and if no accommodation may be made on the part of the applicant to satisfy the adjoining owner, require the applicant to apply for a formal variance as provided by Code of Virginia, § 15.2-2309.

(3) The zoning administrator shall inform the planning commission of any pending applications for modification prior to approval allowing individual members of the commission to provide written comment to the zoning administrator for his/her consideration.

(4) The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this section. The decision of the zoning administrator shall constitute a decision within the purview of Virginia Code, § 15.2-2311, and may be appealed to the board of zoning appeals as provided by that section. The applicant shall bear the burden of cost for any such appeal including but not limited to application and advertising fees. However, if the filed appeal is successful the city may reimburse those costs as approved by the city council. Decisions of the board of zoning appeals may be appealed to the circuit court as provided by Virginia Code, § 15.2-2314.

(5) The zoning administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period.

(Ord. No. 20-4, 11-24-20)

Secs. 50-234—50-241. Reserved.

DIVISION 18. DEFINITIONS

Sec. 50-242. 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. Words and terms not herein defined shall have the meaning customarily assigned to them. Words used in the present tense include the future tense; the singular includes the plural, and the plural the singular; the word "shall" is mandatory; the word "may" is permissive:

Accessory building, structure, or use means a use or structure which is clearly subordinate and customarily incidental to the main use or structure; is of a character related to the principal use; and is located upon the same lot occupied by the main use or structure. Structures attached to the main building shall be considered part of the main building. Definition includes accessory dwelling as regulated in 50-134. For floodplain management purposes relevant to Division 5 of this chapter, an accessory structure means a structure that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure and are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof; an accessory structure specifically excludes structures used for human habitation.

Adult establishment means any one of the following sexually-oriented businesses:

(1) Adult bookstore, video store, or retail store in which a significant portion of the stock contains depiction or description of specified sexual activities or specified anatomical areas, or instruments or devices designed for use in connection with specified sexual activities and which limits customers to persons over 18 years of age;

(2) Adult movie theatre (either outside or inside) or inside arcade in which a substantial portion of the motion picture, video, or other photographic images shown, whether for group or individual viewing, is

devoted to the showing of material which is characterized by an emphasis on the description or depiction of specified sexual activities or specified anatomical areas;

(3) Adult model studio which is open to the public where, for any form of consideration or gratuity, one or more nude or semi-nude individuals pose for sketching, drawing, painting, sculpture, photography, or other artwork by persons other than the proprietor, excluding any school of art which is fully accredited under the Code of Virginia to issue diplomas;

(4) Adult night club, cabaret, or similar establishment which features on a regular basis live performances of individuals who are nude or semi-nude. For purposes of this provision, more than one performance in a 30-day period shall be deemed to be an adult entertainment establishment. For purposes of this provision, seminude shall mean exposure of specified anatomical areas. The definition shall not apply to legitimate theatrical performance where nudity or semi-nudity is only incidental to the primary purpose of the performance. A finding by the zoning administrator that sexually-oriented films predominate or that a predominant number of films are restricted to adults shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clear and convincing evidence.

(5) Adult massage parlor where for any form of consideration or gratuity, a massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment of manipulation of the human body occurs as a part of or in connection with specified sexual activities or where any person providing such treatment, manipulation, or service related thereto, exposes any of his or her specified anatomical areas.

For purposes of this article, "specified sexual activities" is defined as human genitals in a state of stimulation or arousal; acts of human masturbation, sexual intercourse, or sodomy; and fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts. For purposes of this article, "specified anatomical areas" is defined as the following when less than completely or opaquely covered, human genitals, pubic regions, buttocks, female breast below a point immediately below above the top of the areola, and human male genitals in a discernably turgid state, even if completely covered or opaquely covered.

Agricultural production means the tilling of soil, raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, livestock and fowl keeping and breeding, beekeeping, and the production of natural products with resources primarily derived from the land upon which it is produced. Agricultural accessory uses as specified and allowed in § 50-136 and elsewhere in this article are excluded.

Alley means any public or private way set-aside for public travel, 20 feet or less in width, which provides a secondary means of vehicular access to abutting lots and not intended for primary access and general traffic circulation.

Amateur radio tower means a structure which is owned and operated by a federally licensed amateur radio station operator, and upon which an antenna is installed for the purpose of transmitting and receiving non-commercial radio signals.

Animal hospital or clinic means a place for the medical treatment and care of animals under direction of a licensed veterinarian and including short-term boarding and pet grooming services as accessory uses.

Art studio or gallery means a building used for the display and/or sale of artists' work including drawings, paintings, pottery, photography, and other art works, in addition to artists' working space.

Assisted living facility means an establishment that provides housing for senior citizens that need assistance with daily activities and personal care, but do not required skilled nursing care offered by a nursing home. May provide a continuum of services depending on the resident's needs and such facility may be located in conjunction with either more independent living housing units and/or skilled nursing or rehabilitation services.

Automotive repair means an establishment where the following services may be carried out means general repairs and maintenance, engine rebuilding or reconditioning of motor vehicles; collision service, such as body,

frame or fender straightening and repair, painting and undercoating of automobiles and trucks. Outdoor storage of automotive parts or more than five salvage vehicles shall not be permitted unless they are screened so they are not visible from any street, highway or adjoining property.

Automotive sales and leasing means a place where new and used automobiles, trucks, vans, motorcycles, or recreational vehicles are displayed for sale or lease, including warranty repair work and other major or minor repair service conducted as an accessory use.

Automotive services and parts sales means a place where minor automotive repair and maintenance services are done, including lubrication, changing oil and filters, changing and repair of tires and tubes, engine tune-up, and hand washing and polishing without automatic equipment. Includes also establishments in which the retail sales of components and accessories for automobiles and trucks is the primary activity and installation of parts is an accessory use. Does not include major engine and body repairs or the outside storage of automotive parts and salvage vehicles.

Base flood means a flood having a one percent change of being equaled or exceeded in any given year.

Base flood elevation means 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. For purposes of this chapter, the base flood is the one percent annual chance flood.

Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

Bed and breakfast means a dwelling unit occupied by the owner that provides up to five bedroom accommodations for overnight guests rented at a daily rate and where breakfast is typically the only meal served to guests.

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. The word "building" shall be construed as though followed by the words, "part, or parts thereof" unless the context clearly requires a different meaning.

Business or trade school means a specialized instructional establishment that provides training of business, professional, or trade skills and that is typically offered by a private entity. This definition excludes similar instructional services offered by public schools and incidental instructional services in conjunction with another principal use.

Business support services means services rendered for a fee or by contract to other business establishments, including advertising, mailing, building maintenance, personnel and employment services, management and consulting services, protective services, equipment rental and leasing, copying and printing, office supply, computer services, and other similar services.

Cabin means a small dwelling built and designed for temporary, recreational use as a part of an overnight recreational development.

Campsite means a designated plot of ground within a campground or recreational vehicle park intended for the occupancy of camping tents or recreational vehicles.

Cannabis dispensing facility means a facility that: (1) has obtained a permit from the board of pharmacy pursuant to Code of Virginia, § 54.1-3442.6; (2) is owned, at least in part, by a pharmaceutical processor; and (3) dispenses cannabis products produced by a pharmaceutical processor to a registered patient, his registered agent, or, if such a patient is a minor or an incapacitated adult as defined in Code of Virginia, § 18.2-369, such patient's parent or legal guardian. This use shall be prohibited within 500 feet from any public or private school and any public, licensed day care center. The distance shall be measured from front door to front door.

Car or truck wash, automated means an establishment in which automatic equipment is employed for the cleaning of motor vehicles and vehicles drive inside a building to be washed. Retail sales of car care products may

be an accessory use. A car or truck wash facility that is manually-operated is included in the definition of "automotive services and parts sales."

Catering services means the use of land or building where food and/or beverages are prepared on the premises and delivered to another location for consumption. Does not include catering services that may be provided as an accessory activity by a restaurant or grocery store.

Cemetery means any land or structure used or intended to be used for the interment of human or pet remains.

Certificate of appropriateness means an approval for demolition or relocation issued by the planning commission for any officially designated historic landmark or contributing structure in an established historic district.

Children's residential facility means any facility, child-caring institution, or group home that is state-licensed and maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care.

Civic, social, fraternal club meeting facility means an establishment providing meeting, recreational, or social facilities for a nonprofit association, primarily for use by members and guests of youth organizations, fraternal organizations, and other similar groups.

Clinic, medical. See *Office, medical*.

Clinic, methadone or other drug recovery means a medical facility that dispenses controlled substances as permitted by state and federal law to treat drug addiction.

College or university means an educational institution other than a business or trade school that provides post-secondary learning and may include classrooms, auditoriums, athletic facilities, cafeterias, residential dormitories, and other related uses normally found on a college campus.

Commercial vehicle/heavy equipment repair means repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment. Typical uses include truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

Communication services means an establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording of musical performances, radio or television programs, or motion pictures. Term does not include wireless communication facilities or transmission towers.

Community center means a building used for recreational, social, educational and cultural activities, open to the public, owned and operated by a public or private non-profit group, or for profit group or agency.

Community garden means any land or rooftop area used for the cultivation of herbs, fruits, flowers, vegetables or ornamental plants by more than one person, household or a non-profit organization for personal or group use, consumption or donation.

Conference or convention center means a facility which is used for conference and seminars by service and professional organizations and business groups and may include overnight accommodations and restaurants primarily for conference attendees.

Construction sales and service means [an] establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

Construction yard means [an] establishment or place of business primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's offices and storage yards.

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

Custom manufacturing means establishments engaged in the indoor production of specialty goods that are sold retail on the premises and are manufactured using only hand tools or mechanical equipment with no noise or odors impacting neighboring properties. Limited to no more than five persons employed in the manufacturing process. Examples include: Jewelry or apparel making, furniture refinishing, specialty iron craft, and pottery making limited to only one kiln on-site.

Dance or music studio means a building used for the instruction, rehearsal and performance of dance or music. This may include but not be limited to music recording, production and mixing.

Data or call center means an establishment where electronic data is processed by employees, including data entry, data storage, data compilation or analysis, transaction processing, telephone and internet sales, or customer service operations. The term does not include general business services or offices associated with retail, wholesale, institutional, or manufacturing activities located on the same site.

Day care center means any facility which is licensed or approved by the state and operated for the purpose of providing care, protection and guidance to six or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for children or adults, and other similar uses, but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period and excludes family day care home.

Development means for floodplain management purposes relevant to division 5, any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, temporary structures, the placement of manufactured homes or industrialized building units, paving, utilities, filling, grading, excavation, mining, dredging, drilling, or other land-disturbing activities or permanent or temporary storage of equipment or materials.

Dwelling means any building or portion thereof which is designed for use for residential purposes, but not including rooming houses, hotels, motels, or other structures designed for transient occupancy.

Dwelling, multiple-family means a residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided. The definition includes low and high rise apartments as well as condominium dwellings that may be individually owned.

Dwelling, single-family (detached) means a site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy, which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

Dwelling, townhouse means a grouping of three or more attached single-family dwellings in a row in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls. Also referred to as single-family attached dwellings.

Dwelling, two-family, means a single residential building containing two dwelling units, designed for occupancy by not more than two families each with separate living space and at least one shared common wall.

Dwelling unit means a house or apartment containing cooking, bathroom, and sleeping facilities and constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

Elderly care facility means a properly licensed facility, other than a group home as defined herein, that may provide 24-hour medical care for disabled persons, primarily senior citizens, or may provide personal assistance for daily living, or both of these along with food services, activities, housekeeping assistance, and other support services, and which contains individual rooms or dwelling units within the facility. Definition includes nursing home, assisted living facility, and independent living units, or any combination of these uses.

Equipment sales and rental means an establishment primarily for the sales and rental of tools, lawn and garden equipment, construction equipment, agricultural or similar industrial equipment, including incidental equipment storage and servicing.

Family means one or more persons related by blood, adoption, or marriage, living together as a single housekeeping unit, as distinguished from a group occupying a rooming or boarding house. A number of persons not exceeding four, living together as a single housekeeping unit, though not related by blood, adoption, or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the state.

Family day care home means a single-family dwelling in which more than four but less than 13 children, exclusive of the provider's own children and any children who reside in the home, are provided care during only part of a 24-hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home shall also not be counted towards this total. A single-family dwelling in which care is provided to one to four children (exclusive of the provider's own children, those that reside in the dwelling or are related by blood, legal adoption, or marriage to the person who maintains the home) shall be considered the same as residential occupancy by a single-family.

Farmer's market means a market that sells farm products or value-added farm products directly to the general public.

Financial institution means any establishment where the principal business is the receipt, disbursement, or exchange of funds and currencies, such as banks, savings and loans, credit unions, trust companies, investment firms, automatic teller machines, or other lending establishments.

Flea market means a building in which stalls or sales areas are set aside, and rented or otherwise provided, and which are intended for use by various individuals to sell either new or used articles. Does not include any outside sales or yard sales which are considered temporary uses.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a digital flood insurance rate map (DFIRM).

Flood insurance study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Floodplain or flood-prone area means any area susceptible to being inundated by water from any source.

Flood-proofing means any combination of structural and non-structural additions, changes, or adjustments to structure which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structure and their contents.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Food and beverage production means a company or organization that produces, manages, regulates or distributes food and beverages.

Funeral home means an establishment engaged in preparation of the deceased for burial, cremation services, and the arranging and managing funerals. A funeral home includes a funeral chapel and conduct of funeral services.

Garden center means an establishment where predominantly tree, shrub, and plant products are sold retail to the public, and which may include greenhouses, in addition to the incidental sale of other associated items such as seeds, bagged soil and mulch, plant containers, garden tools and equipment, and garden and yard décor items.

Gardening means an area of cultivated ground or a structure such as a planter box, pot, or raised bed, devoted in whole or in part to the growing of herbs, fruits, or vegetables for consumption, or composting.

Gas station means any building, structure, or area of land used for the retail sale of automotive fuels, oils, and accessories, where repair service, if any, is incidental and where convenience goods such as food, beverages, groceries, and household items may also be sold in addition to gasoline. Shall not include any heavy automotive repairs or storage of any inoperable vehicles.

Greenhouse, commercial means an establishment in which plants are cultivated inside transparent walls and a roof, and offered for sale to the public, either wholesale or at retail. May be part of a garden center operation. Does not include a greenhouse for private use only which could be an accessory use to residential use.

Group home means a residential facility in which no more than eight individuals that are aged, infirm, or disabled reside, including individuals with mental illness, intellectual disability, or developmentally disabilities, along with one or more resident or nonresident staff persons providing care for the residents. For the purposes of this section, mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia § 54.1-3401. For purposes of this section, "residential facility" means any group home or other residential facility for which the department of behavioral health and developmental services or the department of social services is the licensing authority pursuant to this Code. Reference Code of Virginia § 15.2-2291.

Health club or fitness center means a facility where individuals use equipment and space for physical exercise and may include exercise equipment, weight lifting activities, facilities for running, walking, and playing sports, locker rooms, saunas, and massage rooms. Does not include indoor sports and recreation facilities or places of employment or hotels that include similar spaces for employees or guests as accessory uses.

Height of building means the vertical distance from the finished grade at the front entrance of the building to the highest point of the building with exceptions as provided for in section 50-43.

Historic structure means any structure that is:

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

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

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

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without approved programs.

Home occupation means an occupation for gain or support, whether full-time or part-time, that is conducted in the home, is incidental to the use of the building as a dwelling, and is subject to the provisions in section 50-133.

Hospital means a facility providing medical care to sick or injured persons primarily for in-patient overnight accommodations, but could also include separate outpatient surgery facilities, and including related facilities such as laboratories, training facilities, service facilities, and staff offices which are all considered integral parts of the facility. This term does not include nursing home, assisted living facility, or medical clinic.

Hotel means a building containing one or more guest rooms for overnight guests with ancillary facilities such as restaurant, meeting rooms, and recreation facilities for guests. Includes motels, inns, and lodges, but not bed and breakfast establishments as defined.

Indoor amusement or entertainment facility means a building or buildings primarily used for the provision of entertainment or games to the general public involving, but not limited to, theatrical or music performances, movie showing, billiards, table games, bingo, electronic games, escape rooms, and casino gambling if permitted by state law. Does not include churches or other non-profit organizations who hold periodic events such as bingo for fundraising or special events.

Indoor sports and recreation facilitymeans a building or buildings used for any single or a combination of active recreational activities such as bowling, ice skating, roller skating, archery, water sports, miniature golf, and ball sports such as basketball, volleyball, tennis, and racquetball. The facility may include food service, retail sales of sports and fitness items, and other support facilities related to the principal uses, including limited outside activities such as a playground or picnic area. A facility with only health and fitness equipment and activity is defined as a "health club or fitness center."

Industrialized building means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating, and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes defined in Code of Virginia, § 36-85.3 and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act (42 USC § 5401 et seq.) shall not be considered industrialized buildings for the purpose of this law, and nor shall mobile homes as defined in this division.

Interstate advertising corridor means an area measured as 1,000 linear feet from the right-of-way of Interstate 81 and Interstate 381, including entrance and exit ramps.

Kennel or animal shelter means any lot, building, structure, enclosure or premises where breeding, boarding, training, selling, or donation of animals is conducted.

Laboratory means an establishment whose principal purpose is the testing, research, compounding and/or packaging of scientific products, which may include light manufacturing.

Laundry means establishments primarily engaged in the provision of commercial laundering, cleaning or dyeing services. Drop-off stations for dry cleaning and laundromats are classified as personal services.

Lot means a piece, parcel, or plot of land which may consist of one or more platted lots in one ownership, occupied or intended to be occupied by one principal building and its accessory buildings including the open space required under this article.

Lot, corner means a lot fronting on two intersecting streets or adjoining a curbed street at the end of a block.

Lot, double frontage means a lot extending the entire width of the block and having street frontage on both the front and rear lot lines.

Lot of record means a parcel of land the boundaries of which are filed as a legal record.

Lot width means the horizontal distance between the side property lines of a lot measured at the point of the minimum front setback from the street right-of-way. If the street line curves or angles, the setback line shall

also curve or angle uniformly with the street line and the lot width shall be calculated along the curve or angle setback line.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a 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 this chapter.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis; is designed for use with or without a permanent foundation when connected to required utilities; and meets the 1976 Federal Manufactured Home Construction and Safety Standards (HUD Code). The term does not include modular homes or recreational vehicles, however for purposes of floodplain management regulations contained in division 8, the term does include travel trailers and other similar recreational vehicles placed on a site for greater than 180 consecutive days.

Micro-brewery means an establishment primarily engaged in the production and packaging of ale, beer, malt liquors, and nonalcoholic beer, with a capacity of not more than 15,000 barrels per year. Micro-brewery may include a restaurant or public tasting room.

Mini-warehouse means a building or group of buildings designed to provide self-service rental storage space in separate compartments enclosed by walls and ceiling and each unit having an individual entrance for the loading and unloading of stored goods. The conduct of sales, business, or any other activity other than storage in the building or buildings shall be prohibited.

Mixed-use structure means a building containing residential uses in addition to non-residential uses permitted in the zoning district. Mixed use structure should not be confused with a mix of uses each in separate structures in a single development.

Mobile food vending unit means a trailer, vehicle, pushcart, or stand (either motorized or non-motorized) subject to Virginia Department of Health regulations and designed to be portable, not permanently attached to the ground and to utilities, and from which only prepared food or beverages are displayed, offered for sale, sold, or given away. This definition excludes mobile food vendors for city-authorized special events or special events by church or non-profit organizations of no more than three days in duration.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent chassis; is designed for use with or without a permanent foundation when connected to required utilities; and was produced prior to June 15, 1976 and does not meet the 1976 Federal Manufactured Home Construction and Safety Standards (HUD Code).

Modular home means a dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation.

Museum means an establishment for preserving and exhibiting historical, cultural, scientific, natural or man-made objects of interest, and may include retail sales associated with the principal use as well as associated meeting space, performance area, event space, and offices.

New construction means structures for which the start of construction commenced on or after the effective date of this chapter and includes any subsequent improvement to such structures.

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

Nonconforming structure means an otherwise legal building or structure that does not conform to the lot area, yard, height, lot coverage, density, or other area regulations of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

Nonconforming use means a use or activity which was legal when originally established, but that fails to conform to the current use regulations and standards of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to this chapter.

Nursery means any land used to cultivate, harvest, and sell trees, shrubs, flowers, and other plants and related accessory sales.

Nursing home means a facility licensed by the state providing bed care and in-patient services for persons requiring 24-hour skilled medical care, but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

Off-street parking space means the area that is required for the parking of one vehicle and located with access to a public street or alley, but not including any street right-of-way.

Office, general means an establishment in which the primary use is the conduct of a business or profession such as, but not limited to accounting, tax preparation, lenders and securities brokers, architecture, engineering, computer software, information systems research and development, engineering, insurance, law, management, organization and association offices, psychology, real estate and travel. Retail sales do not comprise more than an accessory use of the office space. This definition does not include medical office as defined by this chapter, and does not include general business services or offices associated with retail, wholesale, institutional, or manufacturing activities located on the same site.

Office, medical means a facility operated by doctors, dentists, or similar practitioners licensed by the Commonwealth of Virginia that provides examination, medical treatment, and minor surgical care on a routine outpatient care basis, but does not provide overnight care. Definition includes a medical clinic that serves primarily emergency medical needs, but does not provide methadone or other controlled substance substitution programs.

Outdoor entertainment facility means a commercial facility for predominantly spectator uses conducted in open or partially enclosed or screened facilities such as sports arenas; amusement parks; or amphitheaters or other venues for live performances, excluding outdoor entertainment conducted as a part of a restaurant or micro-brewery.

Outdoor sports and recreation facility means a commercial facility for recreational activities conducted in open or partially enclosed or screened facilities, such as golf course, miniature golf course, swimming pool, tennis courts, motorized cart or motorcycle tracks, firing ranges, and water parks. Does not include community or municipal parks and playgrounds.

Overnight recreational development means an area that is occupied or intended for temporary occupancy in recreational vehicles, tents, yurts, or recreational cabins, and is governed by an overall site development plan. The terms "campground," "RV park," and "overnight cabin development" are all considered overnight recreational developments.

Parking garage/parking lot means an area where cars or other vehicles may be left temporarily. This may include a building that provides parking space.

Pawn shop means a use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker and the incidental sale of such property.

Personal services means establishments or places of business engaged in the provision of frequently needed services of a personal nature serving individuals and households. Typical uses include barbershops, cosmetology and nail care salons, and esthetics spas licensed by the state in addition to schools for these services; tanning salons; shoe or garment repair businesses; laundromats and dry cleaning pick-up stations (not dry cleaning on-site); massage therapy licensed by the state; and pet grooming services.

Pharmaceutical processor means a facility that: (1) has obtained a permit from the board pursuant to Code of Virginia, § 54.1-3408.3 and (2) cultivates plants intended only for the production of cannabis oil, botanical cannabis, and usable cannabis, produces cannabis products, and dispenses cannabis products to a registered

patient, his registered agent, or, if such a patient is a minor or an incapacitated adult as defined in Code of Virginia, § 18.2-369, such patient's parent or legal guardian. This use shall be prohibited within 500 feet from any public or private school and any public, licensed day care center. The distance shall be measured from front door to front door.

Plant production, indoor means an establishment that cultivates plants for commercial use with all production activities completely inside a building using methods such as hydroponics and artificial lights, and distinguished from a greenhouse which has transparent walls and roof.

Portable storage containers means a transportable unit designed and used for the temporary storage of materials or furnishings associated with construction, renovation, or relocation activity on the property where the container is placed. This definition excludes the following: 1) the use of storage containers for a consecutive ten-day period or less for loading and unloading furnishings; 2) commercial refuse containers which are regulated in section 40-72 of City Code, and 3) temporary office units associated with construction activity on the same site.

Principal building, use, or structure means the main use of a lot, or the building or structure in or on which the main use of the lot takes place.

Print shop means an establishment in which the principal business consists of duplicating and printing services provided to individual customers or organizations using photocopying, blueprint, or offset printing equipment, including publishing, engraving, and binding.

Private school means a school serving students who are within the range of kindergarten through grade 12 and operated by a private organization whether for-profit or non-profit.

Public building means a building used by federal, state or local government that is open to the general public.

Public park/playground means an area of natural, semi-natural or planted space, open to the public, set aside for human enjoyment and recreation or for the protection of wildlife or natural habitats.

Publication printing facility means a high volume productions facility that makes printed products for commercial customers such as newspapers, books, or magazines.

Recreational vehicle (or RV) means a mobile unit primarily designed as temporary living quarters for recreational or camping use whether independently mobile or pulled by another vehicle. For purposes of floodplain management as regulated in division 8, a recreational vehicle is further defined as being 400 square feet of less when measured at the largest horizontal projection; is built on a single chassis; and is designed to be self-propelled or permanently towable by a light duty truck.

Recycling facility means a building or enclosed space for the collection, sorting, and processing of recyclable materials prior to shipment to other end-users, including associated equipment and storage area screened from public view. Does not include a temporary or permanent drop-off station for materials such as paper, cardboard, glass, metal, and plastic, and intended for residential and consumer use.

Research and development center means a business that engages in research and development of technology-driven products and services, including scientific, industrial, electronic, medical, or educational products. Development and construction of prototypes may be associated with this use, but not manufacturing of products.

Restaurant, fast food with or without drive-through means an eating and drinking establishment that has very high turnover of customers and generates far more traffic per square foot of floor area than any other type of restaurant and generally serves food in disposable containers.

Restaurant, general means an establishment engaged in the preparation of food and beverages characterized primarily by table service to customers in non-disposable containers. May offer curbside pick-up or drive-through as an ancillary or temporary function.

Salvage or scrap service means any parcel of land or building in which the primary use is that of waste or scrap materials being stored, bought, sold, exchanged, packaged, or disassembled; and in which materials must be screened from public view.

Sawmill means an operation being either permanent or temporary that converts logs to lumber products regardless of whether the timber comes from on-site or off-site.

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

Shooting range, indoor means a building designed or used for shooting of targets with firearms for the practice of marksmanship by the general public or gun clubs, but excluding authorized stores selling firearms where a shooting range may be an accessory use and facilities operated by law enforcement agencies for employee training.

Sign means any device or visual communicator that is used for the purpose of bringing the subject to the attention of the public and which is visible to the public right-of-way or to other properties.

Sign, abandoned means any sign that no longer displays information of any kind or displays information about a business or activity that has ceased to exist.

Sign, canopy means a sign painted on or attached flat against an awning or canopy that does not extend beyond the extremities of the surface to which it is attached. A canopy or awning sign is considered a type of wall sign for purposes of this division.

Sign, electronic message center means an electrically activated changeable sign whose variable message and/or graphic presentation capability can be programmed remotely.

Sign, ground-mounted means a permanent, free-standing sign not attached to a building or structure in which the entire bottom of the sign, including a foundation for the sign, is affixed to the ground (known as a monument sign) or in which the sign is supported by one or more posts anchored in the ground with no more than six feet clearance from the bottom of the sign to the ground below (known as a post or pedestal sign).

Sign, home occupation means a sign advertising services available on residential premises upon which the sign is located and which is authorized under section 50-133 and meeting regulations therein.

Sign, incidental means a wall or freestanding sign not exceeding four square feet in size and three feet in height if freestanding. Examples include: On-premises directional signs, building address signs, office nameplates, residence signs, no trespassing and other security-related signage, or signage on gas pumps. Freestanding incidental signs must be placed far enough from any street right-of-way to avoid a sight distance problem. Incidental signs cannot be off-premises signs.

Sign, multi-tenant means a permanent, free-standing sign serving one commercial site or development, and designed to accommodate two or more sign panels for multiple tenants.

Sign, nonconforming means any sign, the area, dimensions or location of which were lawful at the time the sign was erected, but which fail to conform to the current standards and regulations due to the adoption, revision or amendment of this division.

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

Sign, pole means a permanent, free-standing sign elevated above the ground by one or more upright poles, columns, braces, or other structure and not attached to any building or structure with the bottom of the sign being over six feet above the adjacent ground.

Sign, projecting means a sign attached to a building, approximately perpendicular to the building wall.

Sign, public way-finding means a sign that is part of a system of directional or location markers sponsored by a government entity or non-profit organization, if approved by the city, for the purpose of directing pedestrian or vehicular traffic to public or commercial attractions, historic areas, or community facilities.

Sign, suspended means any sign suspended from the underside of a walkway covering, canopy, or awning.

Sign, temporary means a sign designed or intended, based on materials and structural components, to be displayed for a specified or limited period of time, regardless of type or style of sign. Types of temporary signs are defined below:

Sign, A-frame: A temporary sign that is used at a place of business to provide information to pedestrians and slow moving vehicles. The sign may be one or two sided. Also known as a sandwich board sign.

Sign, activity: A temporary sign that is on the site of an activity or event which is only temporary in nature, such as construction project or new development announcement.

Sign, banner: A temporary sign made of material such as fabric, flexible plastic, or canvas that can be easily folded or rolled, but not including paper or cardboard. Types of banners are wall banners which are affixed flat against a building wall; a free-standing banner which is secured to metal posts in the ground, and a vertical flag banner sign which is properly secured in the ground.

Sign, non-commercial message: A temporary sign that does not direct attention to any business, commodity, service, entertainment, product, or attraction, and is of a political, religious, or ideological nature.

Sign, notice of property for sale or lease: A temporary sign that is displayed on property that is for sale or lease for the purposes of advertising said property.

Sign, portable: A temporary sign that is designed with wheels to be transported by vehicle, but does not include signs attached to or painted on properly registered and operable vehicles.

Sign, yard: A temporary sign that is made out of cardboard or foam board attached to a metal or plastic frame.

Sign, wall means a sign which is painted on or attached directly to the surface of a building wall, an awning, or a fence. For purposes of this division, a wall sign can also be a suspended sign, projecting sign, or a roof sign attached to a building.

Sign area means the area of any sign is measured by finding the area of the minimum imaginary or actual rectangle or square which fully encloses all words, copy or message or the extremities of one side of the sign, exclusive of its supports. 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.

Small equipment repair means an establishment that is involved with the maintenance and repair of low-power internal combustion or electric engines or other related equipment. This includes, but is not limited to, chain saws, weed eaters, leaf blowers, snow blowers, and lawn mowers. Repair of household items like appliances are defined under consumer repair services.

Solid waste facility means a licensed facility designed and used for the disposal of garbage, debris, and other unwanted or discarded items; and may include recycling operations.

Special flood hazard area means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V.

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

Storage, vehicle and equipment means a principal use of property for the keeping of operable vehicles and equipment, including boats and recreational vehicles, but excluding temporary storage of equipment on active construction sites.

Store, general retail means establishments that carry a variety of retail sale items and can be large in size, generally 10,000 square feet in size or larger, such as, but not limited to, discount stores, grocery stores, department stores, drug stores, and household goods stores.

Store, liquor means a store operated by the Virginia Alcoholic Beverage Control which sells distilled spirits in accordance with Virginia Code.

Store, neighborhood means an retail establishment generally less than 5,000 square feet that sells a variety of groceries, prepackaged food, beverages, tobacco, household items, and prepared food items, but not automobile fuel which would be defined under "gas station."

Store, specialty means a retail store usually small in size (less than 10,000 square feet) that offers for sale items related to a specific theme such as, but not limited to, apparel, jewelry, books, shoes, stationery, gifts, specialty foods and beverages, antiques, artwork, and floral arrangements.

Street banner means any sign suspended on or from a staff, pole, wire, frame or similar support extending across the width of a street, highway or alley. This type of sign is a temporary sign used for the advertisement of community events; must by authorized by the city manager; and is subject to city policy and any established fees.

Structure means for floodplain management purposes relevant to division 5 of this chapter, a walled and roofed building, including gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Tattoo shop or *body piercing salon* means any place, property licensed by the state, in which a fee is charged for the act of tattooing the skin or penetrating the skin of a person to make a hole, mark or scar, generally

permanent in nature. Also includes a place or establishment properly licensed to accept and train students in tattooing and/or body piercing.

Temporary family health care structure means a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that: (i) is primarily assembled at a location other than its site of installation; (ii) is limited to one occupant who shall be the mentally or physically impaired person or, in the case of a married couple, two occupants, one of whom is a mentally or physically impaired person, and the other requires assistance with one or more activities of daily living, as certified in writing by a physician licensed in the commonwealth; (iii) has no more than 300 gross square feet; and (iv) complies with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code. Reference Code of Virginia, § 15.2-2292.1 which requires a permit be issued by the city for this use.

Temporary seasonal sales means outside sales or distribution of agricultural or horticultural products that are seasonal in nature, including agricultural products, bedding plants, and Christmas trees; but excluding outside sales activity that is conducted on a site with an existing permitted retail operation and that is conducted by the on-site tenant or property owner and is clearly incidental to the primary use of the property. This definition excludes yard sales conducted by property owners or residents on their own premises as long as they are limited to no more than three days in duration and no more than two yard sales on the same property per calendar year. The definition also excludes temporary outdoor sales conducted by church or non-profit organizations of no more than three days in duration.

Temporary use permit means a permit authorized by the city to allow a property owner or tenant to conduct a temporary use at a specific location in compliance with this article. Temporary uses on city-owned property are subject to established city policies and procedures.

Terminal, bus means a building specifically used for the off-street service and storage of buses and the off-street loading and unloading of bus passengers and freight. It shall include facilities for ticket sales, food service and restrooms that are primarily intended for bus passengers. This definition excludes public transportation service offered by a public entity.

Terminal, passenger means a building primarily for loading and unloading of passengers traveling by bus or rail transportation.

Terminal, rail means a building or series of buildings primarily used for the transfer of passengers and freight from a rail line to other modes of transportation. It shall include facilities for ticket sales, food service and restrooms that are primarily intended for rail passengers.

Terminal, truck means a facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck and including mail and package distribution facilities.

Transitional housing means temporary housing for certain segments of the homeless population established for the purpose of transitioning residents into permanent, affordable housing. It is not in an emergency homeless shelter, but usually involves rooms or apartments in a residence with support services available on-site and a required length of occupancy for the residents.

Unhoused/unsheltered day center means a center which has a primary purpose of serving unhoused or unsheltered individuals, whose clientele may spend time during day or evening hours, but with no overnight stays. Services may include counseling and/or medication monitoring on a formal or informal basis, personal hygiene supplies, facilities for showering, shaving, napping, laundering clothes, making necessary telephone calls and other basic supportive services. Centers may also provide meals or facilities for cooking.

Utilities, major means public or privately-owned and operated facility or infrastructure that generally serves a community-wide need and may have on-site personnel, such as electric-generating plants and substations, wastewater treatment plant, water treatment plant, water tank, free-standing telecommunications facility, and solar farms.

Utilities, minor means public or private infrastructure generally serving a limited area and having no on-site personnel, including lift stations, storm water facilities, electric distribution system appurtenances, telecommunications boxes, water and wastewater pump stations. Also includes on-site solar energy panels as accessory use to a principal structure.

Violation means for floodplain management purposes relevant to division 5, 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 division 5 is presumed to be in violation until such time as that documentation is provided.

Warehouse means a building used for storage of goods for transfer and delivery to other locations and in which sales of merchandise to customers is not conducted on-site. Includes the term distribution facility and may include office functions.

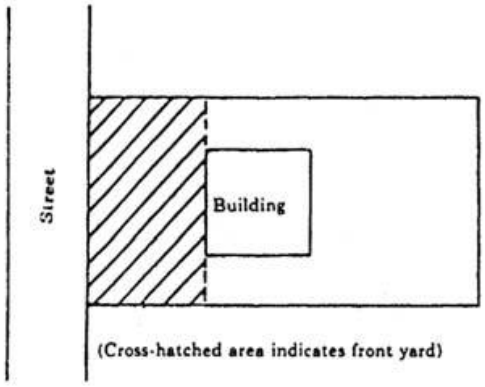
Wholesale business means an establishment that sells merchandise at wholesale on-site or delivered to customers off-site with such merchandise stored inside a building where sales and/or office personnel are located. For purposes of this article, wholesale businesses in B-3 districts shall not include outside storage of products; chemical or fuel storage establishments; or products that have an odor that is evident outside the building.

Winery means a winery use is a facility licensed in accordance with Code of Virginia, § 4.1-207 and regulations of the board of alcoholic beverage control to manufacture wine and to sell, and deliver or ship such wine in closed containers for the purpose of resale outside the state or by persons licensed by the state to sell the wine at wholesale.

Wireless communications facility means any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services; and including towers and/or antennas. A communications tower usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio towers, which are described separately. The terms "telecommunications facility" and "communications facility" are synonymous. Depending on size and appearance, it can be either a major utility or a minor utility, as regulated in division 12.

Yard means an open space on the same lot with the principal building, open, unoccupied, and unobstructed by buildings from ground to sky, unless otherwise provided in this article.

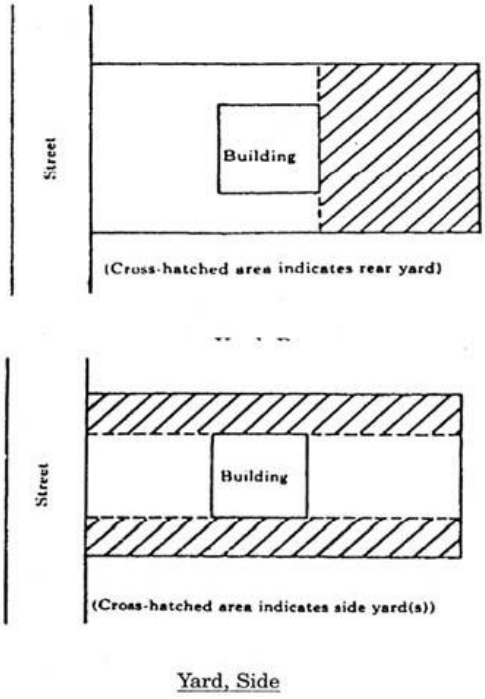
Yard, front means an open, unoccupied space on the same lot as the principal building, extending the full width of the lot and situated between the front lot line and the nearest part of the principal building or structure.



Yard, Front

Yard, rear means any open, unoccupied space on the same lot as the principal building, extending the full width of the lot and situated between the rear lot line and the nearest part of the principal building or structure.

Yard, side means an open, unoccupied space on the same lot as the principal building, bounded by the side or common property line and a line parallel thereto, extending from the front lot line to the rear lot line, the distance between such parallel lines being the established side yard setback distance for that particular district in which the lot is situated.



Yard, Side

(Ord. No. 20-4, 11-24-20; Ord. No. 22-5, 5-10-22; Ord. No. 23-3, 3-14-23)

Secs. 50-243—50-265. Reserved.

ARTICLE III. SUBDIVISIONS[3]

[3]Editor's note(s)—Ord. No. 21-1, adopted May 25, 2021, repealed the former article III, §§ 50-266—50-274, 50-286, 50-287, 50-301—50-304, 50-316—50-322, 50-336—50-344, 50-356—50-363, 50-376—50-384, 50-396—50-400 and 50-411—50-413, and enacted a new article III as set out herein. The former article III pertained to similar subject matter and derived from the Code of 1966, app. tit. II, §§ 5-1—13-3, app.; Ord. No. 95.01, adopted January 10, 1995; Ord. No. 95.07, adopted February 28, 1995; Ord. No. 95.08, adopted February 28, 1995; Ord. No. 96.05, adopted April 9, 1996; Ord. No. 96.26, adopted December 10, 1996; Ord. No. 96.27, adopted December 10, 1996; Ord. No. 98.10, adopted May 26, 1998; Ord. No. 02.02, adopted February 26, 2002; Ord. No. 19-2, adopted January 22, 2019.

Charter reference(s)—Comprehensive city plan, § 2.07; public works department, § 7.06; department of planning, § 7.08; city planning commission, § 8.04; subdivision, § 13.05; injunctive relief, § 13.06.

Cross reference(s)—Trees and shrubbery obstructing vision or traffic control devices, § 86-109.

State law reference(s)—Land subdivision and development, Code of Virginia, § 15.1-465 et seq.; Virginia Public Records Act, Code of Virginia, § 42.1-76 et seq.; Subdivided Land Sales Act of 1978, Code of Virginia, § 55-336 et seq.

DIVISION 1. GENERALLY

Sec. 50-266. Title.

This article is known and may be cited as the "Subdivision Ordinance of Bristol, Virginia."

(Ord. No. 21-1, 5-25-21)

Sec. 50-267. Purpose.

This article is designed to guide and facilitate the orderly beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of these standards and procedures are to guide the change that occurs when land and acreage become urban in character as a result of development for residential, business or industrial purposes; to provide assurance that the purchasers of lots are buying a commodity that is suitable for development and use; and to make possible the provision of public services in a safe, adequate and efficient manner.

(Ord. No. 21-1, 5-25-21)

Sec. 50-268. Legislative authority.

This article, as amended, is adopted according to the authority of the Code of Virginia, title 15.2, art. 6, Land Subdivision and Development (Code of Virginia, § 15.2-2240 et seq., as amended). As specified therein, the City of Bristol is authorized to provide certain reasonable regulations and provisions that are mandatory in Code of Virginia, § 15.2-2241, and certain optional provisions as found in Code of Virginia, § 15.2-2242.

(Ord. No. 21-1, 5-25-21)

Sec. 50-269. Platting authority.

No plat of subdivision shall be recorded in the office of the clerk of the circuit court of the city unless and until it shall have been approved in accordance with the regulations set forth in this article. The planning commission shall be the official platting authority and the filing or recording of a plat of a subdivision without planning commission approval as required by this section shall be considered a misdemeanor. No lot shall be sold in any such subdivision before the plat shall have been recorded in the office of the clerk of the circuit court of the city.

(Ord. No. 21-1, 5-25-21)

Sec. 50-270. Surveyor to draw and certify.

Every such plat shall be prepared by a land surveyor duly licensed and certified by the commonwealth, who shall endorse upon each plat a certificate signed by him or her setting forth the source of the land subdivided and the place of record of the last instrument in the chain of title. When the plat is of land acquired from more than

one source of title, the outlines of the several tracts shall be indicated upon such plat. Minimum standards and procedures required for land surveying by the Commonwealth of Virginia shall be required to be met.

(Ord. No. 21-1, 5-25-21)

Sec. 50-271. Erection of building.

No building permit shall be issued and no building shall be erected on any lot in the city unless the street giving access thereto has been accepted as a public street in accordance with this article, or unless such street has attained the status of a public street prior to the effective date of the ordinance from which this article was derived, or on a street accepted by the city in conformance with this article and Article 11, Zoning.

(Ord. No. 21-1, 5-25-21)

Sec. 50-272. Owner's statement.

Every such plat, or the deed of dedication to which the plat is attached, shall contain, in addition to the surveyor's certificate provided for, a statement as follows:

> The platting or dedication of the following described land (here insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any.

The statement shall be signed by the owners, proprietors and trustees, if any, and shall be duly acknowledged before some officer authorized to take acknowledgement. When thus executed and acknowledged, the plat, subject to the provisions herein, shall be filed and recorded in the office of the clerk of the circuit court where deeds are admitted to record for the lands contained in the plat and indexed in the general index to deeds under the names of the owners of land signing such statement and under the name of the subdivision.

(Ord. No. 21-1, 5-25-21)

Sec. 50-273. Conflict with other ordinances of the city.

In case of conflict between the provisions of this article and any other ordinance of the city, the most restrictive shall prevail.

(Ord. No. 21-1, 5-25-21)

Secs. 50-274—50-285. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 50-286. Review of preliminary and final plats.

The subdivision agent is hereby charged with the responsibility of reviewing preliminary plats in accordance with the regulations herein contained. The planning commission shall likewise consider all final plats and grant approval or disapproval to final plats, except certain boundary line alterations specified in section 50-343(b) which can be approved by the subdivision agent.

(Ord. No. 21-1, 5-25-21)

Secs. 50-287—50-300. Reserved.

DIVISION 3. PROCEDURE

Sec. 50-301. Process of subdivision approval; application and plat review fee.

(a) The process of subdivision approval is divided into two steps. The first step involves the submission and approval of a preliminary plat prepared and submitted as outlined below. At the time of submittal of the preliminary plat, a subdivision application and plat review fee, based on the number of lots proposed in the original submittal, shall be submitted to the department of community development as provided in the appendix to this chapter.

(b) The second step constitutes the preparation and approval of the final plat which is the instrument to be recorded.

(Ord. No. 21-1, 5-25-21)

Sec. 50-302. Preliminary plat.

(a) The subdivider of a proposed subdivision shall cause a preliminary plat to be prepared, and shall provide an electronic copy of the preliminary plat containing all required elements listed in section 50-318 to the subdivision agent for review.

(b) The subdivision agent shall approve or disapprove the preliminary plat or approve the plat with modifications, noting thereon any changes that will be required in addition to a written list of required revisions to the plat. One scanned copy shall be returned to the subdivider of the subdivision or his or her representative with the date of such approval or disapproval noted thereon.

(Ord. No. 21-1, 5-25-21)

Sec. 50-303. Final plat schedule.

The subdivider of a subdivision shall, within one year after the date noted on the preliminary plat, file with the planning commission the required copies of the final plat. If the final plat is not presented to the planning commission within one year from the date of approval of the preliminary plat, approval of the preliminary plat shall be null and void. The final plat shall be prepared in accordance with the requirements of division 5 of this article.

(Ord. No. 21-1, 5-25-21)

Sec. 50-304. Recording plat.

After completion and approval of the final plat, the subdivider or representative shall present two reproducible certified copies of the final plat with original signatures to the clerk of the circuit court of Bristol, Virginia and any other locality wherein deeds are required by law to be recorded for the lands contained in the plat. Following recordation with the clerk of circuit court, the subdivider or representative shall file one certified copy of the final plat with the department of community development, along with any recorded private covenants or deed restrictions applicable to the subdivision.

(Ord. No. 21-1, 5-25-21)

Secs. 50-305—50-315. Reserved.

DIVISION 4. PRELIMINARY PLAT

Sec. 50-316. Preliminary plat submittal.

(a) Prior to submission of a preliminary plat, the subdivider is encouraged to submit a sketch plan to the subdivision agent for the purpose of obtaining advice on whether the plans in general are in accordance with the requirements of this article. The sketch plan shall be at a scale of no smaller than 200 feet to the inch showing the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall show the location of all proposed streets, lots, parks, open space, storm water detention areas, or other proposed uses of land to be subdivided and shall include approximate dimensions and any future development plans. The sketch plan is for informational purposes and is not binding on the owner/developer, or on the planning commission or agent.

(b) All preliminary plats shall be submitted to the subdivision agent in order to provide up to 45 days' review before presentation at the planning commission's monthly meeting. The subdivider shall provide a subdivision application, along with the required fee, and an electronic copy of the preliminary plat that is at a scale no smaller than 100 feet to the inch and fits the paper size measuring 18 inches by 24 inches when printed. If necessary due to the size of the proposed subdivision, separate sheets may be submitted.

(Ord. No. 21-1, 5-25-21)

Sec. 50-317. Purpose.

The purpose of the preliminary plat is to safeguard the subdivider from unnecessary loss of time and expense in preparation of a subdivision plat which does not conform with the specifications of the subdivision regulations. City and utility board staff will review the preliminary plat regarding matters within their purview. During the review process, the subdivider or his agent may be called upon for consultation.

(Ord. No. 21-1, 5-25-21)

Sec. 50-318. Contents.

The preliminary plat should include:

(1) The proposed subdivision's name and location, the name and address of the owner, the name of the surveyor of the property, the surveyor's registration number and the zoning district of the property. All the aforementioned items are to be within a title block.

(2) Date, magnetic north point and graphic scale.

(3) The location of existing property lines, streets, alleys, buildings, watercourses, railroads, sewer lines, bridges, culverts, drain pipes, water mains, gas lines and any public utility easements, the names of adjoining property owners or subdivisions, and the zoning classification of the adjoining property. Both sides of the pavement of adjoining public streets shall be shown to the accuracy of the boundary survey. If any buildings, fences, or utilities are within five feet of existing property lines, the distance to the property line shall be shown.

(4) The location of all proposed utility layouts, including, but not limited to, sewer lines, water lines, gas lines and electricity, showing feasible connections to the existing or any proposed utility system. When such connections are not available, a certified copy of an approved agreement for providing the necessary utilities must be submitted.

(5) The names, locations, widths and other dimensions of proposed features, including streets, alleys, easements, parks and other open spaces, reservations, and utilities.

(6) The boundary lines of each lot with accurate distances, bearings, and acreage, including that of any remaining property of the tract or tracts being subdivided that is not proposed for development. The boundaries shall be determined by an accurate field survey. The entire boundary of all public rights-of-way to be dedicated shall be described by distances, bearings, and acreage. Curve data shall include radius, arc length, chord bearing, and chord length. Private rights-of-way or easements, if allowed, shall be included in the total acreage of the parcels.

(7) A statement from the subdivider shall be submitted with the preliminary plat, which will describe the method by which storm sewers, sanitary sewers and water facilities will be provided. Public water and sewer shall be required for all major subdivisions which are defined in section 50-414. For any minor subdivisions without public water or sewer, the subdivider must show that the extension of services is not feasible and must meet all requirements of the Virginia Department of Health for on-site water supply or on-site sewage disposal.

(8) All current deed references and recorded plat references must be shown for all property proposed to be subdivided and all adjoining tracts.

(9) Provisions for collecting and discharging surface drainage; preliminary design for any bridges or culverts which may be required.

(10) For all major subdivisions, existing contour lines shown by a solid line and proposed contour lines by a dashed line and both shall be shown at two- or five-foot intervals depending upon existing topography. Accuracy shall be within one-half contour intervals.

(11) Location of proposed subdivision on an inset map showing relationship of subdivision site to the area, including adjoining streets and their names.

(12) The plat must meet minimum standards for land surveying practice as found in title 18 of the Virginia Administrative Code.

(13) If any portion of the land being subdivided is in a floodplain district as defined in section 50-52(a), the limit of such floodplain shall be shown, including both floodway, flood-fringe, and approximated floodplain.

(14) All existing lot and block identification numbers, proposed lot numbers with numeric characters only, zoning setback lines and/or setback requirements listed in notes on the plat. If the property to be subdivided is located in more than one zoning district, the zoning district boundary needs to be shown on the plat.

(15) Future tract plan. The subdivider shall submit to the planning commission a reasonably accurate plat in sketch form of the entire tract which will show the tentative future street system for the entire tract.

(16) All plats shall be oriented to Virginia South State Plane Coordinates NAD83 grid north and have a least two (2) surveyed boundary point described with a Virginia South State Plane NAD83 coordinate being shown clearly on the plat.

(Ord. No. 21-1, 5-25-21)

Sec. 50-319. Completeness.

The subdivision agent shall review the submitted preliminary plat to determine whether all elements listed in section 50-318 are included, and shall circulate the plat for review and comment by other city staff and by utility board representatives. If deficiencies are found, the agent shall inform the subdivider and request revisions be made.

The subdivision agent shall have the authority to reject the preliminary plat if, after study, he or she finds that it does not comply with this article. If rejected, the subdivision agent shall provide the subdivider with a written statement specifying all the respects in which the plat fails to comply. If the subdivider disagrees with this decision and chooses not to correct the deficiencies, he or she may appeal to the planning commission.

(Ord. No. 21-1, 5-25-21)

Sec. 50-320. Approval by individuals or other agencies.

No preliminary plat shall be approved by the subdivision agent without the written approval of the city engineer, a health department official (only applicable due to lack of public water or sewer), the utility board, and the zoning administrator. These agencies shall approve with or without modifications or disapprove the preliminary plat, to the extent that each has jurisdiction. If rejected, the agency shall provide the subdivision agent with a written statement specifying all respects where the plat fails to comply.

(Ord. No. 21-1, 5-25-21)

Sec. 50-321. Approval of engineering drawings.

(a) Upon approval of the preliminary plat and before preparation of the final engineering drawings for the minimum improvements required by this article, the subdivider shall receive tentative approval of said engineering plans from the city engineer.

(b) The design of all minimum improvements which are to be installed by the subdivider shall be under the direction of an engineer registered in the state and all plans shall bear his seal.

(c) A certificate of approval from the utility board shall accompany all water and sewer plans.

(Ord. No. 21-1, 5-25-21)

Sec. 50-322. Preliminary plat approval not to constitute approval of final plat.

The approval of the preliminary plat by the subdivision agent will not constitute acceptance of the final plat and will not be indicated on the preliminary plat.

(Ord. No. 21-1, 5-25-21)

Secs. 50-323—50-335. Reserved.

DIVISION 5. FINAL PLAT

Sec. 50-336. Conformity with approved preliminary plat.

The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he or she proposes to record and develop at the time; provided that such portion conforms to all requirements of this article.

(Ord. No. 21-1, 5-25-21)

Sec. 50-337. Content and form.

(a) Filing the final plat shall include the following:

(1) At least 15 days prior to the meeting at which it is to be considered, the subdivider shall submit to the community development and planning office an electronic copy of the final plat. Upon review and approval as required in section 50-340, the subdivision agent shall prepare a staff report to the planning commission and schedule the consideration of the plat on the planning commission agenda and shall notify the subdivider of the time and place of the meeting.

(2) A complete list of major deviations and revisions, if any, from the approved preliminary plat.

(3) A copy of all private covenants or deed restrictions, if any, pertaining to land within the subdivision and placed on the land by the subdivider.

(4) A copy of the accepted agreement for providing the necessary utilities, if required.

(5) Two signed copies of the final plat with the stamp of the surveyor and all original owner signatures shall be submitted to the community development office for city approval and signatures. An AutoCAD file in .dwg format shall be provided by the surveyor to the subdivision agent for transmittal to the GIS coordinator for mapping.

The original shall be drawn in black ink on appropriate weight paper measuring 18 inches by 24 inches and in landscape position on the paper. The plat shall be at a scale of 100 feet equals one inch or larger. When two or more sheets are used, a key map shall be shown on each sheet. There shall be at least a one-fourth-inch margin on all sides. The copy filed with the clerk of the circuit court of the city shall have the stamp of the surveyor and all signatures shall be original signatures.

(Ord. No. 21-1, 5-25-21)

Sec. 50-338. Specific contents.

The final plat shall show:

(1) The lines of all streets and roads, alley lines, lot lines, lots numbered in numerical order, reservations, easements and any areas to be dedicated to public use or sites for other than residential use, with notes stating their purpose and any limitations.

(2) Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line, and block line, whether curved or straight. This shall include the radius, central angle and tangent distance for the centerline of curved streets and curved property lines that are not the boundary of curved streets.

(3) A note endorsed by the licensed surveyor setting forth the source of title of the owner of the land subdivided and the place of record and deed book and page numbers of the last instrument in the

chain of title. When the plat is of land acquired from more than one source of title, the outlines of the several tracts shall be indicated upon the plat.

(4) The plat must meet minimum standards for land surveying practice as found in Title 18 of the Virginia Administrative Code.

(5) All plats shall be oriented to Virginia South State Plane Coordinates NAD83 grid north and have a least one (1) surveyed boundary point described with a Virginia South State Plane NAD83 coordinate being shown clearly on the plat.

(6) The names and locations of adjoining subdivisions and streets and the location and ownership of adjoining unsubdivided property.

(7) Date, title, name and location of subdivision, graphic scale and true north point.

(8) Location map to scale, showing site in relation to area.

(9) If any portion of the land being subdivided is in a floodplain district as defined in section 50-52(a), the limit of such floodplain shall be shown, including both floodway, flood-fringe, and approximated floodplain.

(10) All permanent reference monuments shall be shown by the standards symbols given on the data sheet. Monuments of a type approved by the city engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, lot corners and other points, as shall be required by the city engineer.

(Ord. No. 21-1, 5-25-21)

Sec. 50-339. Filing regulations.

The final plat shall be deemed filed with the planning commission when it is filed with the subdivision agent. The planning commission shall have the authority to reject the final plat if, after study, the commission finds that it does not conform to the approved preliminary plat or this article. If rejected, the commission shall provide the subdivider with a written statement specifying all the respects in which the plat does not conform.

(Ord. No. 21-1, 5-25-21)

Sec. 50-340. Approval by certain agencies and city officials.

The final plat shall not be approved by the planning commission unless approval of the plat is provided by the, utilities board, zoning administrator and the city engineer. Such agencies and city officials shall approve, with or without modification, or disapprove the final plat to the extent to which each has jurisdiction. If disapproved, the agency or city official must provide a written statement of reasons for disapproval, citing paragraphs of this article violated.

(Ord. No. 21-1, 5-25-21)

Sec. 50-341. Approval of final plat.

Approval or disapproval of the final plat by the planning commission, utilities board, zoning administrator and city engineer shall be accomplished as soon as practical after the plat is filed with the planning commission. If the final plat is disapproved, the reasons therefor shall be stated in the resolution disapproving the same and the subdivider shall be so informed. The approval of the final plat shall not be deemed to constitute an acceptance by the city of any street or other ground shown upon the plat. No plat shall be acted upon by the planning

commission without consideration at a regular meeting or properly advertised special meeting of the commission, and notice of the time and place of such special meeting shall be sent by regular mail to the subdivider not less than seven days before the date of such meeting.

(Ord. No. 21-1, 5-25-21)

Sec. 50-342. Final plat.

Upon satisfactory compliance with this article, approval by the planning commission and appropriate signatures have been obtained on the plat, the final plat shall be presented to the office of the clerk of the circuit court of the city to be recorded and copies of the final plat shall be distributed in accordance with section 50-304. The subdivision agent shall be responsible for the filing of the original copy in both hard and digital copies in department records in city hall and notification of the recording to appropriate city departments.

The approved final plat shall be recorded within 60 days from the date of the final plat approval; otherwise the approval of the final plat shall be deemed to have been withdrawn. Upon written application, an extension of no more than 60 days may be granted by the planning commission, or subdivision agent.

(Ord. No. 21-1, 5-25-21)

Sec. 50-343. Proposed revisions.

Proposed revisions to any recorded subdivision plat shall be treated as a new plat and subject to the requirements of this chapter.

(Ord. No. 21-1, 5-25-21)

Sec. 50-344. Vacation of plat or boundary line alteration.

(a) *Vacation.* Code of Virginia, § 15.2-2278 sets forth that any plat of subdivision recorded in any clerk's office, may be vacated as outlined in the sections below, taken from Code of Virginia, § 15.2-2270 et seq. The effects of such vacations are outlined in Code of Virginia, § 15.2-2274.

(b) *Boundary lines.* As allowed by Code of Virginia, § 15.2-2275, the boundary lines of any lot or parcel of land may be vacated, relocated or otherwise altered as a part of an otherwise valid and properly recorded plat of subdivision or resubdivision approved as provided in this article or properly recorded prior to the applicability of this article, and executed by the owner or owners of the land. The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility rights-of-way shall be relocated or altered without the express consent of all persons holding any interest therein. This type of boundary line alteration in which no new lots are created shall be reviewed and approved by the subdivision agent and does not require planning commission approval.

(c) *Interest to the city.* Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to the city as a condition of the approval of a site plan may be vacated according to the two (2) methods listed in Code of Virginia, § 15.2-2270.

(d) *Before sale of lot.* An approved and recorded plat of subdivision, or part thereof, may be vacated prior to the sale of any lot therein by utilizing the procedures set forth in Code of Virginia, § 15.2-2271 with subsequent amendments thereto.

(e) *After sale of lot.* An approved and recorded plat of subdivision, or part thereof, may be vacated after the sale of any lot by utilizing one (1) of the two (2) methods specified in Code of Virginia, § 15.2-2272 and subsequent amendments thereto.

(f) *Fees.* As allowed by Code of Virginia, § 15.2-2273, the city council shall establish a fee for processing an application for vacation of plat under subsections (d) and (e), and for the vacation of city interest under subsection (c). The filing fee shall be paid in accordance with the fee schedule established by the city council, as amended.

(g) *Duties of the clerk.* According to Code of Virginia, § 15.2-2276, the clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

(Ord. No. 21-1, 5-25-21)

Secs. 50-345—50-355. Reserved.

DIVISION 6. GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN

Sec. 50-356. Streets.

(a) *Conformity to current VDOT Road Design Manual — Appendix B(1) Subdivision Street Design Guide, henceforth referred to as the "VDOT Manual."* All streets shall conform to the VDOT Manual, except as allowed in section 50-358, and to the city comprehensive plan.

(b) *Relation to adjoining street system.* Any proposed new streets shall extend existing or proposed streets at the same or greater width, but in no case less than the minimum width required in the VDOT Manual.

(c) *Access streets to subdivision boundaries.* Sufficient access streets to adjoining properties shall be provided in subdivisions to permit harmonious development of the area.

(d) *Street width.* The minimum width of right-of-way, measured from lot line to lot line, shall be the width necessary to accommodate all required roadway elements in the VDOT Manual, and extend at least one foot behind any feature intended to be maintained by the city as part of the roadway. In no event shall the minimum width be less than 40 feet. Below are the general standards for road width based on roadway classification:

(1) *Arterial streets and highways, 80 to 150 feet, as may be required.* Arterial streets and highways are those to be used primarily for fast or heavy traffic and will be located on the major thoroughfare plan.

(2) *Collector streets, 60 feet.* Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways and include the principal entrance streets of a residential development and streets for major circulation within such a development.

(3) *Local streets, 50 feet.* Minor [local] streets are those which are used primarily for access to the abutting residential properties and designed to discourage their use by local traffic.

(4) *Frontage roads (streets), 50 feet.* Frontage roads (streets) [are those] which are parallel and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

(5) *Dead-end streets (cul-de-sacs), 40 feet.* Cul-de-sacs are permanent dead-end streets or courts designed so that they cannot be extended in the future. Through proposed business or commercial areas, the street width shall be increased ten feet on each side if needed to facilitate parking without interference of normal parking traffic.

(e) *Additional width of existing streets.* Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the above minimum street width requirements.

(1) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the existing street.

(2) When the subdivision is located on only one side of an existing street, one-half of the required right-of-way measured from the centerline of the existing roadway shall be provided. In no case shall the resulting right-of-way width be less than 40 feet.

(f) *Restriction of access to major roads.* When a tract fronting on a major road for a distance of 500 feet or more and an average depth from the major road of more than 350 feet is to be subdivided, the planning commission and/or city council may require such residential lots adjoining the major road to be provided with frontage on a secondary or interior street.

(g) *Street elevations.* No street shall be approved which is below the base elevation as defined in Division 18 of this article. The planning commission may require, where necessary, profiles and elevations of streets in areas subject to flood. Fill may be used for streets, provided such fill does not adversely affect the capacity of the channels and floodway of any watercourse, drainage ditch, or any other drainage facility. Drainage openings shall be so designed as to not restrict the flow of water and unduly increase flood levels.

(h) *Intersection.* Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than 60 degrees. Streets must meet other design criteria for intersections found in the VDOT Manual.

(i) *Street jogs.* Street jogs with centerline offsets shall not be allowed. There must be at least 150 feet between the centerlines of off-setting streets.

(j) *Dead-end streets.*

(1) Local streets designed to have one end permanently closed shall be no more than 500 feet long, excluding the turn-around, unless it can be demonstrated the protection of existing terrain or environmental features would be better served by a longer street as opposed to an interconnected system of streets or if previous development precludes interconnected streets. Such streets shall be provided at the closed end with a circular turnaround having a roadway diameter (pavement) of at least 90 feet, and a street right-of-way diameter of at least 110 feet or a cul-de-sac with an unpaved center that meets design criteria in the VDOT Manual.

(2) Where, in the opinion of the planning commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property. Such dead-end streets shall be provided with a temporary circular turnaround having a roadway diameter (pavement) of at least 80 feet with necessary temporary easements. However, the planning commission may approve an alternative T-shaped or a branch type, paved turnaround in place of the circular turnaround, providing it is determined that the street length is not more than 200 feet, that the topographic conditions dictate a lesser turnaround be provided, or that the development of the adjoining property is imminent. The minimum acceptable dimensions for alternative turn-arounds shall be in compliance with the VDOT Manual. The planning commission may waive the temporary turnaround requirement when no lots front on such temporary dead-end streets.

(3) It shall be the responsibility of the subdivider of adjacent land to remove the pavement used in constructing temporary turnarounds and to begin construction of the street extension, at standard street specifications, so as to properly connect the two subdivisions. Furthermore, the subdivider shall improve to standard VDOT specifications all unimproved rights-of-way leading to the subdivision from improved state roads or city streets unless, in the opinion of the planning commission, such improvement is an undue burden upon the subdivider.

(k) *Private streets and reserve strips.* Every subdivision property shall be served from a publicly dedicated street, and every individual lot within a subdivision shall front on a publicly dedicated street unless one of the exceptions listed for private streets in section 50-358(b) applies. Such private streets shall meet the minimum design criteria set forth in the VDOT Road Design Manual for subdivision streets, except that no right-of-way not necessary for pavement shall be required in any case that a private street is allowed, a property owners' association shall be established with adequate provisions for the perpetual maintenance of the private streets and recorded as part of the covenants governing the subdivision. Minimum building setbacks shall be measured from the edge of pavement in such developments. There shall be no reserve strips controlling access to streets.

(l) *Surface drainage.* All streets and roads must be so designed as to provide for the discharge of surface water from the right-of-way of all streets and roads by grading and drainage as required by article IV of this chapter, Stormwater Management and Erosion and Sediment Control.

(m) *Street names.* Street names shall be approved and address numbers assigned by the city Geographic Information Systems (GIS) Division. Street names shall be in compliance with section 74-7. Street name signs will be installed at all intersections at locations in accordance with the recommendations of the city engineer or his or her designee.

(Ord. No. 21-1, 5-25-21)

Sec. 50-357. Blocks.

Blocks shall not be more than 1,000 feet in length, except as the planning commission considers necessary to secure efficient use of land.

(Ord. No. 21-1, 5-25-21)

Sec. 50-358. Lots.

(a) *Adequate building sites.* Each lot shall contain a building site not located in a special flood hazard area, as defined in section 50-52(a) and section 50-242, and outside the limits of any existing easement on building setback lines required in subsection (d) of this section.

(b) *Arrangement.* Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Each lot must front for a minimum of 50 feet upon a public street or road or the minimum width required for the zone in which the subdivision land is located with the following two exceptions:

(1) Within PUD and townhouse developments, individual lots may front on private streets meeting the requirements of section 50-356(k) and shall front for a minimum width required in article II of this chapter for lots within such developments.

(2) Lots in manufacturing districts and business districts may front a private drive if developed as an industrial or business park. This private drive serving a manufacturing or business district shall be constructed to the current state department of transportation roadway design standards and specifications. Pavement width shall be a minimum of 24 feet to accommodate two-way traffic. The private drive shall be separated from parking areas by physical barriers approved by the city engineer.

(c) *Minimum size.* The size, shape and orientation of lots shall be such as the planning commission deems appropriate for the type of development and use contemplated. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect with such sewer and provide a connection to each lot. Where a

public sewer is not accessible, an alternate, approved method of sewage disposal may be used, when meeting all applicable public health regulations.

(1) Residential lots that can be served by a public sewerage system shall meet the size requirements under article II of this chapter.

(2) Residential lots that cannot be feasibly served by a public sewerage system shall meet the size requirements under article II of this chapter, and requirements of the state department of health for approval of subdivisions, including a soil evaluation by a qualified expert. Greater area may be required for private sewage disposal if, in the opinion of the health officer, there are factors of drainage, soil condition or other conditions to cause potential problems. The planning commission may require that data from percolation tests be submitted as a basis for passing upon subdivisions dependent upon septic tanks as a means of sewage disposal.

(3) The minimum size of residential lots to be served by a private source of water supply shall be determined by the health officer after investigation of soil conditions, the proposed sewerage system and the depth of groundwater.

(4) Size of properties reserved or laid out for commercial or industrial properties shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated. Platting of individual lots should be avoided in favor of an overall design of the land to be used for such purposes.

(5) The size and widths of lots shall in no case be less than the minimum requirements of article II of this chapter.

(6) Any lot less than 170 feet in width shall not have a depth more than three times the width, unless authorized by the planning commission.

(d) *Building setback lines and yard requirements.* The minimum depth of building setback lines from the street right-of-way line shall be governed by article II of this chapter, and subsection 50-356(k) as noted for private streets without right-of-ways.

(e) *Corner lots.* Corner lots shall be governed by article II of this chapter and the sight distance requirements of this article.

(Ord. No. 21-1, 5-25-21)

Sec. 50-359. Public use and service area.

The planning commission shall have the authority to allocate certain areas, suitably located and of adequate size, for playgrounds and parks for local or neighborhood use as well as public service areas. These designated open space areas will be subject to maintenance and upkeep by the city's park and recreation department if approved by the city, or by the private property owners' association and so stated in the deed covenants for the subdivision.

(1) *Public open space.* Where a school, neighborhood park or recreation area or public access to water frontage, shown on an official map or in a plan made and adopted by the planning commission is located in part in the applicant's subdivision, the planning commission may require the reservation of such open space within the subdivision, but this section shall not be construed to require the subdivider to donate said land without just compensation.

It is strongly recommended by the planning commission and the park and recreation department that the subdivider set aside a certain parcel of the subdivision for recreation purposes.

(2) *Easement for utilities.*

a. Except where alleys are permitted for the purpose, the planning commission shall require easements for all utilities, including but not limited to underground conductors, conduits, storm and sanitary sewers, gas, electric, water and heat mains, along the side lot lines.

b. Easements of the same or greater width may be required along the lines of or across lots, where necessary for the extension of existing or planned utilities.

c. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way along each side for the purpose of widening, deepening, relocating, improving or protecting such for drainage purposes.

(3) *Water supply and sewerage connections.* Where a public water supply or public sewerage system is reasonably accessible, the subdivider shall indicate a connection with such water supply or sewerage system and a water or sewerage connection for each lot with such material and to such size and length as shall be approved by the planning commission. Where a public water supply or public sewerage is not reasonably accessible or not planned for in the future, an alternate method of water supply or sewage disposal may be indicated and shall be approved in writing by the state health officer.

(4) *Community assets.* In all subdivisions due regard shall be shown for all natural features such as large trees, watercourses, historical spots and similar community assets which, if preserved, will add attractiveness and value to the property.

(5) *Suitability of the land.* The planning commission shall not approve the subdivision of land if, from adequate investigations conducted by all public agencies concerned, it has been determined that in the best interest of the public the site is not suitable for platting and development purposes of the kind proposed. Land subject to flooding or other uses which may increase danger to health, life or property or aggravate erosion or flood hazard shall not be platted for residential occupancy. Such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions. Fill may not be used to raise land in areas subject to flood unless the fill proposed does not restrict the flow of water and unduly increase flood heights, and in compliance with division 5 of article II of this chapter.

(Ord. No. 21-1, 5-25-21)

Sec. 50-360. Large tracts or parcels.

When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical future resubdivision.

(Ord. No. 21-1, 5-25-21)

Sec. 50-361. Group housing developments.

A comprehensive group housing development, including the large scale construction of housing units together with necessary drives and ways of access, may be approved by the planning commission although the design of the project does not include standard lot and subdivision arrangements, if departure from the foregoing standard can be made without destroying their intent.

(Ord. No. 21-1, 5-25-21)

Sec. 50-362. Variances.

Variances may be granted where the planning commission decides that there are topographical or other conditions peculiar to the site, and when strict adherence to the regulations would result in substantial injustice or hardship; and a departure from this article will not destroy its intent. Any variance thus authorized and the reasons therefor shall be stated in writing in the minutes of the planning commission.

(Ord. No. 21-1, 5-25-21)

Sec. 50-363. Zoning or other regulations.

(a) No final plat of land within the force and effect of an existing zoning ordinance will be approved unless it conforms with such ordinance.

(b) Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in article II of this chapter, building code or other official regulations, the highest standard shall apply.

(Ord. No. 21-1, 5-25-21)

Secs. 50-364—50-375. Reserved.

DIVISION 7. DEVELOPMENT PREREQUISITE TO FINAL APPROVAL

Sec. 50-376. Required improvements.

Every subdivision developer shall be required to grade and improve streets and alleys and to install curbs, monuments, sewers, stormwater facilities and water mains, underground electric facilities and other utilities, in accordance with state or local specifications. If specifications have not been adopted by local authorities, the planning commission will accept specifications equal to those of the state department of transportation's road designs and standards; provided, that these specifications do not conflict with the standards set forth in this article. Where specifications adopted by local authorities conflict with standards as set forth in this article, the higher set of standards, as determined by the planning commission, shall govern.

(Ord. No. 21-1, 5-25-21)

Sec. 50-377. Monuments.

(a) Concrete monuments four inches in diameter or four inches square, three feet long shall be set at all points where the street lines intersect the exterior boundaries of the subdivision, and at all angle points, point of curve and points of tangency. The monuments shall have a one-fourth-inch steel rod, 12 inches long set flush in top of the monument to identify properly the corner and/or location and shall be flush with the finished grade.

(b) All other corners and points shall be marked with iron pipe or solid steel rod not less than one-half inch in diameter and 24 inches long and driven so as to be six inches above finished grade.

(Ord. No. 21-1, 5-25-21)

Sec. 50-378. Grading, storm drainage, and roadway construction.

All grading and storm drainage construction is subject to approval and permitting required by the city engineering department. Roadway construction shall meet VDOT design standards unless the engineering department determines a stricter standard is warranted.

(Ord. No. 21-1, 5-25-21)

Secs. 50-379—50-381. Reserved.

Sec. 50-382. Installation of utilities.

After grading is completed and approved and before any base is applied, all of the underground work, water mains, gas mains, underground electric facilities, etc., and all service connections shall be installed completely and approved throughout the length of the road and across the flat section. All electrical utilities shall be underground unless the property is currently served by overhead service or adverse conditions warrant a variance from the planning commission.

(Ord. No. 21-1, 5-25-21)

Sec. 50-383. Water supply system.

(a) Water mains properly connected with the community water supply system or with an alternate supply approved by the state health officer shall be constructed in such a manner as to adequately serve all lots shown on the subdivision plat for both domestic use and fire protection. The size of water mains necessary to serve all lots with an adequate water supply for both domestic use and fire protection shall be determined and approved by Bristol Virginia Utilities (BVU).

(b) The location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall meet BVU requirements.

(Ord. No. 21-1, 5-25-21)

Sec. 50-384. Guarantee in lieu of completed improvements.

No final subdivision plat shall be approved by the planning commission or accepted for record by the city registrar of deeds until one of the following conditions has been met:

(1) All area improvements have been constructed in a satisfactory manner and approved by the city engineer.

(2) The planning commission has accepted a security or performance bond in an amount equal to the estimated cost of installation of the required improvements, whereby improvements may be made and utilities installed without cost to the city in the event of default of the subdivider. The conditions of such security or performance bond shall provide for the installation of the improvements covered by such land within a period of not to exceed one year; provided, however, that such period may be extended by the planning commission, with the consent of the parties thereto, if the planning commission finds that the public interest will not be adversely affected by such extension. If the planning commission shall decide at any time during the performance bond that the extent of the building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance bond, that required improvements have been installed as

provided in this section in sufficient amount to warrant reduction in the face amount of such bond, or that the character and the extent of such development require additional improvements, the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount so that the new face amount will cover the cost in full of the amended list of improvements.

(3) Performance bonds which are submitted in lieu of the installation of required improvements shall be in cash or made by a surety company authorized to do business in the state.

(4) In the event the required improvements have not been made, the Planning Commission reserves the right to call on the bond to meet its obligations. A minimum 30-day notice will be given to the financial institution or surety company prior to this action.

(Ord. No. 21-1, 5-25-21)

Secs. 50-385—50-395. Reserved.

DIVISION 8. PROVISIONS EFFECTIVE AFTER ADOPTION OF ARTICLE; PENALTIES

Sec. 50-396. Making and recording of plat and compliance with ordinance required.

No person shall subdivide land in the city without making and recording a plat of such subdivision and without fully complying with the provisions of this article.

(Ord. No. 21-1, 5-25-21)

Sec. 50-397. Approval by planning commission or subdivision agent required.

No such plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the planning commission or in the case of a boundary alteration as specified in section 50-344(b), approval by the subdivision agent.

(Ord. No. 21-1, 5-25-21)

Sec. 50-398. Sale or transfer involving use of unrecorded plat.

No person shall sell or transfer any such land by reference to or exhibition of or by other use of a plat of a subdivision before such plat has been duly recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(Ord. No. 21-1, 5-25-21)

Sec. 50-399. Penalties.

Any person violating the foregoing provisions of this division shall be subject to a fine of not more than $500.00 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

(Ord. No. 21-1, 5-25-21)

Sec. 50-400. Clerk of circuit court not to file or record plat prior to approval of such.

The clerk of the circuit court of the city shall not file or record a plat of a subdivision required by this article to be recorded until such plat has been approved as required herein.

(Ord. No. 21-1, 5-25-21)

Secs. 50-401—50-410. Reserved.

DIVISION 9. AMENDMENTS

Sec. 50-411. Recommendation of amendments by planning commission.

The planning commission on its own initiative may, or at the request of the city council shall, prepare and recommend amendments to this article; provided, that no such amendment shall be adopted by the city council without a reference of the proposed amendment to the planning commission for recommendation nor until 60 days after such references, if no recommendation is made by the planning commission.

(Ord. No. 21-1, 5-25-21)

Sec. 50-412. Notice of amendment.

No amendment to this article may be approved or adopted by the city council until after a notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the city. Such notices shall specify the time and place of hearing, at which time persons affected may appear and present their views, not less than five days nor more than 21 days after final publication in compliance with the Code of Virginia, § 15.2-2204.

(Ord. No. 21-1, 5-25-21)

Sec. 50-413. Advertisement by reference.

Proposed amendments to this article need not be advertised in full, but may be advertised by reference. Each such advertisement shall contain a reference to the place or places within the city where copies of the proposed amendment may be examined.

(Ord. No. 21-1, 5-25-21)

Secs. 50-414—50-434. Reserved.

DIVISION 10. DEFINITIONS

Sec. 50-435. 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. Words used in the present tense include the future tense; the singular includes the plural and the plural the singular, unless the natural construction of the word indicates otherwise; the word "shall" is mandatory and not directory; the word "approve" shall be considered to be followed by the words "or disapprove"; any reference to this ordinance includes all ordinances amending or supplementing the same; and all distances and areas refer to measurement in a horizontal plane.

Alley means a public right-of-way, not intended to be a vehicular arterial or to provide the primary means of access to abutting property, but to be used for service access to the rear or side of properties otherwise abutting a public street.

Building setback means a line beyond which no foundation wall or part of the structure of any building shall project. Overhangs are part of the building and must meet the setback restrictions. All overhangs shall be shown.

Boundary alteration plat means a plat of property that relocates or vacates an existing, recorded property line or lines, but does not create any new lot or lots, nor create any new right-of-way or easement.

Comprehensive plan means the comprehensive plan for the city, approved by the planning commission and/or the city council, which may consist of the general land use plan, transportation plan and other maps, data and descriptive matter for the physical development of the urban area or any portion thereof, including any amendments, extensions or addition thereto, as adopted by the planning commission.

Crosswalk means a right-of-way, within a block, dedicated to public use for pedestrian use only and is so designed as to provide access to adjacent streets or lots.

Cul-de-sac means a street having only one end open for access to another street, the other end being terminated by a turnaround, as specified in this article.

Development means the act, process or state of erecting buildings, structures, making improvements or changing the topography of the land.

Easement means a grant by the owner of land for use of such land by others, including the public, for a specific purpose.

Health officer means the appropriate authorizing official with the Virginia Department of Health.

Lot means a portion or parcel of land separated from other portions or parcels by description, as on a subdivision plat or record of survey map, or as described by metes and bounds and intended for transfer of ownership or for building development. For the purpose of this article, the term does not include any portion of a dedicated right-of-way.

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

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Lot, width, means the distance between the side lot lines, measured at the building line, parallel to the street right-of-way line.

Platincludes the terms: Map, plan, plot, replat or replot; a map or plan of a tract or parcel of land which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with "subdivide."

Right-of-way means a portion of land being used, or in the future will be used, as a street, road, thoroughfare, crosswalk, pipeway, drainage canal and/or other similar uses and designated by means of right-of-way lines.

Sidewalk means a paved surface typically located adjacent to a roadway for use as a pedestrian walkway.

Street means a public right-of-way which provides vehicular access to abutting property. Streets are classified as arterial, collector, local, frontage, or dead-end streets.

Street width means the total width of a strip of land, measured from lot line to lot line, which is dedicated or reserved for public travel including roadway, curbs, gutter, sidewalk and planting strips.

Subdivider means the person having such a proprietary interest in the land to be subdivided as will authorize the application and proceeding to subdivide such land under this article, or the authorized agent of such person for the purpose of applying and proceeding under this article.

Subdivision means the division of a parcel of land into two or more lots for the purpose of transfer of ownership or building development. The term includes construction of any new streets, resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Major subdivision means the division of a parcel of land that does not meet the criteria of a minor subdivision, as defined by this section.

Minor subdivision means the division of land that meets the following criteria: 1) No more than three lots will be created, including the original or residue tract; 2) All lots shall front on an existing developed public street that extends across the entire frontage of the lot; 3) No new streets are created by the plat; 4) The subdivision is served by public water and sewer and does not require the extension of public utilities.

Subdivision agent means an appointee of the planning commission or city council charged with the administration of the subdivision application review process and authorized to approve certain plats, as described herein.

Tract means a portion of land with definite and ascertainable limits or boundaries.

Utility means any community service available to the public by means of an overhead or underground distribution or collection system, including but not limited to electricity, telephone, water, gas and sewer.

Utility board means the governing authority of any community service available to the public by means of an overhead or underground distribution or collection system, including but not limited to electricity, telephone, water, gas and sewer.

Zoning administrator means the appointee of the city manager charged with the administration of the zoning regulations of the city.

Zoning regulations means article II of this chapter.

(Ord. No. 21-1, 5-25-21)

ARTICLE IV. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL[4]

[4]Editor's note(s)—Ord. No. 14.05, adopted June 10, 2014, repealed the former Art. IV, §§ 50-436—50-446, and enacted a new Art. IV as set out herein. The former Art. IV pertained to similar subject matter and derived from Ord. No. 09.02, §§ I—XI, adopted Jan. 27, 2009.

Charter reference(s)—Public works department, § 7.06.

State law reference(s)—Erosion and sediment control, Code of Virginia, § 10.1-560 et seq.

Sec. 50-436. Definitions.

As used in this article:

Administrator. The VSMP authority, including the City of Bristol Director of Public Works, who is responsible for administering the VSMP on behalf of the City of Bristol.

Agreement in lieu of a permit. A contract between the director and the permittee that specifies conservation measures that shall be implemented in the construction of a single-family residence; such contract may be executed by the director in lieu of a Virginia Stormwater Management Program permit.

Applicant. Any person submitting an application for a permit or requesting issuance of a permit under this article.

Best management practice (BMP). Schedules of activities, prohibitions of practices, including both structural or nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface and groundwater systems from the impacts of land-disturbing activities.

Common plan of development or sale. A contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

Control measure. Any best management practice or stormwater facility or other method used to minimize the discharge of pollutants to state waters.

Clean Water Act or *CWA.* The federal Clean Water Act (33 U.S.C. §1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

Department. The Virginia Department of Environmental Quality.

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

Director. The director of public works or such other agent as the city manager may designate.

Discharge.

(a) The quantity of water, silt or other mobile substances passing along a conduit per unit of time; rate of flow; cubic feet per second; liters per second, millions of gallons per day, etc.

(b) The act involved in water or other liquid passing through an opening or along a conduit or channel.

(c) The water or other liquid which emerges from an opening or passes along a conduit or channel.

Drainage area. The drainage area of a stream at a specified location, measured in a horizontal plane, which is enclosed by a topographic divide such that direct surface runoff from precipitation normally would drain by gravity into the stream above the specified point.

Drainage basin. The area from which water is carried off by a drainage system; a watershed or catchment area.

Erosion and sediment control plan. A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

General permit. The state permit titled General Permit For Discharges Of Stormwater From Construction Activities found in Part XIV (9VAC25-880 et seq.) of the Regulations.

Land disturbance or *land disturbing activity.* A manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 50-441 of this article.

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

Land disturbing permit. A permit issued by the City of Bristol authorizing the commencement of land disturbance activities that will result in the disturbance of land that exceeds 10,000 square feet and is less than one acre.

Linear development project. A land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

Maintenance agreement. A legally recorded document that acts as a property deed restriction, and which provides for long-term operation and maintenance of stormwater management practices.

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

Off-site. Anything that is located outside the site boundary described in the permit application for land development activity.

Operation and maintenance plan. A written plan for a land development project which sets forth all responsibilities for operation, maintenance and inspection for the stormwater system pursuant to section 50-438 and section 50-446 of this article.

Operator. The owner or operator of any facility subject to regulation under this article.

Outfall. When used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters.

Owner or *land owner.* The owner or owners 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 a property.

Permit or *VSMP authority permit.* An approval to conduct a land disturbing activity issued by the director for the initiation of a land disturbing activity, in accordance with this article, and which may only be issued after evidence of general permit coverage has been provided to the department.

Permittee. The person to whom the VSMP authority permit or land disturbance permit is issued.

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

Post-development. Conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site.

Pre-development. The conditions that exist at the time that plans for the land development of a tract of land are to the City of Bristol. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish pre-development conditions.

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

Regulations. The Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC25-870, as amended.

Responsible land disturber. 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 (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review, (iii) holds a current contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, as may be amended, repealed, reenacted, or recodified from time to time, by the state.

Restored natural channel. A stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

Runoff or *stormwater runoff.* That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

Site. [The parcel lf land] and/or water area where any facility or land disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land disturbing activity.

Site plan. Site plan shall have the same meaning as in section 50-596 of the Code of the City of Bristol, Virginia, as from time to time therein amended. This definition does not include a site plan for rezoning, as defined in section 50-56 of the Code of City of Bristol, Virginia.

State. Commonwealth of Virginia.

State Water Control Board. Virginia Soil and Water Conservation.

State permit. An approval to conduct land-disturbing activities issued by the state board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the state board for stormwater discharges from an MS4. Under these state permits, the Commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

State Water Control Law. Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

State waters. All water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Stop work order. An order issued which requires that all land disturbing activity on a site be stopped.

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

Stormwater drainage system. The system of roadside drainage, roadside curbs and gutters, curb inlets, swales, catch basins, manholes, gutters, ditches, pipes, lakes, ponds, channels, creeks, streams, storm drains, water quality best management practices, and similar conveyances and facilities, both natural and manmade, located within the City of Bristol which are designated or used for collecting, storing, or conveying stormwater, or

through which stormwater is collected or conveyed, whether owned or operated by the City of Bristol or other person(s).

Stormwater management facility. A device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow. For purposes of this article, stormwater management facilities include water quality best management practices or stormwater management practices, facilities designed to address stream channel erosion, and flood control facilities.

Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Stormwater management plan or *plan.* A document(s) containing material describing methods for complying with the requirements of subsection 50-440(b) of this article.

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

Subdivision. Subdivision has the same meaning as in article III of chapter 50 of the Code of the City of Bristol, Virginia, as from time to time therein amended.

Total maximum daily load or *TMDL.* The sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading, and margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source tradeoffs.

Virginia Stormwater Management Act or *Act.* Section 62.1-44.15:24 et seq. of the Code of Virginia.

Virginia Stormwater BMP Clearinghouse website. A website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Program or *VSMP.* A program approved by the state board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority or *VSMP authority.* The City of Bristol, Virginia. An authority approved by the state board after September 13, 2011, to operate a Virginia Stormwater Management Program.

Watershed. A defined land area drained by a river, stream, drainage ways or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.

(Ord. No. 14.05, 6-10-14)

Sec. 50-437. General provisions.

(a) *Purpose.* The purpose of this article is to protect property, safeguard the general health, safety, and welfare of the public, and protect citizens and state waters from unmanaged stormwater, including protection from a

land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.

(b) *Statutes adopted.*

(1) The Erosion and Sediment Control Law (Code of Virginia, § 62.1-44.15:51 et seq.), except as amended in this article, and as such state code may be amended, repealed, reenacted, or recodified from time to time, by the state or by amendment of this article, is hereby adopted as the Sediment and Erosion Control Ordinance for the city.

(2) The Virginia Stormwater Management (Code of Virginia, § 62.1-44.15:27), except as amended in this article, and as such state code may be amended, repealed, reenacted, or recodified from time to time, by the state or by amendment of this article, is hereby adopted as the Stormwater Management Ordinance for the city.

(c) *Regulations and standards.*

(1) Pursuant to Code of Virginia, § 62.1-44.15:27, the City of Bristol hereby establishes a Virginia stormwater management program for land disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the state board.

(2) The City of Bristol hereby adopts the policy, criteria and information, including specifications and standards, of the most recent editions of the Virginia Stormwater Management Handbook, the Virginia Erosion and Sediment Control Handbook, and the Virginia BMP Clearinghouse for the implementation of the requirements of this article unless otherwise stated. The handbooks and BMP Clearinghouse include pertinent definitions not listed in this article, and a list of acceptable stormwater management practices, including the specific design criteria for each stormwater practice.

(3) The city authorizes the director to provide specific technical policies and criteria based on local conditions that will result in uniform stormwater management practices and drainage infrastructure within the City of Bristol. The technical policies and criteria will be cited in the City of Bristol Supplemental Requirements to the Virginia Stormwater Management Handbook and the Virginia Erosion and Sediment Control Handbook as amended from time to time at the discretion of the director.

(d) *Compatibility with other permit and ordinance requirements.* This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article are minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other or ordinance, rule or regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall take precedence.

(e) *Severability.* If the provisions of any article, section, subsection, paragraph, subdivision or clause of this article is judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this article.

(Ord. No. 14.05, 6-10-14)

Sec. 50-438. Authority of the director.

The director is hereby charged with responsibility for administration and enforcement of this article and has the authority to promulgate rules, regulations, plans, and guidance consistent with this article in order to carry out its meaning and intent. The director may, at his/her discretion, delegate authority to implement certain aspects of this article, including appointment of the administrator of the VSMP authority permits.

(Ord. No. 14.05, 6-10-14)

Sec. 50-439. Requirements.

(a) *Land disturbing permits.*

(1) Persons engaged in land disturbing activities which result in disturbances that exceed 10,000 square feet must obtain a land disturbing permit prior to commencement of such activities.

(2) The land disturbing permit application shall include an erosion and sediment control plan prepared in accordance with the requirements of subsection 50-440(b) and section 50-443 of this article and the Virginia Erosion and Sediment Control Minimum Standards (9VAC25-840-40). The erosion and sediment control plan can be submitted separately from the other components of the stormwater management plan.

(3) A stormwater management plan shall be developed for permitted land disturbing activities which will add greater than 10,000 square feet of impervious area. The stormwater management plan shall be developed in accordance with subsection 50-440(b).

(4) Should a land disturbance activity associated with permits or plans approved in accordance with this section not begin during the 180-day period following approval or cease for more than 180 days, the director may evaluate the approved permits or plans to determine whether they still satisfy all requirements and to verify that all design factors are still valid. If the director finds the previously filed plans to be inadequate, modified plans shall be submitted and approved prior to the resumption of land disturbing activities.

(b) *VSMP authority permit.*

(1) Except as provided herein, no person may engage in any land disturbing activity that disturbs equal to or greater than one acre of land, or is part of a larger common plan of development or sale that disturbs an acre or more of land, until a VSMP authority permit has been issued, if such permit is required, by the director in accordance with the provisions of this article.

(2) Neither a registration statement nor payment of the portion of permit fees paid to the Virginia Department of Environmental Quality, pursuant to 50-448, shall be required for coverage under the general permit for discharges of stormwater from construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale, though such projects must adhere to the requirements of the general permit.

(3) The VSMP authority permit application shall be submitted to the director for review and shall include:

a. A permit application that includes a general permit registration statement certifying compliance with 9VAC25-880-70. The registration statement must be signed by the operator in accordance with 9VAC25-870-370;

b. An erosion and sediment control plan, developed in accordance with this article; and

c. A stormwater management plan or an executed agreement in lieu of a stormwater management plan that meets the requirements of this article.

(4) No VSMP authority permit shall be issued until:

a. Evidence of general permit coverage is obtained;

b. The fees required to be paid pursuant to section 50-448 are received and a reasonable performance bond, required pursuant to section 50-442 of this article, has been submitted; and

c. Unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development, and drainage will be done according to the approved permit.

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

(c) *Exemptions.*

(1) Notwithstanding any other provisions of this article, the following activities are exempt from land disturbing permit requirements set forth in subsection 50-439(a):

a. Minor land disturbance activities such as home gardens, individual home landscaping, repairs, and maintenance work disturbing less than 10,000 square feet;

b. Individual service connections;

c. 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 disturbance activity is confined to the area of the road, street, or sidewalk which is hard surfaced;

d. 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;

e. Surface or deep mining authorized under a permit issued by the department of mines, minerals, and energy;

f. Exploration or drilling for oil and gas including the well site, roads, feeder lines, and offsite disposal areas;

g. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops or livestock feedlot operations; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally;

h. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures, and facilities of a railroad company;

i. 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, § 10.1-604 through § 10.1-613), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

j. Disturbed land areas of less than 10,000 square feet in size;

k. Installation of fence and sign posts, telephone and electric poles, and other kinds of posts or poles; and,

l. Emergency work to protect life, limb, or property and emergency repairs; however, if the land disturbance activity would have required an approved erosion and sediment control plan had the activity not been an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the City of Bristol.

(2) Notwithstanding any other provisions of this article, the following activities are exempt from VSMP authority permit requirements set forth in subsection 50-439(b) unless otherwise required by federal law:

a. Permitted surface or deep mining operations and projects or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;

b. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

c. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;

d. Land disturbing activities that disturb less than one acre of land area and are not part of a common plan of development or sale that disturbs an acre or more of land except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;

e. Discharges to a sanitary sewer;

f. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

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

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

(Ord. No. 14.05, 6-10-14)

Sec. 50-440. Plan requirements and plan review.

(a) *Stormwater pollution prevention plans.*

(1) The applicant must develop a stormwater pollution prevention plan (SWPPP) prior to a land disturbing activity as part of the VSMP authority permit application required in subsection 50-439(b) of this article. The plan must be implemented and made available for inspection and must meet the requirements of this section.

a. The SWPPP shall include the content specified by section 9VAC25-870-54 and must also comply with the requirements and general information set forth in section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit;

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

c. The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hard copy.

(b) *Stormwater management plans.*

(1) The stormwater management plans developed for land disturbing permits in accordance with subsection 50-439(a)(3) must be developed in accordance with the minimum requirements stated in the most recent editions of the Virginia Stormwater Management Handbook, the Virginia Erosion and Sediment Control Handbook, and the City of Bristol Supplemental Requirements.

(2) Stormwater management plans developed for land disturbing activities subject to VSMP authority permits required in subsection 50-439(b) must be developed, implemented, and updated as necessary, as required by 9VAC25-870-55.

(3) All stormwater management plans must apply the stormwater management technical criteria set forth in section 50-443 of this article to the entire land disturbing activity, consider all sources of runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:

a. Information on the type and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post-development drainage areas;

b. Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;

c. Narrative that includes a description of current site conditions and final site conditions, including information provided and documented during the review process that addresses the current and final site conditions;

d. General description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

e. Information on the proposed stormwater management facilities, including:

1. Type of facilities;

2. Location, including geographic coordinates;

3. Acres treated; and

4. Surface waters or karst features, if present, into which the facility will discharge;

f. Hydrologic and hydraulic computations, including runoff characteristics;

g. Documentation and calculations verifying compliance with the water quality and water quantity requirements of section 50-443 of this article; and

h. Map(s) of the site that depicts the topography of the site and includes:

1. Contributing drainage areas;

2. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

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

4. Current land use including existing structures, roads, and locations of known utilities and easements;

5. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site of these parcels;

6. Limits of clearing and grading and the proposed drainage patterns on the site;

7. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

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

(4) If an operator intends to meet the water quality design requirements and water quantity requirements established in the Virginia Stormwater Management Handbook through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included.

(5) A landscaping plan may also be required, depending upon the type and vegetation requirements of the stormwater management facilities proposed for the land development.

(6) The applicant may be required to submit additional information to allow an adequate review of the site conditions and conformance with the provisions of this article.

(7) Applicants shall submit either a stormwater management plan review fee or a VSMP authority permit fee, whichever is appropriate, in accordance with the fee schedule(s) provided in the appendix to chapter 50 of the Code of the City of Bristol, Virginia.

a. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather, the entire common plan of development shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

b. The stormwater management plan shall be appropriately sealed and signed by a professional engineer registered in the Commonwealth of Virginia in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia and attendant regulations certifying that the plan meets all submittal requirements outlined in this article and is consistent with good engineering practice.

c. A construction record drawing for permanent stormwater management facilities and all components of the stormwater management system shall be submitted to the director. The construction record drawing shall be appropriately signed and sealed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

d. The stormwater management plan shall be subject to any additional requirements set forth in the minimum subdivision regulations, zoning ordinance, or other City of Bristol regulations.

(c) *Review of stormwater management plan.*

(1) The director shall review stormwater management plans and shall approve or disapprove of a stormwater management plan according to the following:

a. The director shall determine the completeness of a plan in accordance with section 50-439 of this article and shall notify the applicant, in writing, of such determination within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.

b. The director shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except if a determination of completeness is not made within the time prescribed in subdivision (a). Then, the plan shall be deemed complete, and the director shall have 60 calendar days from the date of submission to review the plan.

c. The director shall review any plan that has been previously disapproved within 45 calendar days of the date of resubmission.

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

e. If a plan meeting all requirements of this article is submitted and no action is taken within the time provided above in subdivision (b) for review, the plan shall be deemed approved.

(d) *Modifications of approved stormwater management plans.*

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

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

a. The director shall require the submission of a construction record drawing for permanent stormwater management facilities. The director may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to subsection 50-445(a)(2)a.

b. Approved stormwater management plans for residential, commercial, or industrial subdivision shall govern the development of individual parcels, including those parcels developed under subsequent owners.

(e) *Pollution prevention plans.*

(1) The applicant must develop a pollution prevention plan in accordance with VSMP authority permit application required in subsection 50-439(b) of this article. The plan must be implemented and made available for inspection and must meet the requirements of this section.

(2) Pollution prevention plans shall be developed, implemented, and updated as necessary, as required by 9VAC25-870-56. The pollution prevention plans must detail the design, installation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:

a. Minimize the potential for the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated prior to discharge;

b. Minimize the potential for the exposure of all materials present on the site to precipitation and to stormwater; and

c. Minimize the potential for the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

1. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

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

b) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;

c) Fuels, oils, or other pollutants used in vehicle and equipment maintenance washing;

d) Soaps or solvents used in vehicle and equipment washing; and

e) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

(Ord. No. 14.05, 6-10-14)

Sec. 50-441. Exceptions to stormwater management requirements.

(a) *Exceptions.*

(1) The director may grant an exception to the minimum requirements for stormwater management, in whole or in part, only when the following conditions apply:

a. The exception is the minimum necessary to afford relief;

b. It can be demonstrated that the proposed development will not impair attainment of the objectives of the Act, the regulations, and this article;

c. Granting the exception will not confer any special privileges that are denied in other similar circumstances;

d. Exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.

e. Alternative minimum requirements for on-site management of stormwater discharges have been established in a comprehensive stormwater management plan that has been approved by the department, that meets the water quality and quantity objectives herein, and/or where provisions in the comprehensive stormwater management plan are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and has a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

(2) The administrator shall not grant an exception for the requirement that the land disturbing activity obtain required VSMP permit, nor shall the administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the director.

(3) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available through 9VAC25-870-69 have been considered and found not available.

(Ord. No. 14.05, 6-10-14)

Sec. 50-442. Performance bonds.

(a) The director may require the submittal of a performance security or bond with surety, cash escrow, letter of credit, or such other acceptable legal arrangement prior to issuance of a land disturbance permit in order to insure that the stormwater management and drainage facilities are installed by the permit holder as required by the approved stormwater management plan.

(b) The amount of performance security and the provisions thereto shall be determined at the discretion of the director.

(Ord. No. 14.05, 6-10-14)

Sec. 50-443. Stormwater management performance standards.

(a) *Applicability of section.*

(1) The provisions of this section shall be applicable to any land development or land disturbance activity subject to requirements set forth in section 50-439.

(2) All applicable land development or land disturbance activities shall comply with the provisions of this article, the Virginia Stormwater Management Regulations, 49 VAC25-870 et seq., and the City of Bristol Supplemental Requirements.

(3) Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather, the entire common plan of development shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

(b) *Stormwater management technical criteria.*

(1) The design of the stormwater management facilities shall conform to the following technical and design criteria for water quality and water quantity requirements:

a. Standards that are set forth in the most current editions of the Virginia Stormwater Management Handbook and the Virginia BMP Clearinghouse;

b. The City of Bristol Supplemental Requirements;

c. 9VAC25-870-62 through 9VAC25-870-99; and

d. Grandfathering provisions set forth in 9VAC25-870-48.

(2) Where the requirements or standards of these conflict or overlap, the requirement or standard which is more restrictive or imposes higher standards or requirements shall prevail.

(3) Applicants are encouraged to communicate with the director prior to submitting an application for stormwater management plan approval in accordance with section 50-440 to determine if an existing stormwater management plan has been developed for the applicable watershed and approved by the department. If such a plan is in existence, the applicant must provide stormwater management water quality treatment on-site in accordance with the provisions of the existing plan as it conforms to this chapter and 9VAC25-870-92 and other management provisions as specified by director.

(Ord. No. 14.05, 6-10-14)

Sec. 50-444. Requirements for storm drainage systems.

(a) *Applicability of section.*

(1) The provisions of this section shall be applicable to any land development or land disturbance activity having an area equal to or greater than 10,000 square feet of land.

(2) The design of the stormwater drainage system shall conform to the most current edition of the City of Bristol Supplemental Requirements. The criteria set forth in the document shall be applied to both closed conduit and open channel components.

(Ord. No. 14.05, 6-10-14)

Sec. 50-445. Long-term maintenance of stormwater management facilities.

(a) *General requirements.*

(1) Responsibility for the operation and maintenance of stormwater management facilities, unless assumed by the City of Bristol per subsection (c) of this article, shall remain with the land owner and shall pass to any future heir, successor, or owner of the land. If portions of the land are to be sold, legally binding arrangements shall be made to pass the operation and maintenance responsibility to the successors in title. These arrangements shall designate for each stormwater management facility, the land owner or other legally established entity to be permanently responsible for operation and maintenance.

(2) Responsibility for the operation and maintenance of stormwater management facilities shall be set forth in a legally recorded maintenance agreement between the land owner and the city that acts as a property deed restriction. The maintenance agreement shall be prepared in a format acceptable to the director and submitted to the director for review and approval prior to the approval of the stormwater management plan.

a. At the discretion of the director, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the director that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the director.

(3) Stormwater management facilities and stormwater drainage systems shall at all times be properly operated and maintained in such a manner as to maintain the full function of the facilities or system which are installed or used by the land owner(s) to achieve compliance with this article. Maintenance of privately-owned stormwater management facilities shall be performed at the sole cost and expense of the owner(s) of such facilities.

(4) Owner(s) and other persons responsible for maintenance of stormwater management facilities and drainage systems must inspect such facilities annually or as otherwise determined by the director. Said inspection shall document maintenance and repair needs and ensure compliance with the requirements of this article and accomplishment of its purposes. These needs may include removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes; grass cutting and vegetation removal; and necessary replacement of landscape vegetation and any repair or replacement of structural features.

(5) The owner shall submit a facility inspection report to the city based on the schedule established in the operations and maintenance plan per subsection (b). The report shall be certified by a Virginia registered professional engineer or licensed surveyor who is qualified to perform such inspection. The

report shall state the general condition of the facility and whether the infrastructure is functioning properly as originally designed. If the facility is not functioning as designed, a plan for proposed remedial actions and a time-line for completion shall be noted in the report. The plan and time-line for completion are subject to the approval of the director. If the director determines that the proposed plan and time-line is insufficient to protect public safety or public health, the owner of the facility must either submit a new plan and time-line, or the director may take action in accordance with subsection (8).

(6) Parties responsible for the operation and maintenance of a stormwater management facility shall make and keep records of the facility's installation for the life of the facility. The responsible parties shall make records of all maintenance and repairs and shall retain the records for at least five years. These records shall be made available to the director upon request.

(7) All appropriate governmental parties shall be provided access to the facility to perform maintenance and regulatory inspections. Failure to provide access shall constitute a violation of this article and shall be subject to appropriate penalties.

(8) Maintenance agreements are enforceable by all appropriate governmental parties. In the event that maintenance or repair of a stormwater management facility is neglected and/or becomes a danger to public safety or public health, the director can require that corrective actions be performed. The director shall notify the land owner in writing, specifying the corrective actions required and specifying the time within which such measures shall be completed. If the responsible party fails or refuses to meet the requirements of the maintenance agreement, the director, after giving notice of 48 hours, may correct a violation of the design standards or maintenance needs by performing all necessary corrective actions to place the facility in proper working condition, and recover the costs as determined by the director from the owner. If such costs have not been repaid to the city within 60 days of notification of such costs by the director, the City of Bristol may file a notice of lien against the property to secure the cost of bringing the property into compliance with this article as provided by state law including, but not limited to, the collection of the costs as unpaid taxes in the same manner as provided in Code of Virginia, § 58.1-3900 et seq., as amended, repealed, reenacted, or recodified from time to time. This procedure is in addition to such other penalties provided for in the Code of Virginia or in section 50-447.

(b) *Required operations and maintenance plan.*

(1) The applicant shall submit an operations and maintenance plan as part of the stormwater management plan prepared in accordance with section 50-440 of this article for all stormwater management facilities that are shown on the approved stormwater management plan.

(2) The applicant must demonstrate in the operations and maintenance plan the arrangements that have been made such that proper operation and maintenance of stormwater management facilities in accordance with this article will be performed by the current land owner(s) and any heirs, successors, and future landowners at such time that ownership of the land is transferred.

(c) *Maintenance of stormwater facilities by the city.* At the director's discretion, the City of Bristol may accept dedication of any existing or future stormwater management facility for maintenance through execution of a formal maintenance agreement between the land owner and the City of Bristol, provided such facility meets all the requirements of this section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

(Ord. No. 14.05, 6-10-14)

Sec. 50-446. Monitoring and inspections during and after construction.

(a) *General requirements.*

(1) The director shall inspect the land disturbing activity during construction for:

a. Compliance with the approved erosion and sediment control plan;

b. Compliance with the approved stormwater management plan;

c. Development, updating, and implementation of a pollution prevention plan; and

d. Development and implementation of any additional control measures necessary to address a TMDL.

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

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

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

(5) Stormwater management construction inspection shall utilize the final approved plans and specifications for compliance. In addition, the inspection shall comply with latest version of the Erosion and Sediment Control Regulations, promulgated pursuant to Code of Virginia, § 62.1-44.15:58, as may be amended, repealed, reenacted, or recodified from time to time, by the state.

(6) Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted by the director or any duly authorized agent of the director pursuant to the City of Bristol's adopted state board approved inspection program and shall occur, at a minimum, at least once every five years except as may otherwise be provided for in section 50-445.

(b) *Notice of construction commencement.* The applicant must notify the director in advance before the commencement of construction. In addition, the applicant must notify the director in advance of construction of the stormwater management facility.

(c) *Construction inspections.*

(1) The director may perform periodic inspections of the construction of the stormwater management system for conformance with the approved plan. If any violations are found, the land owner shall be notified in writing of the nature of the violation and the required corrective actions.

In addition, the person responsible for carrying out the plan may be required to provide inspection monitoring and reports to ensure compliance with the approved plan and to determine whether the measures required in the plan provide effective stormwater management.

(2) If the director determines that there is a failure to comply with the plan, notice shall be served upon the owner, permittee, or responsible land disturber responsible for carrying out the plan in accordance with section 50-466 of this article.

(d) *Post-construction final inspection.*

(1) Upon completion, the applicant must certify to the city that the completed project was constructed in accordance with the plans and specifications approved per subsection 50-440(b).

(2) A final inspection by the director for conformance with the approved stormwater management plan is required prior to final approval of the project, issuance of a certificate of occupancy, and before the release of any performance securities can occur.

(Ord. No. 14.05, 6-10-14)

Sec. 50-447. Enforcement and penalties.

(a) *Violations.* Any development activity that is commenced or is conducted in violation of this article or the approved plans and permit, as they pertain to stormwater management, shall be subject to the provisions of this section and the Virginia Stormwater Management Act.

(b) *Informal and formal administrative enforcement procedures.*

(1) *Notice of violation.* When the director determines that an activity is not being carried out in accordance with the requirements of this article, the director shall issue a written notice of violation delivered by registered or certified mail to the applicant. The notice of violation shall contain:

a. The name and address of the applicant, permittee, or person subject to article requirements;

b. The address, when available, or a description of the building, structure, or land upon which the violation is occurring;

c. A statement specifying the nature of the violation;

d. A description of the remedial measures necessary to bring the development activity into compliance with this article and a time schedule for the completion of such remedial action;

e. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

f. A statement that the determination of violation may be appealed to the city council by filing a written notice of appeal within 30 days of service of notice of violation; and

g. All written notices shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection (c) or the permit may be revoked by the director.

(c) *Stop work orders.* Persons receiving a notice of violation will be required to halt all land disturbing activities. This "stop work order" will be in effect until the director confirms that the development activity is in compliance and the violation has been satisfactorily addressed. Upon failure to comply within the time specified, the permit may be revoked and the applicant shall be deemed to be in violation of this article and, upon conviction, shall be subject to the penalties provided by this article.

(d) *Civil and criminal judicial enforcement procedures.* Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the director may be compelled in a proceeding instituted in a court of competent jurisdiction by

the City of Bristol to obey the same and to comply therewith by injunction, mandamus, or other appropriate remedy.

(e) *Appeals.* Any decision of the City of Bristol adversely affecting the rights, duties, or privileges of persons engaging in land disturbance activities or owners and/or occupants of properties designated as erosion input areas and ordered to promulgate and follow a stormwater management plan may appeal in writing to the city council within 30 days from the date of written decision of the approving authority for a final decision. Such final decisions may be appealed in accordance with state law. Appeals of decisions rendered by the City of Bristol shall be conducted in accordance with local appeal procedures and shall include an opportunity for judicial review in the circuit court of the City of Bristol. Unless otherwise provided by law, the circuit court shall conduct such review in accordance with the standards established in [Code of Virginia, § 2.2-4027], and the decisions of the circuit court shall be subject to review by the court of appeal.

(f) *Hearings.*

(1) Any permit applicant or permittee, or person subject to article requirements aggrieved by any action of the City of Bristol taken without formal hearing or by inaction of the City of Bristol may demand in writing a formal hearing by the City of Bristol city council causing such grievance, provided a petition requesting such hearing is filed with the director within 30 days after notice of such action is given by the director or duly authorized agent.

(2) Hearings held under this section shall be conducted by the City of Bristol city council at a regular or special meeting of the City of Bristol city council or by at least one member of the city council who is designated by the mayor to conduct such hearings on behalf of the city council at any other time and place authorized by the City of Bristol city council.

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

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

(g) *Penalties.*

(1) Any person who violates any provision of this article or the stormwater management program adopted pursuant to the authority of this article shall be subject to all penalties as authorized by Virginia Code Annotated § 62.1-44.15:48:1. Any person who violates any provision of this article or who fails, neglects, or refuses to comply with any order of the director shall be subject to a civil penalty not to exceed $32,500.00 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

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

a. No state permit registration;

b. No SWPPP;

c. Incomplete SWPPP;

d. SWPPP not available for review;

e. No approved erosion and sediment control plan;

f. Failure to install stormwater BMPs or erosion and sediment controls;

g. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;

h. Operational deficiencies;

i. Failure to conduct required inspections;

j. Incomplete, improper, or missed inspections; and

k. Discharges not in compliance with the requirements of Section 4VAC 50-60-1170 of the general permit.

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

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

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

(h) *[Other penalties.]* Notwithstanding any other civil or equitable remedy provided by the section or by law, any person who willfully or negligently violates any provision of this article, any order of the director, any condition of a permit, or any order of a court shall be guilty of a misdemeanor punishable confinement in jail for not more than 12 months, a fine of not less than $2,500.00 nor more than $32,500.00, or both.

(i) *Restoration of lands.* Any violator may be required to restore land to its undisturbed condition or in accordance with a notice of violation, stop work order, or permit requirements. In the event that restoration is not undertaken within 60 days after notice, the City of Bristol may take necessary corrective action, the cost of which shall be covered by the performance bond, become a lien upon the property until paid, or both.

(j) *Holds on certificate of occupancy.* Certificates of occupancy shall not be granted until all the provisions of the approved stormwater management plan, notice of violation, stop work order, or land disturbance permit requirements have been made.

(Ord. No. 14.05, 6-10-14)

Sec. 50-448. Fees for VSMP authority permits.

Schedule of permit fees is provided in the appendix.

(a) Permit issuance fees. Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP shall be imposed in accordance with the appendix. The applicant will remit 72 percent of the total fee to the City of Bristol and 28 percent to the department. If the project is completely administered by the department, such as may be the case for a state or federal project, or projects covered by individual permits, the entire applicant fee shall be paid to the department. For coverage under the general permit for discharges of stormwater from construction activities, no more than 50 percent of the base fee set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with 9VAC25-870-108. The remaining base fee balance shall be due prior to the issuance of coverage under the general permit for discharges of stormwater from construction activities.

(b) Modification or transfer of registration statement. Fees for the modification or transfer of registration statements for the general permit for discharges of stormwater from construction activities are provided in the appendix. Fees apply to modification or transfer of individual permits or of registration statements for the general permit for discharges of stormwater from construction activities issued by the board. If the state permit modifications result in changes to stormwater management plans that require additional review by the VSMP authority, such reviews shall be subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the state permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in 9VAC25-870-820.

(c) General permit coverage maintenance fees. Annual permit maintenance fees shall be imposed in accordance with the appendix, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, the fees shall apply until the coverage is terminated. General permit coverage maintenance fees shall be paid annually to the City of Bristol, by the anniversary date of general permit coverage. No permit will be issued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a notice of termination is effective. No maintenance fee shall be required for the general permit for discharges of stormwater from construction activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects.

(d) The fees set forth in subsections (a) through (c) above, shall apply to:

(1) All persons seeking coverage under the general permit.

(2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.

(3) Persons whose coverage under the general permit has been revoked shall apply to the Virginia Department of Environmental Quality for an Individual Permit for Discharges of Stormwater From Construction Activities.

(4) Permit and permit coverage maintenance fees outlined under subsection 50-449(c) may apply to each general permit holder.

(e) No general permit application fees will be assessed to:

(1) Permittees who request minor modifications to general permits as defined in section 50-436 of this article. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the director shall not be exempt pursuant to this section.

(2) Permittees whose general permits are modified or amended at the initiative of the City of Bristol, excluding errors in the registration statement identified by the director or errors related to the acreage of the site.

(f) [Incomplete payments.] All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in Code of Virginia, § 58.1-15, and is calculated on a monthly basis at the applicable periodic rate. A ten percent late payment fee shall be charged to any delinquent (over 90 days past due) account. The City of Bristol shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

(Ord. No. 14.05, 6-10-14)

Secs. 50-449—50-465. Reserved.

ARTICLE V. MAINTENANCE OF PREMISES[5]

DIVISION 1. GENERALLY

Sec. 50-466. 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:

Declared nuisance means anything that causes injury or damage to the health or life of any other person or causes an offensive odor, and it shall be unlawful for any person to create such a declared nuisance on his lot or a lot occupied by him, or to allow such a declared nuisance to remain on his lot or a lot occupied by him.

Foul odors means odors emanating from garbage.

Junk means any item, including, but not limited to, dilapidated furniture, appliance, machinery, equipment, building material, automobile parts, tires, or other items which are either in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition.

Litter means all discarded manmade materials, including, but not limited to, waste materials, building materials, business trash, garbage, household trash, industrial waste, refuse, and yard trash as specified in this section.

Loading and unloading area means any loading or unloading space or area used by any moving vehicle for the purpose of receiving, shipping, and transporting goods, wares, commodities, and persons.

Premises means lots, sidewalks, alleys, rights-of-way, grass strips, and curbs up to the edge of the pavement of any public street.

Private property means property owned by any person as defined herein including, but not limited to, yards, grounds, driveways, entrance or passageways, parking areas, storage areas, vacant land, body of water and including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street.

Public property means any area that is used or held out to be used by the public, whether owned or operated by public interest, including, but not limited to, highways, streets, alleys, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public street or body of water.

Responsible person means the driver of the vehicle in violation or his employer or the owner of the vehicle or the prime contractor for the construction site.

Weeds and grass means weeds and grass in excess of 12 inches in height. Heavily wooded lots where equipment cannot maneuver on the lot because of the density are exempt from this article.

(Code 1966, § 11-2)

Cross reference(s)—Definitions generally, § 1-2.

[5]Cross reference(s)—Animals, ch. 14; fire prevention and protection, ch. 42.

Sec. 50-467. Scope and application of article.

It shall be unlawful for any person to trespass on the rights of another through the neglect of property by causing or allowing unsightly litter, weeds and grass, foul odor, dead animals, junk, unsecured appliances, or potentially dangerous devices to remain on or to emanate from property, or to discard or abandon or cause such on public property, private property, vacant lots or any pond, stream or body of water or banks thereof within the limits of the city.

(Code 1966, § 11-1)

Sec. 50-468. Refuse collection.

Refuse collection by the city is determined by chapter 70. Collection practices shall be applied consistently and uniformly to all citizens as specified in chapter 70 of this Code.

(Code 1966, § 11-1)

Sec. 50-469. Administration and enforcement.

(a) The administration and enforcement of the provisions of this article shall be the duty of the designated official of the city except as otherwise stated.

(b) A designated official shall have the authority to summarily remove, abate, or remedy everything in the city limits that is considered by ordinance to be either dangerous or prejudicial to the public health or which has been declared to be a nuisance, but the city shall not be required to do so.

(Code 1966, § 11-3)

Sec. 50-470. Cleanup of premises by city government authorized.

(a) Ten days after due notice is given to any owner, agent, occupant, or lessee of any private property to remove litter from the premises, the public works department is authorized to clean up such private property and bill the owner, or his agent, for the costs thereof. If the bill has not been paid within 30 days, execution may be issued by the public works department against the property for the amount expended in the cleaning work, and such execution shall constitute a lien on the property until the claim has been satisfied.

(b) Execution of the notice to remove litter shall be in writing, and shall be in the form of a letter sent postage paid to any of the persons set forth in subsection (a) of this section or to the address for the property shown on the tax books.

(Code 1966, § 11-4)

Sec. 50-471. Discarding or abandoning containers; precautions required.

(a) It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space which is airtight, without first removing the door or doors or hinges from such icebox, refrigerator, container, device or equipment.

(b) This section shall not apply to any icebox, refrigerator, container, device or equipment which is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or

wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.

(c) Any violation of the provisions of this section shall be punishable as a class 3 misdemeanor.

(Code 1966, § 11-8)

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

Sec. 50-472. Removal of junk.

It shall be unlawful for any person to have on his premises materials that would create a littered condition such as dilapidated furniture, appliances, machinery, equipment, building material, automobile parts, tires or any other items which are in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition, which are not completely enclosed within a building or dwelling. Automobile parts, with the exception of four rimless tires, will not be collected by city sanitation personnel, and, therefore, must be disposed of by the owner or occupant of the premises. After notice of violation of this section, it shall be unlawful to allow any such items to remain on the property of the occupant or owner for any period longer than seven days. This shall not apply to authorized junk dealers or establishments licensed to engage in the repair, rebuilding, reconditioning, or salvaging of equipment.

(Code 1966, § 11-10)

Cross reference(s)—Traffic and vehicles, ch. 86.

Sec. 50-473. Unauthorized accumulations.

It shall be unlawful for any person to scatter, cast, throw, place, sweep or deposit anywhere within the city any litter in such a manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property or private property. Any unauthorized accumulation of litter is hereby declared to be a public nuisance and is prohibited. Failure of an owner or occupant of property to remove or correct any such accumulation of litter within seven days after appropriate notice from the designated official shall be a violation of this article.

(Code 1966, § 11-11)

Sec. 50-474. Litter-free condition required.

It shall be unlawful for any person occupying a single residential unit, multiple residential unit, city-served nonresidential establishment, or noncity-served establishment, each of which is defined in chapter 70, to fail to store his refuse in containers as specified herein so as to eliminate wind-driven debris and unsightly litter in and about their premises or establishments in order to have a clean, neat and sanitary premises or fail to immediately clean up any spillage and overflow as it occurs. Approved methods of containerization, including refuse receptacles, bulk containers, and detachable containers, are set forth in chapter 70 of this Code.

(Code 1966, § 11-21)

Sec. 50-475. Construction and demolition sites.

(a) It shall be unlawful for any construction and/or demolition contractor to fail to provide on-site refuse receptacles, bulk containers, or detachable containers for loose debris, paper, building material waste, scrap building material, and other trash produced by those working on the site. All such material shall be

containerized by the end of each day, and the site shall be kept in a reasonably clean and litter-free condition. The number of refuse receptacles, bulk containers or detachable containers shall be determined by the size of the job. Dirt, mud, construction materials or other debris deposited upon any public or private property as a result of the construction or demolition shall be removed daily by the contractor. Construction sites shall be kept clean and orderly at all times.

(b) Where mud, dirt, concrete, sticky and other substances, litter or foreign matter have been tracked or deposited on any street, public property, or private property, it shall be immediately removed by the person responsible. The term "responsible person" used in this section shall mean the driver of the vehicle which deposited or tracked the mud, dirt, sticky substances, litter or foreign matter onto the street or his employer or the owner of the real property or prime contractor in charge of a construction site from where such originated. In addition to any other remedy, the designated official is hereby empowered to issue a citation to violators of this section which shall carry a class 4 misdemeanor penalty, and each and every day during which a violation occurs shall be a separate and distinct offense, or civil penalty based on costs of cleanup.

(Code 1966, § 11-22)

Sec. 50-476. Loading and unloading areas.

It shall be unlawful for any person maintaining a loading or unloading area to fail to containerize any loose debris, paper, packaging materials and other trash.

(Code 1966, § 11-23)

Sec. 50-477. Parking lots.

All parking lots and establishments with parking lots shall provide refuse receptacles distributed within the parking area. The designated official shall have the authority to determine the number of receptacles necessary to provide proper containerization. Such receptacles shall be weighted or attached to the ground as necessary to prevent spillage. It shall be the responsibility of the owner or the manager of the parking lot to collect the refuse and trash deposited in such containers and store this material in an approved location for collection. It shall be the obligation of all persons using parking lot areas to use such refuse receptacles or containers as hereinabove provided for the purposes intended. It shall be unlawful for any person to dump, scatter, or throw upon such parking lot area any refuse, garbage, or trash of any kind.

(Code 1966, § 11-24)

Sec. 50-478. Stagnant water, offensive matter, nuisances, on private property.

If any person shall have or suffer any noxious, unwholesome or offensive matter, stagnant water or nuisance of any kind, in any house or cellar, or upon any other private property owned or occupied by him, he shall be fined not less than $1.00 nor more than $20.00; provided, however, that if any such nuisance is caused or arises from the want of proper or sufficient draining not caused by the occupant or lessee, the occupant or lessee of any lot or tenement, if he is not the owner thereof, shall not be fined for such nuisance, if immediately after the existence of the same he gives notice thereof to the owner; and unless, after such notice, the owner abates or removes such nuisance, by proper and sufficient draining or otherwise, within such time as the judge of the municipal court may prescribe, he shall be punished as provided in section 1-8.

(Code 1966, § 15-39)

Secs. 50-479—50-490. Reserved.

DIVISION 2. WEEDS, TRASH, MOSQUITOES, RATS, SNAKES[6]

Sec. 50-491. Cutting of vegetation required; declaration of nuisance.

It shall be unlawful for the owner and occupant of property to fail to cut grass, weeds, and other overgrown vegetation on property when the grass, weeds, and other overgrown vegetation is of a greater height than one foot on the average, or to permit the said property to serve as a breeding place for mosquitos, as a refuge for rats and snakes, as a collecting place for trash and litter, or as a fire hazard, any one of which situations is declared to be a nuisance.

(Code 1966, § 11-31)

Sec. 50-492. Frequency of cutting; vacant lots.

It shall be the duty of the owner and occupant to cut and remove all grass, weeds, and other overgrown vegetation as often as necessary so as to comply with this division. Vacant lots adjacent to improved property shall be kept cut within 100 feet of such improved property and shall be cut at least three times per year, as required during the growing season (April through September).

(Code 1966, § 11-32)

Sec. 50-493. Accumulation of leaves unlawful.

It shall be unlawful for any person to place or allow to be placed or to permit to continue the accumulation of leaves from their premises to be on a public street, sidewalk, grass strip between a paved sidewalk and street, or on an area that pedestrians would be expected to use to walk upon parallel to a public street, or a median strip within a public right-of-way. This section shall not apply to the accumulation of leaves along a public right-of-way for the purpose of collection by the city.

(Code 1966, § 11-33)

Sec. 50-494. Authority to abate noncompliance.

A designated official shall have the authority to enter upon property, to obtain from a magistrate or other judicial officer an administrative search warrant as necessary, to issue a notice of violation, to enter upon or authorize an agent to enter upon and clean up the premises if there is not compliance with the notice of violation within ten days, and to file a notice of lien against the property in the event that the city seeks to secure the cost of bringing the property into compliance with this division through the collection of the costs as unpaid taxes.

(Code 1966, § 11-34)

Secs. 50-495—50-505. Reserved.

[6]State law reference(s)—Removal of weeds, trash, garbage, etc., Code of Virginia, § 15.1-11.

DIVISION 3. VIOLATIONS

Sec. 50-506. Penalty for violation of article.

Except as otherwise provided in this division, any person convicted of violating any part of this article shall be guilty of a class 4 misdemeanor.

(Code 1966, § 11-81)

Sec. 50-507. Areas surrounding commercial establishments and institutions.

It shall be the duty of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding area clear and free of litter. These areas include, but are not restricted to, public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots which are owned or leased by such establishment or institution.

(Code 1966, § 11-86)

Sec. 50-508. Keeping residential property clean.

It shall be the duty of each residential property owner and tenant to keep all exterior private property free of litter. These areas shall include, but not be restricted to, sidewalks, alleys, and driveways; yards and grounds; fences, walls, and property lines; drainages; and vacant lots in residential areas.

(Code 1966, § 11-87)

Sec. 50-509. Keeping sidewalks clean.

Each owner, agent, occupant, or lessee whose property faces on city sidewalks, or strips between street and sidewalk, shall be responsible for keeping such sidewalk and strips free of litter.

(Code 1966, § 11-88)

Sec. 50-510. Sweeping litter into the street.

It shall be unlawful to sweep or push litter from sidewalks into streets. Such litter shall be deposited in a proper receptacle which shall be covered to prevent scattering by wind and animal.

(Code 1966, § 11-89)

Sec. 50-511. Construction and demolition sites.

(a) It shall be unlawful for any owner, agent, or contractor to permit the accumulation of litter before, during or after completion of any construction or demolition project.

(b) It shall be the duty of the owner, agent, or contractor in charge of a construction or development site to furnish litter receptacles and to collect and contain to prevent scattering other bulk litter on a daily basis. All litter shall be removed from such site not less than once a week.

(Code 1966, § 11-90)

Sec. 50-512. Handbills and advertising material.

It shall be unlawful for any person distributing commercial handbills, leaflets, flyers, or any other advertising and information material to distribute material in such a manner that it litters either public or private property.

(Code 1966, § 11-91)

Sec. 50-513. Littering prohibited.

(a) It shall be unlawful for any person to drop, deposit, discard, or otherwise dispose of litter in or upon any public or private property within the city, including, but not restricted to, any street, sidewalk, park, body of water, vacant or occupied lot, except in public receptacles, or in authorized private receptacles provided for public use, or in an area designated by the state department of health as a permitted disposal site.

(b) Any person convicted of violating this section shall be guilty of a class 2 misdemeanor. A sentence of not more than 200 hours of community service of picking up litter is an alternative which may be considered by the court in lieu of a fine or jail sentence.

(c) When a violation of the provisions of this section has been observed by any person, and the matter dumped or disposed of in the highway, right-of-way, property adjacent to such highway or right-of-way, or private property has been ejected from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting such trash, garbage, refuse or other unsightly matter; provided, however, that such presumption shall be rebuttable by competent evidence.

(Code 1966, § 11-96)

Sec. 50-514. Enforcement of litter laws; prosecution; presumption.

(a) Enforcement officers of the police department and other law enforcement personnel with powers of arrest are hereby empowered to issue citations to, or arrest persons violating any provision of this article, and may serve and execute all warrants, and other process issued by the court in enforcing provisions of this article. In addition, mailing by registered mail of such process to his last known place of residence shall be deemed as personal service on the person charged, for the purpose of this division.

(b) The officers of the following departments also shall be empowered to issue citations, but do not have the power of arrest: public works, building code, planning, fire, health, parks and recreation, and environs control.

(c) Prosecution for a violation of any provision of this division may be initiated by any law enforcement officer who witnesses such offense or who discovers an article of litter bearing a person's name or address on the property of another, or any public highway, street or road, upon a public park or recreation area, or upon any other public property except property that is designated for solid waste disposal. Such prosecution may be initiated by any private citizen who witnesses an offense or discovers evidence.

(d) Any article of litter bearing a person's name or address, found on the property of another, or on any public property as designated herein, shall be presumed to be the property of such person whose name or address

appears thereon, and that such person placed or caused to be placed such article of litter; provided, however, that such presumption shall be rebuttable by competent evidence.

(e) Except as otherwise provided, whenever any person is arrested for a violation of this article, the arresting law enforcement officer will take the name and address of such person and issue a complaint, summons or otherwise notify him in writing to appear at a time and place to be specified in such complaint or notice. Such time shall be at least five days after such arrest unless the person arrested shall demand an earlier hearing. Such officer shall thereupon, and upon the giving by such person of his written promise to appear at such time and place forthwith, release him from custody. Any person refusing to give such written promise to appear shall be treated as in the manner of other violations of city ordinances.

(f) Upon the failure of such person to comply as herein provided, the clerk of the court named in such summons shall summon such person to appear in such court to answer the charge of the violation of this article.

(Code 1966, § 11-98)

DIVISION 4. RENTAL CERTIFICATE OF COMPLIANCE

Sec. 50-515. Findings, designation of rental inspection districts.

(a) The city council finds that certain residential rental dwelling units, when not the subject of an initial inspection or periodic inspections to ensure compliance with applicable building maintenance regulations, may become unsafe, a public nuisance, and unfit for human habitation.

(b) The city council further finds that within certain residential housing areas within the city, designated as rental inspection districts, there is a need to protect the public health, safety and welfare of the occupants of residential rental dwelling units; that such residential rental dwelling units are either (i) blighted or in the process of deteriorating, or (ii) in need of inspection by the city to prevent deterioration, taking into account the number, age and condition of the residential dwelling rental units; and that the inspection of residential rental dwelling units is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspection districts.

(c) There are hereby created rental inspection districts pursuant to Code of Virginia, § 36-105.1:1, as amended. Such districts are as delineated on a map entitled, "Rental Inspection Districts, Bristol, Virginia" dated _____, prepared by and maintained in electronic format by the Geographic Information System (GIS) Coordinator's office, a copy of which is on file and available for public inspection in that office at City Hall, 300 Lee Street, Bristol, Virginia.

(d) The boundaries of the rental inspection districts are as set forth below.

(1) *Southeast Inspection District (Census Tract 203 blocks 1 and 2):* The location and boundaries of the southeast rental inspection district established by this chapter shall correspond to the boundaries of Census Tract 203 which is bounded on the north by East Valley Drive and King Mill Pike; on the east by the city limit boundary with Washington County, VA; on the south by the Tennessee state line; and on the west by the Norfolk and Southern main line.

(2) *Central inspection district (Census Tract 202 blocks 2, 3, and 4):* The location and boundaries of the central rental inspection district established by this chapter shall be composed of the southern portion of Census Tract 202, bounded by the Euclid Avenue, Lee Highway, and West Valley Drive on the north side; by the Norfolk-Southern main line on the east side; by the Tennessee state line on the south side; and by the former railroad line on the west side.

(Ord. No. 23-5, 3-14-23)

Sec. 50-516. 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:

Building code means that portion of the building code entitled, "Virginia Maintenance Code," as referred to and adopted by reference in sections 50-562 and 50-563 of this Code, and any amendments to, or subsequent editions of, the Virginia Maintenance Code.

Code official means the person charged with enforcing the building code as that term is defined in this article.

Dwelling unit means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household. The term "dwelling unit" includes, but is not limited to condominiums, efficiencies, townhomes, apartments, manufactured or mobile homes, single-family homes, two-family homes, or multifamily homes. The term "dwelling unit" shall not include hospitals, nursing homes, convalescent homes or similar facilities providing medical care to the aged, infirm or disabled, or hotels, motels, inns and other establishments held out for transients, unless such establishments rent primarily to occupants for more than thirty (30) continuous days.

Inspection or *inspected* means an inspection conducted by the building code official.

Managing agent means any person having the authority, singly or in combination with another, to enter into an agreement for the occupancy of property subject to this article.

Multifamily development means any building or any series of buildings, consisting of more than ten dwelling units, occupied for valuable consideration, on a single lot or adjacent lots under common ownership. The term "multifamily development" shall not include mobile homes under common ownership in a mobile home park or subdivision, and such term shall not include single-family homes, two-family homes, or townhouses under common ownership.

Owner means a person shown on the current real estate assessment books or current real estate assessment records as a person holding title to real property in the city. The word "owner" shall not include any person who merely holds a deed of trust on real property.

Property means dwelling units which are leased or rented, in whole or in part, to tenants.

Rental inspection district means a district established by city council which is subject to this article.

Residential rental dwelling unit means a dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit, unless a tenant occupies a part of the dwelling unit which has its own cooking and sleeping areas, and a bathroom.

Tenant means any person who is not an owner of the dwelling unit or residential rental dwelling unit which he occupies.

(Ord. No. 23-5, 3-14-23)

Sec. 50-517. Applicability.

(a) The provisions of this article shall apply to (i) all residential rental dwelling units which are located in a rental inspection district, or (ii) a residential rental dwelling unit located outside such districts and declared by city council to be subject to this article pursuant to Code of Virginia, § 36-105.1:1, as amended, and only under the following basis: City council makes a separate finding for said individual rental dwelling unit that:

(1) There is a need to protect the public health, welfare and safety of the occupants of that individual rental dwelling unit;

(2) The individual rental dwelling unit is either (a) blighted or (b) in the process of deteriorating; or

(3) There is evidence of violations of the building code that affect the safe, decent and sanitary living conditions for occupants of such individual rental dwelling unit. Upon said finding by the city council, said rental dwelling unit shall be subject to this section, notwithstanding its location outside the inspection districts.

Any residential rental dwelling unit located outside such districts but declared by city council to be subject to the provisions of this article shall be identified on a map entitled, "Rental Inspection Districts, Bristol, Virginia" dated _____, prepared by and maintained in electronic format by the Geographic Information System (GIS) Coordinator's office, a copy of which is on file and available for public inspection in that office at City Hall, 300 Lee Street, Bristol, Virginia.

(b) Subsection (a) of this section notwithstanding, the provisions of this article shall not apply to any residential rental dwelling unit unless and until the city has complied with the notice requirements set forth in Code of Virginia, § 36-105.1:1(C), as amended.

(Ord. No. 23-5, 3-14-23)

Sec. 50-518. Notification to city by owners of residential rental dwelling units.

(a) Any owner of a residential rental dwelling unit shall notify the code official by completing an application for residential rental inspection prepared by the building code official.

(b) The notification requirements of this section shall be met by the owner or owners of any residential rental dwelling unit not more than 90 days after the adoption of this division. The notification requirement of this section for any residential rental dwelling unit created over 60 days after the date of enforcement of this division shall be met within 30 days after the creation of the residential rental dwelling unit or the issuance of a certificate of occupancy under the building code pertaining to the residential rental dwelling unit, whichever is the first to occur.

(c) The penalty for the willful failure of an owner of a residential rental dwelling unit to comply with the provisions of this section shall be a civil penalty of $50.00.

(Ord. No. 23-5, 3-14-23)

Sec. 50-519. Initial inspection of a residential rental dwelling unit.

(a) Upon complying with the notification requirements set forth in Code of Virginia, § 36-105.1:1, as amended, the code official may proceed to inspect any residential rental dwelling unit to determine if the dwelling unit complies with the provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants of such dwelling unit.

(b) Subsection (a) of this section notwithstanding, if a multifamily development has more than ten dwelling units, the code official may inspect not less than two and not more than ten percent of such dwelling units in the multifamily development. The selection of the units to be inspected is at the discretion of the code official. If the code official determines upon conducting such inspections that there are violations of the building code which affect the safe, decent and sanitary living conditions for the tenants of such multifamily development, the code official may inspect as many dwelling units as necessary within the multifamily development to enforce the building code.

(Ord. No. 23-5, 3-14-23)

Sec. 50-520. Exemptions.

(a) Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article, and provided that there are no violations of the building code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the code official shall issue to the owner of such residential rental dwelling unit a rental certificate of compliance from the inspection requirements of this article. The issuance of a rental certificate of compliance shall exempt the owner or managing agent from the requirements of inspections within this article for a period of four years from the date on which the certificate is issued.

(b) If a residential rental dwelling unit has been issued a certificate of occupancy for compliance with the building code within the last four years, the code official shall issue a rental certificate of compliance for four years from the date of the issuance of the certificate of occupancy by the building official.

(c) If a residential rental dwelling unit which is exempt from this article pursuant to this section becomes in violation of the building code during the exemption period, the code official may revoke the exemption previously granted under this section. Prior to any such revocation, the code official shall send by first class mail written notice to the owner or managing agent of such residential rental dwelling unit, specifying the nature of the violations found and the date upon which the revocation of the rental certification of compliance will take effect. Proof of mailing of the last known address of the owner or managing agent of the property, by affidavit or otherwise, shall be sufficient evidence that the notice was received.

(d) A rental certificate of compliance shall be issued upon the city building official's written determination that a residential rental dwelling unit has been the subject of a building permit for substantial rehabilitation or repair and if such rehabilitation or repair is completed and meets the requirements of the building code; and if the extent of the rehabilitation or repair of the entire building or structure in which the residential rental dwelling unit is located is the equivalent of new construction of such building or structure with respect to the general public health, safety and welfare.

(e) The exemptions contained in this section notwithstanding, upon the sale of a residential rental dwelling unit, the code official may perform an initial inspection as provided in section 50-519 of the Code of the City of Bristol, as amended, subsequent to such sale. The new owner shall provide updated information to the city for its rental inspection records.

(f) In no event does the issuance of a rental certificate of compliance serve to exempt the owner, managing agent or tenant from compliance with all applicable statutes, laws, and ordinances, including the building code.

(Ord. No. 23-5, 3-14-23)

Sec. 50-521. Follow-up inspections.

Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article, the code official may require the owner of the dwelling unit to submit to such follow-up inspections of the dwelling unit as the code official deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants.

(Ord. No. 23-5, 3-14-23)

Sec. 50-523. Periodic inspections.

Except as provided in sections 50-520(e) and 50-521 of the City Code, following the initial inspection of a residential rental dwelling unit subject to this article, the code official may inspect a residential rental dwelling unit subject to this article, which is not otherwise exempt from this article, no more than once each calendar year.

(Ord. No. 23-5, 3-14-23)

Sec. 50-524. Requirement of certificate of compliance.

It shall be unlawful for any owner, managing agent or person in control of a dwelling unit located in a rental inspection district, or otherwise subject to this division under section 50-517(a)(2), to rent or lease such a dwelling unit when such dwelling unit fails to comply with the requirements contained in this article.

(Ord. No. 23-5, 3-14-23)

Sec. 50-525. Records of rental certificate of compliance.

(a) All current rental certificates of compliance shall be kept on file either in hard or digital file in the city building division offices.

(b) No person shall deface or alter a current rental certificate of compliance in connection therewith, in whole or in part, without the written permission of the building code official.

(Ord. No. 23-5, 3-14-23)

Sec. 50-526. Fees.

The fees for initial, follow-up and periodic inspections shall be as set forth in the fee schedule as amended from time to time by the city council, and in compliance with Code of Virginia, § 36-105.1:1.

(Ord. No. 23-5, 3-14-23)

Sec. 50-527. Appeals.

(a) Any person aggrieved by any determination or decision of the code official made pursuant to this article shall have the right to appeal such determination or decision within 14 calendar days of such determination to the city manager for the city. Notice of such appeal shall be in writing, on forms provided by the building code official, shall specify the grounds of appeal, and shall be delivered to the city manager prior to the expiration of the 14 calendar day period. The city manager, or his designee, shall meet with the person aggrieved by the determination or decision of the code official within five business days of receipt of such notice of appeal to consider the appeal, unless the owner or his managing agent agrees, in writing, to an extension. Any such aggrieved person may request that the city manager invite to the meeting persons deemed helpful in resolving the dispute. The city manager shall render his decision within five business days after such meeting.

(b) Any person aggrieved by any determination or decision of the city manager made pursuant to this article shall have the right to appeal such determination or decision in accordance with the provisions of the building code.

(c) Nothing in this article shall be construed to limit, impair, alter or extend the rights and remedies of persons in their relationship of landlord and tenant as such rights and remedies exist under applicable law.

(d) Nothing in this article shall be construed to relieve or exempt any person from otherwise complying with all applicable laws, ordinances, standards and regulations pertaining to the condition of buildings and other structures.

(e) Nothing in this article shall be construed to limit the authority of the code official to perform housing inspections in accordance with applicable law.

(Ord. No. 23-5, 3-14-23)

Sec. 50-528. Violation and penalty.

Any person willfully failing to comply with the inspection requirements of this article or the Virginia Uniform Statewide Building Code shall be subject to the criminal penalties established in Code of Virginia, § 36-106 and any amendment or recodification thereof. The city may take such further actions as allowed by applicable law in order to obtain compliance with the requirements of this article including, but not limited to, seeking injunctive relief under Code of Virginia, § 15.2-1432 and obtaining inspection warrants as provided in Code of Virginia, § 36-105C3.

After being notified by this office, owners of rental dwelling units within the rental inspection district are required to:

(1) Register all rental dwelling units located within the rental inspection district. Failure to register units shall result in a civil penalty of $50.00.

(2) Obtain a certificate of compliance inspection. Owners who fail to obtain an inspection shall be subject to a fine of not more than $2,500.00.

(3) Effect compliance within the time period specified in a temporary certificate of compliance. Owners who fail to comply with a notice of violation within the specified time period shall be subject to a fine of not more than $2,500.00.

(4) Each day the violation(s) continue shall be deemed a separate offense.

(Ord. No. 23-5, 3-14-23)

Sec. 50-529. Alternative remedies.

In addition to any penalty imposed for a violation of this chapter, any such violation may be corrected, removed or abated through court order or an appropriate suit in equity.

(Ord. No. 23-5, 3-14-23)

Sec. 50-530. Policy and procedures.

The city manager is authorized to implement policies and procedures not inconsistent with the terms of this article.

(Ord. No. 23-5, 3-14-23)

Secs. 50-531—50-535. Reserved.

ARTICLE VI. PUBLIC NUISANCES[7]

Sec. 50-536. Violations.

Unless otherwise specified, any person violating any provision of this article shall be guilty of a Class 2 misdemeanor. Each day a violation continues shall be deemed a new and separate violation. In addition to any penalties imposed for each violation, a judge hearing the case shall order the person responsible for such condition to remove, restore, remediate or correct the violation or condition, and each day's default in such removal, restoration, remediation or correction after being so ordered shall constitute a violation of and a separate offense under this article.

(Ord. No. 05.17, 6-14-05)

Sec. 50-537. Definitions.

(a) For purposes of this article, a "nuisance" is defined as any condition, substance, material or thing which may be annoying, obnoxious, offensive, irritating or detrimental or potentially hazardous or detrimental to the health, safety, comfort and general welfare of the public or the environment, including but not limited to, refuse, trash, rubbish, debris, junk, garbage, containers, wire, glass, wood, ashes, animal matter, vegetable matter, human and animal waste, and odors, except for noises, vibrations, and odors in manufacturing zones designed to accommodate the same.

(b) For purposes of this article, a "person" is defined as any individual, firm, owner, sole proprietorship, partnership, corporation, unincorporated association, governmental body, Municipal Corporation, executor, administrator, trustee, guardian, agent, occupant or other legal entity.

(c) For purposes of this article, "vegetation" is defined in section 50-491 of this Code.

(Ord. No. 05.17, 6-14-05)

[7]Editor's note(s)—Ord. No. 05.17, adopted June 14, 2005, repealed art. VI, §§ 50-536—50-538, in its entirety and enacted a new art. VI, §§ 50-536—50-543, to read as set out herein. Former art. VI, §§ 50-536—50-538, pertained to similar subject matter. For a complete history of former art. VI, §§ 50-536—50-538 see the Code Comparative Table.

Charter reference(s)—Abatement and removal of public nuisances, § 2.06(5); sale for expense of abating nuisance, § 11.03(B).

State law reference(s)—Municipal abatement of nuisances, Code of Virginia, § 15.1-14(5); action for abatement of nuisance or the costs thereof, Code of Virginia, § 15.1-29.21; municipal power to have nuisances removed, collection of costs, Code of Virginia, § 15.1-867.

Sec. 50-538. Enforcement.

(a) The environs control officer or his designee is hereby vested with the authority to require the abatement of any and all conditions in the city, which constitute a nuisance or are detrimental to the public health, safety or welfare or the environment.

(b) It shall be the duty of the environs control officer or his designee to have made continuous sanitary inspections of all parts of the city and to cause all nuisances to be abated; and when necessary, to institute legal proceedings therefore and for the recovery of expenses incurred by the city in abating any nuisance.

(c) Any law enforcement office, fire marshal or any of his assistants, fire inspectors, or sworn special police office, is authorized and shall have authority to enforce all provisions of this chapter.

(Ord. No. 05.17, 6-14-05)

Sec. 50-539. Notice of violation.

(a) Whenever it shall come to the knowledge of the environs control officer or his designee, or persons specified in subsection 50-538(c), that there exists upon any land or premises in the city any nuisance, such person shall serve, post, mail, or deliver a notice to any of the following to cause such nuisance to be abated from such land or premise within 48 hours or in the time limit set forth in the notice.

(1) The person causing or creating the nuisance;

(2) The person allowing the nuisance to remain or continue;

(3) The occupant of the land or premises; and/or

(4) The owner of the land or premises.

Proof of such service, delivery, mailing or posting shall be sufficient evidence of such service of notice.

(b) Notwithstanding the above, in the event the environs control officer, or his designee or the person specified in subsection 50-538(c) determines that the nuisance constitutes an imminent, substantial or compelling threat to the public health or the environment, the notice requirement shall be dispensed with, and the procedure provided in section 50-543 may be utilized.

(c) Any person issued a notice of violation pursuant to this section who shall fail to comply therewith within the time specified shall be guilty of a Class 2 misdemeanor. Any person receiving two or more notices within 12 months of an initial violation notice and who fails to comply with a notice issued pursuant to this section shall be guilty of a Class 1 misdemeanor.

(Ord. No. 05.17, 6-14-05)

Sec. 50-540. Executor, trustee, agent, etc. deemed owner of property for purposes of chapter.

When any person is in possession of any property, or has charge thereof, within the city as executor, administrator, trustee, guardian, or agent, such person shall be deemed to be the owner of such property for the purposes of this article and shall be bound to obey all orders of the environs control officer, or his designee, in regard to nuisances, sanitation, or other matters, so far as the same may affect such property, in the same manner, and subject to the same penalties and fines, as if such person were actually the owner of such property.

(Ord. No. 05.17, 6-14-05)

Sec. 50-541. Notice of abatement by city: abatement by city.

(a) If a nuisance remains upon a land or premises after the expiration of the time specified in a notice of violation, the environs control officer, or his designee, may issue a notice of abatement to such person identified in the notice of violation informing said person that the environs control officer or his designee will cause the nuisance to be abated at the expense of such person in the time set by the environs control officer. An administrative fee shall be assessed in each case as permitted by Code of Virginia section 58.1-3958. The expense of abatement and the administrative fee shall be chargeable against such person

(b) The notice of abatement may be served, mailed or delivered to said person, or posted on the land or premises where the nuisance is located. Proof of such service, delivery, mailing or posting shall be sufficient evidence of such service of notice.

(c) Notwithstanding the above in the event the city manager or his designee determines that the nuisance constitutes an imminent, substantial or compelling threat to the public health or to the environment the notice requirement herein shall be dispensed with.

(d) Notwithstanding the above, the notice of violation specified in section 50-539 and the notice of abatement specified in this section can be combined in one document and issued as provided in this article.

(e) The expense of the abatement and the administrative fee shall constitute a lien on real property of the owner ranking in parity with liens for unpaid local taxes and shall be reported to the city treasurer who shall collect the same in the manner in which city taxes levied upon real estate are authorized to be collected.

(f) Abatement by the city shall be exclusive of an in addition to any criminal penalty, which may be imposed.

(Ord. No. 05.17, 6-14-05)

Sec. 50-542. Duty of owner or occupant of abutting land to remove solid waste and to cut grass, weeds and other vegetable matter between sidewalk and curb.

It shall be the duty of the owner or occupant of any land or premises abutting upon any public right of way, including between the sidewalk and curb, whether paved or not, and the duty of the owner of any unoccupied land or premises abutting upon any public right-of-way, including between the sidewalk and curb, whether paved or not, to remove solid waste (as defined in the City Code), therefrom and to have any grass, weeds, and other vegetable matter cut and removed, and at all times to prevent such area from becoming unsightly, impeded, or offensive by reason of failure to remove any such solid waste (as defined in the City Code), or cut any such grass, weeds and vegetables matter. No grass, weeds or other vegetable matter so cut shall be deposited or piled in any gutter or street, or storm water system. The occupant or the owner, or if unoccupied, the owner, of any such land or premises in front of which any such solid waste (as defined in the City Code) or any such grass, weeds or vegetable matter is found contrary to the provisions of this section, shall be prima facie the person responsible therefore. Nothing in this section shall be construed as authorizing any person to cut or remove any city tree or bush without first obtaining a permit from the city manager or his designee.

(Ord. No. 05.17, 6-14-05)

Sec. 50-543. Placarding of structure, building or facility, which constitutes imminent, substantial or compelling threat to public health or safety; unlawful to occupy or use once placarded.

In the event the environs control officer or his designee determines that the nuisance constitutes an imminent, substantial or compelling threat to the public health or the environment, the environs control officer or his designee may placard the structure, building or facility as unfit or unsafe for human occupancy or use. The placard shall be posted at all normal means of egress to the structure, building or facility. As soon as possible after placarding, the environs control officer or his designee shall mail or deliver a notice to the owner(s) or occupant(s) of the structure, building or facility informing such person of the reason for placarding and the penalty for occupancy or reuse while placarded. Once the structure, building or facility is placarded, the occupancy or use shall be prohibited. Occupancy in or use of a placarded structure, building or facility shall constitute a Class 1 misdemeanor. No reoccupancy or reuse shall occur until the environs control officer or his designee approves in writing the reoccupancy or reuse. Removal of a placard without permission of the environs control officer or his designee shall constitute a Class 1 misdemeanor.

The public good requiring it, an emergency is declared and this article shall become effective immediately upon one reading and adoption.

(Ord. No. 05.17, 6-14-05)

Secs. 50-544—50-560. Reserved.

ARTICLE VII. BUILDINGS AND BUILDING REGULATIONS[8]

DIVISION 1. GENERALLY

Sec. 50-561. Boundaries of inner fire districts; outer fire district.

(a) The boundaries of the inner fire districts in the city shall be as follows:

(1) *Part I.* Beginning at a point in the centerline of Valley Drive at the east line of the Norfolk & Western Railway right-of-way and running northeast with the railway right-of-way to the corporate limits of the city; thence southeast with the corporate limits to the centerline of Beaver Creek; thence southwest with Beaver Creek to the centerline of Valley Drive; thence west with the centerline of Valley Drive to the Norfolk & Western Railway right-of-way, the point of beginning.

(2) *Part II.* Beginning at the point of intersection of the centerlines of Short Street and State Street; thence west along the state line to the corporate limits; thence northwest along the corporate line to the centerline of North Street; thence east along the centerline of North Street to a point 200 feet west of the Gate City Highway; thence northwest along a line parallel with and 200 feet west of the Gate City Highway to a point in the centerline of Osborne Street extended; thence north along the centerline of Osborne Street extended and continuing with the centerline of Osborne Street to a point 500 feet east of the Gate City Highway; thence southeast in a straight line to a point in the centerline of Randolph

[8]Cross reference(s)—Health club buildings, § 18-126; fire prevention and protection, ch. 42; tradesman standard certification program, ch. 82.

Street 500 feet east of the Gate City Highway; thence east with the centerline of Randolph Street to the centerline of Wagner Street; thence south with the centerline of Wagner Street to the centerline of Durham Street; thence east with the centerline of Durham Street to the centerline of Lee Court; thence southwest with the centerline of Lee Court to the centerline of Lawrence Avenue; thence east with the centerline of Lawrence Avenue to the centerline of 21st Street; thence south with the centerline of 21st Street to the centerline of Newton Street; thence east with the centerline of Newton Street to the centerline of Seward Street; thence north with the centerline of Seward Street and continuing with the centerline of Seward Street extended across Fairmount Avenue to the centerline of an alley running parallel with Fairmount and Euclid Avenues; thence west with the centerline of such alley to the centerline of Douglas Street; thence north with the centerline of Douglas Street to the centerline of Euclid Avenue; thence east with the centerline of Euclid Avenue to the centerline of Division Street; thence north with the centerline of Division Street to the centerline of Crescent Drive; thence northeast with the centerline of Crescent Drive to the centerline of Elmo Street; thence north in a straight line to the intersection of the centerlines of Randolph Street and Spurgeon Lane; thence east with the centerline of Spurgeon Lane to the centerline of Elkton Lane; thence northeast with the centerline of Elkton Lane to the west line of the Virginia and Southwestern Railway right-of-way; thence north with such railway right-of-way line to the corporate limits; thence east with the corporate line 200 feet; thence south in a straight line to a point in the centerline of Glenway Avenue 225 feet east of Commonwealth Avenue; thence south with the centerline of an unopened alley to the centerline of Prospect Avenue; thence west with the centerline of Prospect Avenue to the centerline of Vernon Street; thence south with the centerline of Vernon Street to the centerline of Highland Avenue; thence in a straight line along the centerline of an alley to the centerline of another alley in the rear of property fronting on Highland Avenue; thence with the centerline of such last described alley northeast to the centerline of Prince Street; thence south with the centerline of Prince Street to a point opposite the intersection of the centerlines of West and Scott Streets; thence in a straight line southeast to the intersection of the centerlines of West and Scott Streets; thence south with the centerline of West Street to the centerline of Cumberland Street; thence southeast with the centerline of Cumberland Street to the centerline of Johnson Street; thence northeast with the centerline of Johnson Street to the centerline of Scott Street; thence west with the centerline of Scott Street to a point opposite an alley in the rear of property of Bristol Steel & Iron Works, Inc.; thence north in a straight line to the centerline of such alley and continuing with the centerline of such alley to the intersection of the centerlines of Piedmont and Wood Streets; thence north with the centerline of Piedmont Street to the centerline of Highland Avenue; thence east with the centerline of Highland Avenue to the centerline of Clinton Avenue; thence southeast with the centerline of Clinton Avenue to the centerline of Oakview Avenue; thence southwest with the centerline of Oakview Avenue to the centerline of Quarry Street; thence east with the centerline of Quarry Street to the centerline of Moore Street; thence south with the centerline of Moore Street to the centerline of Powers Alley; thence east with the centerline of Powers Alley to the centerline of Front Street; thence north with the centerline of Front Street to the centerline of Spencer Street; thence north with the centerline of Spencer Street to the centerline of Columbia Avenue; thence east and southeast with the centerline of Columbia Avenue to the centerline of Massachusetts Avenue; then southwest with the centerline of Massachusetts Avenue to the centerline of Newport Avenue; thence southeast with the centerline of Newport Avenue to the centerline of an alley in the rear of property on Massachusetts Avenue; thence southwest with the centerline of such alley to the centerline of Beaver Creek; thence west with the centerline of Beaver Creek to a point in the centerline of Washington Street extended; thence southwest with the centerline of Washington Street extended and continuing with the centerline of Washington Street to the centerline of Mary Street; thence east with the centerline of Mary Street and continuing with the centerline of East Mary Street to the centerline of an alley in the rear of property fronting on Fairview Street; thence north with the centerline of such alley to the centerline of Beaver Creek; thence east and south with the centerline of Beaver Creek to the centerline of East Mary Street; thence east with

the centerline of East Mary Street to the state line; thence west with the state line to the centerline of Williams Street; thence north and west with Williams Street to the centerline of Beaver Creek; thence west with the centerline of Beaver Creek to the centerline of Lottie Street; thence south with the centerline of Lottie Street and continuing with the center line of Lottie Street extended across Buford Street to the state line; thence west with the state line to the intersection of the centerlines of Short and State Streets, the point of beginning.

(b) The outer fire district of the city shall include all territory within the corporate boundaries of the city not included in the inner fire districts.

(Code 1966, § 5-1)

Sec. 50-562. Uniform Statewide Building Code adopted.

Pursuant to Code of Virginia, Section 36-97 et seq. as amended, the city does hereby adopt 13 VAC 5-61-10 et seq., The Virginia Uniform Statewide Building Code, for new construction and building maintenance within the city.

(Code 1966, § 5-2; Ord. No. 99.24, 9-14-99)

Sec. 50-563. Building code department, building code official, environs control officer designated.

(a) The building code department shall have the same powers, duties and responsibilities as the former office of building, electrical and plumbing inspector and shall constitute the creation of the local department for purposes of compliance with Volume I of the Virginia Uniform Statewide Building Code, as adopted in section 50-562.

(b) The chief executive officer in charge of the building code department shall be known as the "building code official" pursuant to section 102.2 of Volume I of the Uniform Statewide Building Code and be vested with all powers, duties and responsibilities contained in section 103.0 of Volume I of the Uniform Statewide Building Code as well as all powers, duties and responsibilities previously attendant to his office as building inspector.

(c) The environs control officer shall enforce Volume II of the Uniform Statewide Building Code.

(Code 1966, § 5-2.01)

Sec. 50-564. Adoption of state industrialized building unit and mobile home safety regulations.

Pursuant to Code of Virginia, § 36-70, as amended, repealed, reenacted, or recodified from time to time, the Virginia Industrialized Building Unit and Mobile Home Safety Regulations, April 19, 1974 edition, be, and the same hereby is, adopted and made a part of this Code as fully as though each section, sentence, clause or phrase were herein set out.

(Code 1966, § 5-2.1)

Sec. 50-565. Requirements for industrialized building units and mobile homes.

(a) Pursuant to Article I, section 103-3 of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations adopted in section 50-564, no unit constructed after January 1, 1972, and not labeled by an

approved testing facility as defined by Article I, section 100, of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations, may be introduced and occupied within the corporate limits of the city without full compliance with the following conditions:

(1) That all panels, partitions, walls, etc., concealing wiring, plumbing, HVAC ducts or other vital parts be opened or removed as deemed necessary by the building code official for inspection for compliance with controlling codes, standards or ordinances.

(2) That all DWV, water, gas and oil systems be capped off and pressurized by a suitable method designated by the building code official, for testing for liquid or gas tightness and pressure resistance.

(3) That all wiring systems be exposed for whatever testing deemed necessary by the building code official.

(4) That all mechanical systems and appliances be exposed for inspection for proper labeling and testing.

(5) That any structural members be exposed as required by the building code official.

(6) That all tools and labor necessary for the accomplishment of foregoing requirements, exclusive of actual testing and inspection, be provided by the owner of such unit, or by the dealer having sold such unlabeled unit, at his expense, with no cost to be borne by the city.

(7) That the fee for such inspection shall be as provided in the appendix to this chapter, such fee to be remitted prior to commencement of any inspection or testing procedures.

(b) When the foregoing conditions have been complied with to the satisfaction of the building code official, and the unit has been found to comply with the appropriate regulations, a certificate of occupancy will be issued permitting the use of the unit solely and exclusively within the corporate limits of the city for such time as the unit remains within the corporate limits of the city. At such time as the unit is removed from the corporate limits of the city, the certificate of occupancy shall be considered void and shall in no wise be construed as to apply to any other jurisdiction than that of the city.

(c) For purposes of this regulation, any unit manufactured after January 1, 1972, and labeled by an approved testing facility that has been changed, altered or repaired to such extent as to void, in the opinion of the building code official, the label of the approved testing facility, shall be considered an unlabeled unit and shall be subject to the requirements set forth above.

(d) The fee provided for in subsection (a)(7) for inspection of unlabeled units shall in no wise be construed as to include any fees for permits charged for electrical, plumbing or building as required by the city.

(e) Any building failing to meet any requirement set forth above shall be conspicuously placarded in accordance with Article I, section 103-4 of the Virginia Industrialized Building Unit and Mobile Home Safety Regulations and its use prohibited under penalty of law until such time as the violations have been corrected or the unit has been removed from within the corporate limits of the city.

(f) Any person, representative, agent or agency failing to comply with any regulation herein set forth shall be guilty of a misdemeanor and shall be fined not more than $2,500.00.

(Code 1966, § 5-2.2)

Sec. 50-566. Demolition of buildings.

(a) *Permit requirement.* A permit shall be required and obtained from the office of the building code official for the demolition of all buildings and structures exceeding 100 square feet in area.

(b) *Notice requirement.* Before a building can be demolished or removed, the owner or agent shall notify all utilities having service connections within the building such as water, electric, gas, sewer and other connections.

(c) *Maintenance of cleared lots.* Whenever a building or structure is demolished, the premises shall be maintained free from all rubbish and debris or other unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of retaining walls and fences if such structures are deemed necessary by the building code official.

(d) *Disposal of building materials.* The burial of building materials other than concrete, cinder or masonry block, brick, stone or concrete shall be prohibited.

(Code 1966, § 5-2.3)

Sec. 50-567. Moving of buildings.

(a) *Permit requirement.* A permit shall be required and obtained from the office of the building code official for the movement of a building or structure into or out of the city, or from one lot to another within the city or from one place to another on the same lot.

(b) *Conformity to housing code of structures moved within the city.* Any habitable building moved from one lot to another within the city shall be made to conform to the minimum housing standards code of the city.

(c) *Conformity to building code of structures moved into city.* Any building moved into the city shall be made to conform to the state uniform statewide building code governing new construction.

(d) *Inspections, certificates of occupancy.* No certificate of occupancy shall be issued and the use or occupancy of the moved building shall be prohibited until the building has been inspected and has been found to be in compliance with the applicable code.

(Code 1966, § 5-2.4)

Sec. 50-568. Application, fee for permit to move mobile homes.

Any person or persons locating or moving a mobile home within the city shall make application for a permit to locate or move such mobile home, on suitable forms provided by the office of the building code official. The application shall be accompanied by a fee as provided in the appendix to this chapter.

(Code 1966, § 5-2.5)

Sec. 50-569. Smoke detectors.

(a) Smoke detectors shall be installed in the following structures or buildings:

(1) Any building containing one or more dwelling units;

(2) Any hotel or motel regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one or more persons; and

(3) Roominghouses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

(b) Smoke detectors installed pursuant to this section shall be installed in conformance with the provisions of the uniform statewide building code.

(c) The type of smoke detector may be either battery operated or AC powered units. The owner of any unit which is rented or leased, at the beginning of each tenancy and at least annually thereafter, shall furnish the tenant with a certificate that all required smoke detectors are present, have been inspected, and are in good working order.

(d) Except for smoke detectors located in hallways, stairwells, and other public or common areas of multifamily buildings, interim testing, repair, and maintenance of smoke detectors in rented or leased units shall be the responsibility of the tenant; however, the owner shall be obligated to service, repair, or replace any malfunctioning smoke detectors within five days of receipt of written notice from the tenant that such smoke detector is in need of service, repair, or replacement.

(Code 1966, § 5-2.6)

State law reference(s)—Smoke detectors in certain buildings, Code of Virginia, § 15.1-29.9.

Sec. 50-570. Dangerous buildings, structures.

(a) Owners of real property in the city shall at all times as the city council might prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the city.

(b) The city council, through its own agents or employees, may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of residents of the city when the owner of such property, after reasonable notice to the owner and lienholder of such property, and a reasonable time to do so, has failed to remove, repair or secure such building, wall or other structure.

(c) If the city council, through its agents or employees, removes, repairs or secures any building, wall or any other structure after complying with the notice provisions of this section, the costs or expense thereof shall be chargeable to and paid by the owners of such property and may be collected by the city as taxes and levies are collected.

(d) Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Code of Virginia, § 58.1-3900 et seq., as amended, repealed, reenacted, or recodified from time to time.

(Ord. No. 92.20, 10-27-92)

Secs. 50-571—50-580. Reserved.

DIVISION 2. OFF-STREET PARKING, LOADING AND UNLOADING FACILITIES

Sec. 50-581. Enforcement.

The building code official of the city shall administer and enforce this article.

(Code 1966, § 5-82)

Sec. 50-582. Off-street parking requirements.

(a) *Generally.* There shall be provided, at the time of the erection of any building or structure, or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area; or before conversion from one zoning use or occupancy to another, permanent off-street parking space in the amount specified by this section. Such space shall be provided with vehicular access to a street or alley. The provisions of this section shall not apply to the B-2 (central business) district.

(1) The off-street parking spaces required by this section shall be permanent open space and shall not be used for any other purpose.

(2) Required off-street parking spaces assigned to one use may not be assigned to another use at the same time.

(3) Parking spaces maintained in connection with an existing and continuing main building or structure on June 27, 1978, up to the number required by this section shall be continued and may not be counted as serving a new structure or addition; nor may any required loading space be substituted for a parking space.

(4) All parking spaces shall be located within 400 feet on [of] property owned by the operator of the business or office. This distance shall be measured from the principal entrance to the building devoted to the use they serve.

(5) No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling area requirements for off-street parking required by the terms of this section.

(6) The number of off-street parking spaces required by this section shall be considered as the absolute minimum and the property owner shall evaluate his own needs to determine if his needs will require more than the specified minimum.

(b) *Uses.* [The number of off-street parking spaces required for the uses set forth below are as follows:]

(1) Residential, two [spaces] per dwelling unit.

(2) Hotels, motels, one [space] per each unit.

(3) Clinic (medical or veterinary), five [spaces] per each doctor and one [space] per each employee.

(4) Nursing, convalescent home, or congregate care facility, one [space] per each four beds.

(5) Places of public assembly including restaurants, churches, etc., one [space] per each four seats.

(6) Elementary and middle schools, two spaces for each classroom and administration office.

(7) Senior high school, one space for each 20 students.

(8) Offices, banks, one space for each 200 square feet.

(9) Drive-through banks, regulations as per VDOT's [Virginia Department of Transportation] minimum standards of entrance to state highways will be adhered to. (Spaces in drive-through lanes can be used to satisfy parking.)

(10) Retail store or shops not otherwise listed, one space per 200 square feet of sales floor area for the first 5,000 square, plus one [space] per each additional 500 square feet.

(11) Furniture, hardware, appliance, building materials and supplies store; wholesale business; repair business, one [space] per 500 square feet of sales floor area open to the public, plus one [space] per two employees.

(12) Auto service center; service station; auto or truck repair; self-service or automatic auto wash, three [spaces] per service bay.

(13) Manufacturing, processing, or fabricating plant; laundry; dairy; research laboratory; warehouse; truck terminal, one [space] per employee, for day shift, plus one [space] per vehicle used in conjunction therewith, plus two customer spaces.

(c) *Variance.* Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of the off-street parking requirements under this section would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property, there is hereby reserved to the city council the authority to grant, upon an appeal relating to such property, a variance from such strict application of this section so as to relieve such difficulties or hardships, provided such relief may be granted without substantial detriment to the public good, adjacent properties, and without impairing the intent and purpose of this off-street parking requirement.

(Code 1966, § 5-83; Ord. No. 96.09, 6-11-96)

Sec. 50-583. Off-street loading and unloading requirements.

(a) *Generally.* At the time of the erection or expansion of any main building or part thereof, the use of which is required by this section to provide off-street loading or unloading space, there shall be provided such spaces as set forth in this section. Such space shall have vehicular access to a street or alley. The provisions of this section shall not apply to the B-2 (central business) district.

(b) *Retail business.* One space, ten feet by 25 feet for each 5,000 square feet, or any part thereof, of floor area.

(c) *Wholesale, warehouse and industrial.* One space, 12 feet by 75 feet for each 10,000 square feet, or any part thereof, of floor area.

(d) *Bus and truck terminals.* One space for each bus or truck to be stored or to be loading or unloading at the terminal at any one time.

(Code 1966, § 5-84; Ord. No. 96.09, 6-11-96)

Secs. 50-584—50-595. Reserved.

DIVISION 3. CONSTRUCTION SITE PLAN REQUIREMENTS[9]

[9]Editor's note(s)—Ordinance No. 95.25, adopted November 14, 1995, amended Div. 3 to read as set forth herein. Prior to such amendment, Div. 3 consisted of §§ 50-596—50-604, which contained similar provisions and derived from §§ 5-85—5-93 of the 1966 Code.

Cross reference(s)—Environment, ch. 38; fire prevention and protection, ch. 42; streets, sidewalks and other public places, ch. 74; utilities, ch. 90.

Sec. 50-596. Definitions.

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

Approving authority means those persons delegated the responsibility of approving any portion or part of the requirements of this division.

Architect means an individual registered with the state board for architects, professional engineers, land surveyors and landscape architects for the practice of architecture in the commonwealth.

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. The word "building" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

Building code official means the official designated to inspect buildings in the city.

Construction standards means the applicable design and construction standards of articles III and IV of this chapter, the city utilities board and the state department of transportation.

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

Dwelling unit means a group of one or more rooms designed for or intended for occupancy of a single family.

Easement means a grant by a property owner of the use of his land by another person for a specific purpose.

Engineer means an individual registered with the state board for architects, professional engineers, land surveyors and landscape architects for the practice of engineering in the commonwealth.

Off-site means any area which does not fall within the boundary of the land to be developed.

Off-street parking means any space specifically allotted to the parking of motor vehicles; such space shall not be in a dedicated right-of-way.

On-site means that area which is within the boundary of the land to be developed.

Owner means that person in whom is vested the ownership, dominion or title of property; one who has the legal or rightful title, whether he is the possessor or not.

Right-of-way means a portion of land being used or in the future will be used as a street, or road, thoroughfare, crosswalk, pipeway, drainage canal, and/or other similar uses and designated by means of right-of-way lines.

Single-family dwelling means a detached building designed for or intended to be occupied by one family.

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

Structure means an assembly of materials forming a construction for occupancy or use. The word "structure" shall be construed as though followed by the words "or part or parts thereof" unless the context clearly requires a different meaning.

Surveyor means an individual registered with the state board for architects, professional engineers, land surveyors and landscape architects for the practice of land surveying in the commonwealth.

Travel lane means that space specifically designated and reserved on the site for the movement of vehicular traffic.

Two-family dwelling means a building designed for or intended to be occupied by not over two families, living independently of each other. This shall include both duplex (one dwelling unit above another) and semidetached (two dwelling units having a common vertical party wall).

Utilities is a reference to sanitary or storm sewer systems, water mains, natural gas lines, electric power, and telephone or television cable lines in this division and is intended to apply to main distribution or supply systems and not to individual services or private property, except where it is specifically required to provide on-site utilities service information.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 50-597. Site plans; where required.

(a) *Development, or land use, requiring site plan.* A site plan is required and shall be submitted for approval for:

(1) Any new land use or development in any of the several zoning districts of the city, including planned unit developments and townhouse developments, regardless of which zoning district in which they are situated. Excepted from this requirement shall be single- and two-family detached dwellings situate on individual lots or parcels.

(2) Any change in any existing residential use or development when changing the residential use to commercial, industrial or higher density residential use. Required parking for the change in use must be provided.

(3) Any land use or development for which a special use permit is required except signs.

(b) *Waiver of site plan.* The city engineer, with the concurrence of the building code official, may waive the requirement for a site plan for construction provided that no new buildings are involved, off-street parking requirements are not increased, no new utilities or relocation thereof is involved or the work, regardless of cost, is of such nature that the filing of a site plan for construction would not substantially serve the public interest.

(c) *Development according to site plan.* It shall be unlawful for any person to construct, erect or alter any building or structure, or develop, change or improve land for which a site plan is required, except in accordance with the approved site plan. An approved copy of the site plan shall be maintained on the development site until the site has received a final inspection as provided in section 50-601(c). It shall be the responsibility of the owner to ensure that said approved copy is present on the site at all times during development.

(d) *Permits not to be issued without approved site plans.* No building permit shall be issued to construct, erect or alter any building or structure, or develop or improve any land that is subject to the provisions of this division, until a site plan has been submitted and received preliminary approval as determined by the city engineer, unless such site plan shall have been waived pursuant to the provisions of subsection (b) of this section.

(e) *Certificate of occupancy.* No certificate of occupancy shall be issued until the site plan shall have received final approval and all provisions of the site plan and all other regulations governing the building or development have been complied with.

(f) *Persons authorized to prepare site plans.* Site plans for construction or any portion thereof involving engineering, architecture or land surveying shall be prepared and certified respectively by an engineer, architect or land surveyor duly registered by the state to practice as such.

(g) *Numbering and size of sheets and number of copies required.*

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

(2) The sheet or sheets to be used for a site plan for construction shall not be less than 18 by 24 inches.

(3) An appropriate number of clearly legible blue or black line copies of a site plan for construction, as determined by the number of reviewing agencies, prepared in accordance with the requirements of this division are required to be submitted for preliminary review as hereinafter provided.

(4) An appropriate number of additional copies, as determined by the number of reviewing agencies, prepared as in subsection (3) above, are required to be submitted as record as-builts as hereinafter provided.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Sec. 50-598. Format.

(a) Information to be shown. Every site plan submitted in accordance with the requirements of this section shall show the following:

(1) Name and address of the development.

(2) A current, certified boundary of the entire tract by courses and distances.

(3) Area and present zoning of tract.

(4) Name and address of the owner or owners of record of the tract and the applicant.

(5) Owner, present use and zoning classification of all contiguous or abutting property.

(6) Date, scale, north point and number of sheets:

a. Scale shall be either one inch equals 20 feet, 25 feet, 40 feet, 50 feet or 100 feet. Architectural or proportional scales shall not be allowed.

b. When more than one sheet is required to cover the entire project, a common sheet general in nature shall be provided which shall show all the individual sheets of an application in proper relationship to each other.

(7) Courses and distances of centerlines and pavement edges of all streets or roads adjoining or abutting the tract.

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

(9) Existing topography with a maximum of two-foot contour intervals within 100 feet of all buildings and a minimum of five-foot contour intervals on the remainder of the site or spot elevations if the site grading is minor and no part of the developed area of the site involves a floodprone area.

(10) Name, address, signature and registration number of the professional preparing the plan.

(11) A bordered, blank space, four inches wide and five inches high, located directly above the title block, for the use of the approving authority.

(b) In addition to the information required in subsection (a) of this section, the site plan shall show the location, dimension, size and height of the following when existing:

(1) Sidewalks, streets, alleys and easements.

(2) Buildings and structures.

(3) Driveways, entrances, exits, parking areas and loading spaces.

(4) Sanitary sewer systems.

(5) Water mains and fire hydrants. Distances to the nearest existing fire hydrant shall be shown if no hydrant appears on the site plan.

(6) Gas, power, and telephone lines.

(7) Recreation areas.

(8) Storm drainage systems, to include natural and artificial watercourses.

(9) Floodproofing measures.

(10) Floodplain limits.

(11) Open floodway.

(12) Cross sections as per instruction of city engineer.

(13) Signs.

(14) Street and/or alley closing date.

(c) In addition to the information required by subsections (a) and (b) of this section, the site plan shall show the location, dimensions, size and height of the following when proposed:

(1) Sidewalks, streets, alleys and easements.

(2) Buildings and structures, to include:

a. Distances between buildings.

b. Number of stories.

c. Area in square feet of each floor.

d. Number of dwelling units or guest rooms.

e. Structures above the building height limit.

(3) Driveways, entrances, exits, parking areas and loading spaces, to include:

a. Number of parking spaces, to include handicapped.

b. Number of loading spaces.

c. Handicapped access to building(s).

(4) Sanitary and storm sewer systems.

(5) Water mains and fire hydrants.

(6) Natural gas, electric power, and telephone and cable television lines.

(7) Slopes, terraces, retaining walls, fencing and screening.

(8) Recreation areas and open green space.

(9) Plans for collecting, detaining, retaining or depositing stormwater based on accepted engineering methods and practices. Plans shall include both pre- and post-development calculations, along with calculations for sizing piping, storage areas or impoundments, flumes, spillways, and other devices where capacity or velocity is a factor. Unless specifically excepted by special approval of the city

engineer, post-development discharge volumes and velocities may not exceed those generated pre-development and then provision must be made in the stormwater management plan to prevent post-development discharge concentrations from negatively impacting adjacent properties or public facilities.

(10) The method of treatment of natural proposed limits of floodplains, if any, as created or enlarged by the proposed development.

(11) Finish grading with a minimum of two-foot contour intervals within 100 feet of all buildings and a minimum of five-foot contour intervals on the remainder of the property.

(12) Overhangs are part of the building and must meet the setback restrictions. All overhangs shall be shown.

(13) Location, height and square footage of the face(s) of proposed signage. The type of sign(s) proposed shall also be designated, e.g. pole mount, ground mound, etc.

(d) Improvements to be required for public safety. In order to assure public safety, general welfare and convenience, the city agencies and officials charged with the responsibility for review and recommendation of approval of site plans shall require such of the following improvements as are applicable as may be determined by the agency having jurisdiction:

(1) Designation of pedestrian walkways so that persons may walk on same from store to store or building to building within the site and/or adjacent sites.

(2) Construction of vehicular travel lanes not less than 24 feet in width when passing between parking rows or when used for two- way travel or 12 feet in width when used for one-way travel and not more than one row of parking abuts it, for use for on-site vehicular travel and ingress and egress to and from adjacent properties or controlled entrances for the site.

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

(4) Screening, fences, walls, curbs, as are required by the city ordinances or by the regulations of the state department of transportation.

(5) Easements or rights-of-way for all facilities to be publicly maintained. Each easement shall be clearly defined for the purpose intended.

(6) Extension or construction of service road and access thereto on site bordering on a city primary highway.

(7) Dedication or reservation of land for streets and service roads and the construction thereon, in accordance with the subdivision ordinance of the city.

(8) Controlled entrances and exits conforming to the standards of the state department of transportation.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.02, 2-26-02; Ord. No. 02.22, 10-8-02)

Sec. 50-599. Required improvements.

(a) *Construction standards.* The construction standards for all off-site improvements and on-site improvements required by this article shall conform to the design and construction standards of the city, which shall consist of but shall not be limited to those standards set forth in articles III and IV of this chapter, standards and specifications of the state department of transportation, the standards of the utilities board or the uniform statewide building code whichever is applicable as determined by the city engineer. The city engineer or his

agent under his supervision shall approve the plans and specifications for all required improvements, and shall inspect the installation of such improvements to assure conformity thereto.

(b) *Bond for required improvements.* Prior to approval of the site plan, the applicant may be required to execute an agreement to construct such required improvements as are located within public rights-of-way or easements or as are connected to any public facility and shall guarantee such construction as provided in Code of Virginia, § 15.1-466(F), referenced from § 15.1-491(h), as amended, repealed, reenacted, or recodified from time to time, in the amount of the estimated cost of the required improvements as determined by the city engineer.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Sec. 50-600. Inspection and supervision during installation.

(a) Inspections during the installation of the off-site improvements and required on-site improvements shall be made by the agency responsible for such improvements, as required to certify compliance with the approved site plan and applicable city standards.

(b) The owner or developer shall notify the city engineer three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.

(c) The owner or developer shall provide adequate supervision on the site during the installation of all required improvements and have a responsible superintendent or foreman together with one set of approved plans, profiles and specifications available at the site at all times when work is being performed.

(d) Upon satisfactory completion of the installation of the improvements required in this division, the owner or developer shall receive a final inspection from the city engineer or his designated agent upon a request for such inspection. A final inspection which evidences no defects or noncompliance with the requirements set forth above shall authorize the release of any bond which may have been furnished to guarantee the satisfactory installation of such improvements or parts thereof. This inspection shall release only the bond required pursuant to the provisions of this article and shall not affect the terms or validity of any bond(s) required by the subdivision ordinance or any other ordinance or regulation.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Sec. 50-601. Review and approval of site plans.

(a) *Submission of site plans.* The required number of copies of the construction site plan shall be filed with the city engineer. The filing of the plan shall include the signature of the applicant or his agents. The payment of all site plan fees as hereinafter prescribed for the examination and approval of site plans is due and payable at the time of submittal of the site plan. No site plan shall be deemed to have been filed until such fees shall have been paid.

(b) *Review of site plans.*

(1) The city engineer or his agent under his supervision is responsible for checking the site plans for general completeness and compliance with adopted plans or such administrative requirements as may be established prior to routing copies thereof to reviewing agencies or officials. The city engineer shall see that all examination and review of the site plans are completed by approving authorities.

(2) All site plans which are properly submitted shall be reviewed and approved or disapproved by the proper authorities when applicable:

a. Zoning administrator, or his agent under his supervision relative to:

1. Compliance with the requirements of article II of this chapter including land use, side, front and rear yards, height of buildings, lot area, lot coverage, fencing and screening.

b. City planning commission relative to:

1. Planned unit development.

2. Townhouse development.

c. City engineer or his agent under his supervision relative to:

1. Location and design of vehicular entrances and exits, in relation to street giving access to the site, and in relation to pedestrian traffic.

2. Location and design of all parking areas.

3. The location and design of the vehicular entrances and exits to and from city-maintained streets and highways.

4. Adequate provision for traffic circulation and control within the site and providing access to adjoining property.

5. Adequacy of drainage.

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

7. Compliance with the article IV, erosion and sediment control, of this chapter.

d. Fire chief or his agent under his supervision relative to hydrants location and exterior fire protection.

e. Manager of the city utilities board or his agent under his supervision relative to water, sanitary sewer and electric power service design and location.

f. The state department of transportation whenever the development or construction falls within the limits of any project over which the department has jurisdiction.

g. Parks and recreation director or his agent under his supervision relative to public or private parks or recreational areas.

h. Building code official relative to:

1. Adequacy of automobile parking as to number of spaces, square footage per space including spaces for physically impaired.

2. Compliance with CABO/ANSI A117.1-1992, Accessible and Usable Buildings and Facilities.

(c) *Approval of site plans.*

(1) Except under abnormal circumstances or in the case of an extremely complex project, the city engineer or his agent under his supervision shall review and approve, disapprove or require changes and/or modification to the site plan not later than 15 working days subsequent to the date of submittal, in accordance with reviewing agencies recommendations. One copy of the site plan review shall be returned to the owner or his agent with the date of the return noted thereon.

(2) When changes and/or modifications are required prior to approval, the owner or his agent shall submit a revised site plan for approval as set forth above within 90 days of the return of the initial review or the site plan shall become null and void.

(d) *Time of validity of approved site plans.*

(1) Construction or development may begin upon approval of the construction site plan by acquisition of construction permits from the appropriate agencies.

(2) If the applicant or his designated agent has not, within six months after the date of approval of a site plan, commenced construction and/or development in accordance with the approved site plan, said approval of the site plan shall be null and void.

(3) The city engineer may grant a single six month extension of the time of validity of an approved site plan upon the written request of the applicant received by the city engineer at least 30 days prior to the expiration of the approval of the site plan.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Sec. 50-602. Adjustments and fees.

(a) *Minor adjustments of approved site plans.* After a site plan has received preliminary approval, minor adjustments of the site plan, which comply with the spirit and intent of this article and article II of this chapter, with the intent of the approving agencies in their review of site plans, and with the general purpose of the comprehensive plan for development of the area, may be approved by the city engineer or his agent under his supervision with the concurrence of the reviewing agencies concerned. Substantial deviation from an approved site plan shall require the submittal of a revised site plan prior to any request for final inspection or occupancy or use of the premises.

(b) *Site plan fees.* The fees established in the appendix to this chapter shall be paid to the building code official upon filing of a construction site plan.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Sec. 50-603. Violations.

(a) *Unlawful acts.* It shall be unlawful for any person to use or develop any site regulated by this article or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this division.

(b) *Notice of violations.* The city engineer shall serve a notice of violation or order on the person responsible for the use or development of any site in violation of the provisions of this division or in violation of a detail statement or a plan approved thereunder; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(c) *Prosecution of violation.* If the notice of violation is not complied with in the time set forth, the city engineer shall request the legal counsel of the city to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation.

(d) *Penalties.* Any person who shall violate a provision of this division or shall fail to comply with any of the requirements thereof shall be guilty of a class 4 misdemeanor.

(Ord. No. 95.25, 11-14-95; Ord. No. 02.22, 10-8-02)

Secs. 50-604—50-615. Reserved.

DIVISION 4. UNSAFE STRUCTURES[10]

Subdivision I. In General

Sec. 50-616. Right of condemnation.

All buildings or structures that are or hereafter shall become unsafe, unsanitary, or deficient in adequate exit way facilities, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which, by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures, shall be taken down and removed or made safe and secure, as the building code official may deem necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe.

(Code 1966, § 5-71)

Sec. 50-617. Examination and record of damaged structure.

The building code official shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard; and he shall cause the report to be filed in a docket of unsafe structures and premises, stating the use of the structure, the nature and estimated amount of damages, if any, caused by collapse or failure.

(Code 1966, § 5-72)

Sec. 50-618. Notice of unsafe structure.

If an unsafe condition is found in a building or structure, the building code official shall serve on the owner, agent or person in control of the building or structure a written notice describing the building or structure deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure, or requiring the unsafe building or structure or portion thereof to be demolished within 30 days. Such notice shall require the person thus notified to declare to the building code official, within seven days, his acceptance or rejection of the terms of the order.

(Code 1966, § 5-73)

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[10]Charter reference(s)—Dangerous buildings, § 2.06(9), (16); environs control, § 5.10.

Cross reference(s)—Fire prevention and protection, ch. 42.

State law reference(s)—Dangerous buildings and other structures, Code of Virginia, § 15.1-11.2.

Sec. 50-619. Restoration of unsafe structure.

A building or structure condemned by the building code official may be restored to safe condition, provided change of use or occupancy is not contemplated or compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is in excess of 50 percent of its replacement value, exclusive of foundations, such structure shall be made to comply in all respects with the requirements for materials and methods of construction of structures hereafter erected.

(Code 1966, § 5-74)

Sec. 50-620. Posting unsafe notice.

If the person addressed with an unsafe notice cannot be found within the city after diligent search, then such notice shall be sent by registered or certified mail to the last known address of such person; and a copy of the unsafe notice shall be posted in a conspicuous place on the premises; and such procedure shall be deemed the equivalent of personal notice.

(Code 1966, § 5-75)

Sec. 50-621. Disregard of unsafe notice.

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and he shall institute the appropriate action to compel compliance.

(Code 1966, § 5-76)

Sec. 50-622. Vacating structures.

When, in the opinion of the building code official, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life, or when any structure or part of structure has fallen and life is endangered by the occupation of the building or structure, the building code official is hereby authorized and empowered to order and require the inmates and occupants to vacate the same forthwith. He shall cause to be posted at each entrance to such building a notice reading as follows:

> This structure is unsafe and its use or occupancy has been prohibited by the building code official, and it shall be unlawful for any person to enter such building or structure except for the purpose of making the required repairs or of demolishing the same.

(Code 1966, § 5-77)

Sec. 50-623. Temporary safeguards.

When, in the opinion of the building code official, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the legal procedure described in this division has been instituted.

(Code 1966, § 5-78)

Sec. 50-624. Closing street.

When necessary for the public safety, the building code official may temporarily close sidewalks, streets, buildings and structures and places adjacent to such unsafe structure, and prohibit the same from being used.

(Code 1966, § 5-79)

Sec. 50-625. Contracting for emergency repairs; payment, recovery of costs.

(a) For the purposes of this section, the building code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Any contractor thus employed shall post a performance bond in the amount of 1½ times the estimated cost of the work.

(b) Costs incurred in the performance of emergency work shall be paid from the treasury of the city on certificate of the building code official, and the legal authority of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe building or structure was located for the recovery of such costs.

(Code 1966, § 5-80)

Sec. 50-626. Penalty for violation; continuing offenses.

Any person who shall violate a provision of this division or shall fail to comply with any of the requirements thereof shall be guilty of a misdemeanor, punishable by a fine of not more than $250.00. Each day that a violation continues shall be deemed a separate offense.

(Code 1966, § 5-81)

Secs. 50-627—50-635. Reserved.

Subdivision II. Abatement as Nuisances

Sec. 50-636. Purpose.

It is the purpose of this division to preserve and promote the health, safety, welfare and convenience of the public by incorporating the provisions of Code of Virginia, §§ 15.1-11.2 and 15.1-867, as amended, repealed, reenacted, or recodified from time to time, to permit the city to compel the abatement of certain conditions relating to buildings, dwellings, walls or other structures which are deemed to be nuisances; further it is the purpose of this subdivision to provide a procedure by which the city may expeditiously order the razing, removal or repair of any such building, dwelling, wall or structure which might endanger the public health or safety or otherwise constitute a menace thereto.

(Code 1966, § 5-81.1)

Sec. 50-637. Declared nuisances, unlawful; penalty.

(a) It shall be unlawful for the owner or occupant of any property within the city to cause, permit or otherwise allow the existence of any unsafe, dangerous or unhealthy building, dwelling, wall or other structure which

might endanger or constitute a menace to the health or safety of the occupants thereof or the general public, and such condition is hereby deemed to be a nuisance.

(b) Violation of this section shall constitute a misdemeanor punishable by a jail sentence not to exceed 30 days and a fine not exceeding $1,000.00, either or both. Each violation, failure, refusal or neglect and each day's continuance shall constitute a separate offense.

(Code 1966, § 5-81.2)

Sec. 50-638. Abatement procedure.

The city by its appropriate agencies shall compel the abatement, repair or removal of any public or private building, dwelling, wall or other structure which is determined to be a nuisance in accordance with the following:

(1) Upon receiving information that a nuisance exists, the matter shall be referred to the appropriate city agency, i.e., building code official's office, fire prevention bureau, city health department, or the community development coordinator's office, for initial inspection, investigation and preparation of a written report of findings. Such report of findings shall be transmitted to the board of building code appeals established by section 50-562 for review and a determination of whether or not a nuisance exists.

(2) The agency submitting such report to the board shall, at the same time, serve upon the owner and/or occupant of the property in violation a written notice, which shall include:

a. A description of the property sufficient for identification;

b. An itemization of defects constituting violations;

c. An outline of remedial action required to effect compliance with this division;

d. Notification of the time and place at which the board will conduct a hearing concerning the violations, and that the owner or occupant should be present to represent his interest thereat and failure to so appear may result in the issuance of a summons for violation of this subdivision and an order that action be commenced to repair, remove or raze the offending property at his expense.

For the purpose of proper service hereunder, the provisions of section 106.6 of the state building maintenance code shall apply.

(3) At such time and place as is specified in subsection (2)(d) of this subsection, the board shall meet to consider the written report of violations submitted and hear such further evidence from the interested parties as it deems appropriate.

a. Where the board determines that a nuisance in fact exists, it shall render a decision as to what action, if any, should be taken, including the determination of a reasonable period of time within which remedial action shall be taken and completed. The board may direct the appropriate city agency to take one or more of the following actions if the property is not brought into compliance within the period specified:

1. Cause a summons to be issued against the offending owner or occupant charging a violation of this division.

2. Authorize the appropriate city agents or employees to proceed to repair, remove or raze the offending building, dwelling, wall or other structure, either by city force account or other agents contracting with the city, the cost or expenses thereof being chargeable to the owner or occupant and collectible in any such manner provided by law as for the collection of local taxes.

Such charges which remain unpaid shall constitute a lien against such property.

b. The notice pursuant to subsection (2) of this section shall further provide that at such meeting the owner or occupant may appear in person or by his representative to show cause, if any he can, why such action should not be taken. Upon good cause shown, the board may grant the owner or occupant additional time to comply or continue the matter upon such terms and conditions as it deems appropriate.

(Code 1966, § 5-81.3)

Sec. 50-639. Emergencies.

Notwithstanding any other provisions of this subdivision, whenever the city health department determines that an emergency exists which requires immediate action to protect public health, it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the city health department shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provisions of this division and of the rules and regulations adopted pursuant thereto have been complied with, the health department representative shall continue such order in effect, modify it, or revoke it.

(Code 1966, § 5-81.4)

ARTICLE VIII. OPEN BURNING

Sec. 50-640. Title.

This article shall be known as the City of Bristol, Virginia, Ordinance for the Regulation of Open Burning.

(Ord. No. 96.20, 9-10-96)

Sec. 50-641. Purpose.

The purpose of this article is to protect public health, safety and welfare by regulating open burning within the city to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This article is intended to supplement the applicable regulations promulgated by the state air pollution control board and other applicable regulations and laws.

(Ord. No. 96.20, 9-10-96)

Sec. 50-642. Definitions.

For the purpose of this article and subsequent amendments or any orders issued by the city, the following words or phrases shall have the meanings given them in this section:

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

Clean-burning waste means waste which does not produce dense smoke when burned and is not prohibited to be burned under this article.

Construction waste means solid waste which is produced or generated during construction of structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the state waste management board.

Debris waste means stumps, wood, brush, and leaves, exclusive of green leaves, grass and evergreen foliage, from land-clearing operations.

Demolition waste means that solid waste which is produced by the destruction of structures and their foundations, and includes the same materials as construction waste.

Garbage means rotting animal and vegetable matter accumulated by a household in the course of ordinary day-to-day living.

Hazardous waste means refuse or combination of refuse which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may:

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

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

Household refuse means waste material and trash normally accumulated by a household in the course of ordinary day-to-day living.

Industrial waste means all waste generated on the premises of manufacturing and industrial operations, such as, but not limited to, those carried on in factories, processing plants, refineries, slaughterhouses, and steel mills.

Junkyard means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

Landfill means a sanitary landfill, an industrial waste landfill or construction/demolition/debris landfill. See Solid Waste Management Regulations (VR 672-20-10) for further definitions of these terms.

Local landfill means any landfill located within the jurisdiction of a local government.

Open burning means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

Open pit incinerator means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion byproducts emitted into the atmosphere. The term also includes trench burners, air curtain destructors and overdraft incinerators.

Refuse means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land-clearing, forest management and emergency operations.

Salvage operation means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

Sanitary landfill means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small-quantity generators, and nonhazardous industrial solid waste. See Solid Waste Management Regulations (VR 672-20-10) for further definitions of these terms.

Smoke means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

Special incineration device means a pit incinerator, conical or tepee burner, or any other device specifically designed to provide good combustion performance.

(Ord. No. 96.20, 9-10-96)

Sec. 50-643. Prohibited uses.

(a) No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of any type of waste or refuse, including brush and yard waste, except as provided in this article.

(b) No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil, impregnated wood, or other rubber or petroleum-based materials, except when conducting bona fide firefighting instruction at firefighting training schools having permanent facilities.

(c) No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

(d) No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

(e) Open burning or the use of special incineration devices permitted under the provisions of this article does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this article. In this regard, special attention should be directed to Section 10.1-1142 [Code of Virginia] of the Forest Fire Law of Virginia, as amended, repealed, reenacted or recodified from time to time, the regulations of the state waste management board, and the state air pollution control board's regulations for the control and abatement of air pollution.

(f) Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in part VII of the regulations for the control and abatement of air pollution or when deemed advisable by the state air pollution control board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in-process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

(Ord. No. 96.20, 9-10-96)

Sec. 50-644. Exemptions.

The following activities are exempted to the extent covered by the state air pollution control board's regulations for the control and abatement of air pollution:

(1) Open burning for training and instruction of government and public firefighters under the supervision of the designated official and industrial in-house firefighting personnel.

(2) Open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers.

(3) Open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack.

(4) Open burning for forest management and agriculture practices approved by the state air pollution control board.

(5) Open burning for the destruction of classified military documents.

(6) Open burning by agencies of the government of the United States of America, the commonwealth, or their agents acting under their control or supervision. Open burning by such agencies or their agents shall be controlled by the regulations of the state air pollution control board, the state forestry department, or the several waste regulations of the state department of environmental quality, whichever is applicable.

(Ord. No. 96.20, 9-10-96)

Sec. 50-645. Permitted uses.

Open burning is permitted for disposal of debris waste resulting from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, sanitary landfills or other clearing operations for public facilities or utilities of a similar nature which may be approved by the fire chief or his designee, provided the following conditions are met:

(1) All reasonable effort shall be made to minimize the amount of material burned, with the number and size of debris piles approved by the fire chief or his designee;

(2) The material to be burned shall consist of brush, stumps and similar debris waste, exclusive of green grass, leaves or evergreen foliage, and shall not include demolition or building material;

(3) The burning shall be at least five hundred (500) feet from any occupied building;

(4) The burning shall be conducted at the greatest distance practicable from streets and highways;

(5) The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;

(6) The burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and

(7) The burning shall be conducted only when the prevailing winds are away from any built-up area.

(Ord. No. 96.20, 9-10-96)

Sec. 50-646. Permit required; conditions required for use of special incineration devices.

(a) When open burning of debris waste (section 50-645) is to occur within the city, the person responsible for the burning shall obtain a permit from the fire chief or his designee prior to the burning. Such a permit may be granted only after confirmation by the fire chief or his designee that the burning can and will comply with the provisions of this article and any other conditions which are deemed necessary to ensure that the

burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the state air pollution control board's regulations for the control and abatement of air pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by fire chief or his designee.

(b) Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the fire chief or his designee, such permits to be granted only after confirmation by the fire chief or his designee that the burning can and will comply with the applicable provisions in the regulations for the control and abatement of air pollution and that any conditions are met which are deemed necessary by the fire chief or his designee to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall, at a minimum, contain the following conditions:

(1) All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.

(2) The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material.

(3) The burning shall be at least 500 feet from any occupied building other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from streets and highways. If the fire chief or his designee determines that it is necessary to protect public health and welfare, he may direct that any of the above-cited distances be increased.

(4) The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.

(5) The burning shall be conducted only when the prevailing winds are away from any built-up area.

(6) The use of special incineration devices shall be allowed only for the disposal of debris waste, clean-burning construction waste, and clean-burning demolition waste.

(7) Permits issued under this subsection shall be limited to a specific period of time deemed appropriate by the fire chief or his designee.

(c) An application for a permit under section 50-645 shall be accompanied by a processing fee as provided in the appendix to this chapter.

(Ord. No. 96.20, 9-10-96)

Sec. 50-647. Penalty for violation.

(a) Any violation of this article is punishable as a class I misdemeanor.

(b) Each separate incident may be considered a new violation.

(Ord. No. 96.20, 9-10-96)

Secs. 50-648—50-650. Reserved.

ARTICLE IX. REMOVAL OR REPAIR OF BUILDINGS OR OTHER STRUCTURES HARBORING ILLEGAL DRUG ACTIVITY

Sec. 50-651. Definitions.

As used in this article:

Affidavit means the affidavit prepared by the city manager in accordance with section 50-652 hereof.

Controlled substance means the same as that term is defined in Section 54.1-3401, Code of Virginia (1950), as amended and as the same may be hereafter amended or recodified.

Corrective action means the taking of steps, which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

Drug blight means a condition existing on real property, which tends to endanger the public health or safety of residents of the city and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

Owner means the record owner of real property.

(Ord. No. 05.14, 6-14-05)

Sec. 50-652. Affidavit and notice requirements.

In addition to enforcement procedures established elsewhere, the city manager is authorized to undertake corrective action with respect to drug blight on real property in accordance with the procedures described herein.

(1) The city manager shall execute an affidavit, citing Code of Virginia (1950), Section 15.2-907, as amended, and this article, and affirming that drug blight exists on certain property in the manner described therein; that the city has used due diligence without effect to abate the drug blight; and that the drug blight constitutes a present threat to the public's health, safety and welfare.

(2) The city manager shall notify the property owner by regular mail sent to the last known address as it appears in the assessment records of the city. The notice and a copy of the affidavit shall advise the owner that the owner has up to 30 days from the date thereof to undertake corrective action to abate the drug blight described in the affidavit and, that if requested to do so, the city will assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in the affidavit.

(Ord. No. 05.14, 6-14-05)

Sec. 50-653. Failure to take corrective action.

If no corrective action is undertaken by the owner of the property within 30 days from receipt of notice from the city as provided for in section 50-652, the city manager shall send by regular mail an additional notice to the owner of the property at the address stated in the assessment records of the city. This final notice shall state the date on which the locality may commence corrective action to abate the drug blight on the property, which date shall be no less than 15 days after the date of mailing of the final notice. Such notice shall also reasonably describe the corrective action contemplated by the city, and said action may include, but not be limited to, the removal of the building or other structure so as to abate the drug blight on the property. Upon receipt of this final notice, the owner shall have the right, upon reasonable notice to the city, to seek equitable relief, and the city shall initiate no corrective action while a proper petition is pending before a court of competent jurisdiction.

(Ord. No. 05.14, 6-14-05)

Sec. 50-654. Assessment of costs.

If the city undertakes the corrective action with respect to the property after complying with the notice provisions found herein, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the city in the same manner as taxes and levies are collected. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local real estate taxes and enforceable in the same manner as provided in Code of Virginia (1950) Articles 3 (Section 58.1-3940 et seq.) and 4 (Section 58.1-3965 et seq.) of Chapter 39, Title 58.1, as amended.

(Ord. No. 05.14, 6-14-05)

Sec. 50-655. Corrective action by owner.

If the owner of such property takes timely corrective action pursuant to this article, the city shall deem the drug blight abated and shall close the proceeding without any charge or costs to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the city from initiating a subsequent proceeding if the drug blight recurs.

(Ord. No. 05.14, 6-14-05)

Sec. 50-656. Abridgement of rights.

Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity or to waive any alternative legal or equitable methods the city may have to remove the blight.

(Ord. No. 05.14, 6-14-05)

ARTICLE X. SPOT BLIGHT ABATEMENT

Sec. 50-657. General.

This article is created in accordance with Section 36-49.1:1 of the Code of Virginia, 1950, as amended, for the general purpose providing the city with the power to hold, clear, repair, manage, dispose, or acquire blighted property as defined herein.

(Ord. No. 05.13, 6-14-05)

Sec. 50-658. Definitions.

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

(b) Deleterious land use means a pervasive land use that results in substantiated violations of state and city code requirements.

(c) Dilapidation means the state of a property that has been subjected to inadequate maintenance that contributes to unsafe site or building conditions.

(d) Excessive land coverage means land development that overly restricts access to light and air, or has extensive impervious surface that creates storm water runoff that regularly and detrimentally affects adjacent properties, or that does not meet zoning requirements for open space.

(Ord. No. 05.14, 6-14-05)

Sec. 50-659. Preliminary determination of blight.

Procedure.

(1) The city manager or his designee shall make a preliminary determination that a property is blighted within the meaning of this article. Once determined to be blighted, the city manager, shall provide written notice to the owner of said property that a determination of blight has been made. Within any such notice the city manager shall describe the condition of the property and the reason for making the determination that the property is blighted.

(2) The owner of the property determined to be blighted shall have 30 days from the date of the notice to present a plan to take measures to cure or eliminate the conditions upon which the preliminary determination of blight was made, which is acceptable to the city manager. The owner's plan to cure or eliminate the blight, if accepted by the city manager, shall be performed in such reasonable time period, as the city manager, in his discretion, deems necessary under the circumstances.

(Ord. No. 05.14, 6-14-05)

Sec. 50-660. Hearing before planning commission.

(a) *Procedure.* If the owner of a property that has been preliminarily determined to be blighted fails to timely present the plan set forth above, or fails to carry out a plan to cure or eliminate the blight within the time period acceptable by the city manager, the city manager may request that the planning commission conduct a public hearing and make findings and recommendations regarding the property. If such a hearing is requested, the city manager shall present to the commission a plan for the repair, disposal or acquisition of the property. If the owner's plan is not accepted by the city manager, that determination may be appealed to the planning commission, whose determination of the acceptability of the owner's plan shall be final.

(b) *Notice of public hearing.*

(1) Not less than three weeks prior to the public hearing before the planning commission, the planning commission shall cause a notice of the date, time, place and purpose of the hearing to be sent by regular and certified mail, to the following: the owner of the blighted at the owner's last known address or to the agent designated by him for receipt of service of notices concerning the payment of real estate taxes; each of the abutting property owners in each direction, including those property owners immediately across the street or road from the blighted property to the city manager. Within said notice the commission shall include the plan that the city manager has prepared on behalf of the city for the repair, disposal or acquisition of the blighted property.

(2) Notice of the hearing shall also be published at least twice, with not less than six days elapsing between the first and second publication in the newspaper published or having general circulation in the locality in which the property is located. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after the second newspaper publication.

(3) Notice of the hearing shall also be posted on the blighted property.

(c) *Planning commission findings.*

(1) Following the public hearing the planning commission shall make the following determinations:

a. Whether the property is blighted;

b. Whether the owner has failed to cure the blight or present a reasonable plan to do so;

c. Whether the plan for repair or other disposition of the property is in accordance with the locally adopted comprehensive plan, zoning ordinances, and other applicable land use regulations; and

(2) The planning commission shall report its findings to the city council for final determination.

(Ord. No. 05.14, 6-14-05)

Sec. 50-661. Hearing before city council.

(a) *Action on planning commission findings.* Upon receipt by the city council of the findings and recommendations of the planning commission, the council may, after an advertised public hearing, affirm, modify or reject the said findings and recommendations. If the repair, disposal or acquisition of the property is approved by the council, the city manager shall carry out the repair, disposal or acquisition in accordance with the approved plan.

(b) *Displacement of residents.* Unless specifically authorized under the Code of Virginia, 1950, as amended, Title 36, the city council shall not approve any plan for acquisition of blighted property that is occupied for personal residential purposes if the plan will result in the displacement of any person or persons living on the premises of the blighted property. However, this shall not apply to the acquisitions under a plan where the property has been condemned for human habitation for more than one year. In exercising its powers of eminent domain, in accordance with the Code of Virginia, 1950, as amended, Title 25, the city may provide for temporary relocation of any person living in the blighted property provided that the relocation is within the financial means of such person.

(Ord. No. 05.14, 6-14-05)

Sec. 50-662. Recovery of costs and lien on property.

(a) *Costs.* The city may assess and recover against the owner of the blighted property all costs that it expends or incurs in repairing the property to bring it into compliance with applicable building codes and/or for all costs expended or incurred in the disposal of the property under the city council's approved plan. Costs shall be assessed against the record owner of the property at the time of the repair and/or disposal.

(b) *Lien on property.* The city shall have a lien, on any blighted property on which it repairs and/or disposes of under the city council's approved plan, for all costs that it expends or incurs in repairing or disposing of the property. All liens asserted herein shall be placed of record in the office of the clerk of the circuit court of the city, and shall be subordinate to all prior recorded liens. If the governing body through eminent domain acquires the blighted property, the costs of repair may be recovered from the proceeds of sale when the city sells or disposes of the property.

(Ord. No. 05.14, 6-14-05)

Sec. 50-663. Other statutes and ordinances.

The provisions of this article shall be cumulative and shall be in addition to all other remedies available to the city for spot blight abatement that are authorized by law. Nothing in this article should be construed to relieve the

owner of blighted property from complying with other applicable statutes and ordinances relating to the use, development, or maintenance of property.

(Ord. No. 05.14, 6-14-05)

Sec. 50-664. Rules and regulations.

The city manager or his designee may prescribe rules and regulations, consistent with this article, deemed necessary for the effective administration hereof. A copy of any such rules and regulations shall be available upon request in the office of the city manager or his designee.

(Ord. No. 05.14, 6-14-05)

Sec. 50-665. Other laws and ordinances.

Nothing in this article shall be construed to relieve an owner or any other person or entity from complying with all other applicable laws and ordinances related to the development, use, rehabilitation, maintenance or taxation of real estate. The provisions of this article shall be in addition to any remedies for spot blight abatement that may be authorized by any other provision of law.

(Ord. No. 05.14, 6-14-05)

Sec. 50-666. Declaration of nuisance.

In lieu of the acquisition of blighted property by the exercise of the powers of eminent domain as herein provided, and in lieu of the exercise of other powers granted in the sections above, the city may by ordinance declare any blighted area as defined in the Code of Virginia, § 36-49 to constitute a nuisance, and thereupon abate the nuisance pursuant to the Code of Virginia, § 15.2-900 or 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

(Ord. No. 05.14, 6-14-05)

Secs. 50-667—670. Reserved.

ARTICLE XI. GRAFFITTI[11]

Sec. 50-671. Definition of "graffiti."

Graffiti shall mean the unauthorized application by any means of any writing, painting, drawing, etching, scratching or marking of an inscription, word, figure or design of any type on any public or private building or other real estate or personal property owned, operated or maintained by a governmental entity or agency or instrumentality thereof or by any private person, firm, or corporation.

[11]Editor's note(s)—Ord. No. 05.12, adopted June 14, 2005, supplied provisions to be added to the Code as §§ 51-11—51-17. At the discretion of the editor, with concurrence from the city, these provisions have been redesignated as §§ 50-671—50-677.

(Ord. No. 05.12, 6-14-05)

Sec. 50-672. Graffiti prohibited; criminal penalty.

(a) It shall be unlawful for any person to deface or damage by application of graffiti any public buildings, facilities or other property, or any private buildings, facilities or other property.

(b) Any person convicted of a violation of subsection (a) shall be guilty of a Class 1 misdemeanor. Upon a finding of guilt in a case tried before the court without a jury where the violation constitutes a first offense, the court, without entering a judgment of guilt, upon motion of defendant, may defer further proceedings and place defendant on probation pending completion of a plan of community service work. If defendant completes the community service work as the court prescribes, the court may discharge the defendant and dismiss the proceedings against him. Such discharge and dismissal procedure under this section shall be without adjudication of guilt and operates as a conviction only for the purposes of applying this ordinance in subsequent proceedings. If the defendant fails or refuses to complete community service as ordered by the court, the court may make final disposition of the case as otherwise provided. Any fine imposed pursuant to conviction of a minor for violations of this section shall be assessed against the minor and such minor's parents or legal guardian.

(c) Community service work prescribed by the court under subsection (b) shall include, to the extent feasible, the repair, restoration, or replacement of any damage or defacement to property within the city, and may include clean-up, beautification, landscaping or other appropriate community service within the city.

(d) Community service work prescribed by the court under subsection (b) shall be performed under the supervision of the city manager or his/her designee, who shall report on such work to the court imposing the community service work requirement at such times and in such manner as the court may direct.

(e) At or before the time of sentencing under this section, the court shall receive and consider any plan for making restitution or performing community service submitted by the defendant, as well as the recommendations of the city's community service supervisor concerning the plan.

(f) No person convicted of a violation of this article shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or is compelled to perform community services, or both.

(Ord. No. 05.12, 6-14-05)

Sec. 50-673. Parental liability for cost of graffiti removal.

In the event graffiti is applied to any public property by a minor who is living with either or both parents or a legal guardian, the city may institute an action and recover from the parents of the minor, or either of them, or from the legal guardian the costs for damages suffered by reason of the willful destruction of, or damage to, public property by the minor. The action by the city shall be subject to any limitation on the amount of recovery set forth in the Code of Virginia Section 8.01-43 or other applicable state law. Any recovery action brought by an owner for damages to private property by reason of graffiti shall be subject to the limitation set forth in the Code of Virginia Section 8.01-44.

(Ord. No. 05.12, 6-14-05)

Sec. 50-674. Graffiti declared a nuisance.

The existence of graffiti within the city limits in violation of this article is expressly declared a public nuisance, and is subject to the removal and abatement procedures specified in this article.

(Ord. No. 05.12, 6-14-05)

Sec. 50-675. Removal of graffiti.

(a) The city manager or a designated representative of the city manager is authorized to undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure by the application of graffiti.

(b) The city manager or a designated representative is also authorized to undertake or contract for the removal or repair of the defacement by graffiti of any private building, wall, fence or other structure visible from any public right-of-way in accordance with the following procedures:

(1) Prior to such removal of graffiti from private property, the city manager or a designated representative shall issue to the property owner, by regular mail sent to the last address listed for the owner in city property assessment records, a notice which states: the street address and legal description of the property; that the property has been determined by the city to constitute a graffiti nuisance; that the owner must take corrective action to abate the nuisance created by such graffiti within 15 days of the date of the notice; and that if the graffiti is not removed within the 15-day period, the city will begin removal procedures, the cost of which shall be charged to the homeowner. The notice shall further advise the owner of the right to challenge the city's determination and proposed action by requesting a meeting with a designated city official identified in the notice within 15 days of the date of the notice. The city shall initiate no corrective actions while a request for such a meeting or the outcome of such a meeting is pending. The determination of the designated city official following the requested meeting shall be final.

(2) If no corrective action is taken by the property owner within the 15-day period provided above and there is no request to challenge the city's determination within that period, the city manager or a designee of the city manager shall send by regular mail an additional notice to the property owner. The second notice shall conform to the requirements of the first notice as set forth in subsection (b)(1) above and shall also state the date on which the city will commence corrective action to remove the graffiti on the property, which date shall be no earlier than 15 days from the date of mailing the second notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the city. Where the property owner fails to abate the nuisance within 15 days after issuance of the second notice, the city manager or a designated representative of the city manager is authorized to undertake removal efforts forthwith.

(3) Before entering upon private property for the purpose of graffiti removal, the city shall attempt to obtain the consent of the property owner, occupant or other responsible party. If permission is refused, the city will obtain a court order from the appropriate circuit court ordering that the owner permit entry for that purpose.

(c) Where a structure defaced by graffiti is owned by a public entity other than the city, the removal of the graffiti by the city is authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the structure.

(Ord. No. 05.12, 6-14-05)

Sec. 50-676. Emergency removal of graffiti.

If the city manager or his designee determines that any graffiti is an immediate danger to public health, safety or welfare and is unable to provide notice by personal service after at least two attempts to do so, then 48 hours after the later of (1) mailing notice to the property owner or other responsible party and (2) posting notice in a conspicuous place on the property, the city may remove or cause the graffiti to be removed at its expense.

(Ord. No. 05.12, 6-14-05)

Sec. 50-677. Assessment of costs against property for removal of graffiti.

(a) If the city undertakes corrective action to remove graffiti from private property after complying with the notice provisions of subsection 50-675(b), the total cost for such removal and related repairs shall be chargeable to and paid by the property owner, and may be collected as a special assessment against the respective lot or parcel of land to which it relates in the manner in which city taxes and levies are collected.

(b) Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as such liens

(Ord. No. 05.12, 6-14-05)

APPENDIX TO CHAPTER 50[12]

Sec. 1. Permits generally and related purposes.

The following permit and fee schedule is adopted.

(1) Items governed by building permit.

a. Building permit fees shall be assessed in accordance with the Valuation Table below:

Valuation Chart

Value of Work to be Completed	Base Fee	Sliding Fee	Maximum Fee
Less than $1,000	$25.00	$2.00 per $100 of value	$50.00
$1,000—$49,999	$50.00	$5.00 per $1,000 of value	$300.00
$50,000—$99,999	$250.00	$4.00 per $1,000 of value	$650.00
$100,000—$499,999	$450.00	$3.00 per $1,000 of value	$3,000.00
$500,000 and up	$1,500.00	$3.00 per $1,000 of value	$50,000.00

[12]Editor's note(s)—Res. No. 14.13, § 2, adopted June 24, 2014, repealed the former Ch. 50 Appendix, §§ 1—6, and enacted a new Ch. 50 Appendix as set out herein. The former Ch. 50 Appendix pertained to similar subject matter and derived from Code 1966, §§ 5-2.2, 5-2.5; app. tit. I, §§ 5.12, 18.1; app. tit. II, § 5-1; Ord. No. 92.09, adopted June 23, 1992; Ord. No. 98.08, adopted May 26, 1998; Ord. No. 02.21, adopted Oct. 8, 2002; and Ord. No. 14.05, adopted June 10, 2014.

(2) Trade permits associated with a building permit shall be assessed a fee of five percent of the total building permit fee as derived from the valuation chart above. Trade permits not associated with a building permit will be assessed a fee consistent with the valuation chart above.

(3) Inspection fees shall be $50.00 for the first inspection, $75.00 for the second, and $100.00 for each subsequent inspection. These fees are for re-inspections of work previously reviewed at are assigned at the discretion of the building official.

(4) Project valuation shall include the addition of material costs and labor costs. Labor costs shall be based on contracted prices or market rate as assessed by the building official if a contract is unavailable or the work is being completed by the property owner. Material costs are subject to verification and adjustment by the building official.

(5) Projects started without benefit of a permit shall in addition to the fees allowed above be assessed an after-the-fact fee equal to 100 percent of the building permit fee.

(Res. No. 14.13, § 2, 6-24-14)

Sec. 2. Development review.

(1) *Items associated with the development review divisions of planning, building and engineering.*

a. Development review fees shall be assessed pursuant to the following development review fee schedule (fees will be rounded up to the nearest whole unit)

APPLICATION/SERVICE	Proposed Base Fee	Proposed[2]Sliding Fee	Additional Notes
ZONING			
Zoning Certification	$50.00		
Zoning Text Amendment	$500.00		
Zoning Map Amendment	$200.00		
Special Exception Permit	$100.00		
Conditional Zoning Amendment	$300.00		
Home Occupation	$100.00		
Future Land Use Map Amendment	$1,000.00		
Comprehensive Plan Amendment	$1,000.00		
Variance	$400.00		
Administrative Appeals	$500.00		
Administrative Modification	$200.00		
Boundary Determination	$200.00		
Sign Permit	$100.00		
Planning Site Visits	$60.00		
SUBDIVISION			
Pre Application Conference	$ -		
Platting—3 Lots or Less	$50.00	$3.00 per lot	
Platting—4 Lots or More	$150.00	$3.00 per lot	
R/W Vacation	$1,000.00		
ENGINEERING/CONSTRUCTION			
Minor Site Plan Review	$200.00		< 10,000 SF Impervious
Construction Plan Review	$400.00	$50.00 per acre	

Erosion Sediment Control Plan Review	$200.00	$50.00 per acre	(6 month recurance)
Agreement in Lieu of E&S Plan	$150.00		
Land Disturbing/Grading Permit	$150.00		
Unsupervised Fill Permit	$150.00		
Work in Right-of-Way Permit	$100.00	$50.00 per 100 LF	
Commercial Entrance Permit	$150.00		per entrance
Private Ent/Driveway Permit	$25.00		per entrance
MISCELLANEOUS			
Parking Agreement	$100.00		
Special Service Applications	$50.00		
Road Closures	$200.00		
Development Agreement	$2,000.00		

(Res. No. 14.13, § 2, 6-24-14)

Sec. 3. Stormwater management plan review for land disturbing permits.

Less than one acre pursuant to subsection 50-439(a)(3) the fee shall be $500.00.

(Res. No. 14.13, § 2, 6-24-14)

Sec. 4. VSMP authority permit fees.

(1) *General permit for discharge of stormwater.*

a. *Permit issuance fees.*

Construction Activity/Land Clearing Including Areas Within Common Plans of Development or Sale.	**Fee Remitted to City of Bristol**	**Fee Remitted to DEQ**	**Total Fee**
Less than 1 Acre	$ 209.00	$ 81.00	$ 290.00
Equal to 1 Acre but less than 5 Acres	$ 1,944.00	$ 756.00	$ 2,700.00
Equal to 5 Acre but less than 10 Acres	$ 2,448.00	$ 952.00	$ 3,400.00
Equal to 10 Acre but less than 50 Acres	$ 3,240.00	$ 1,260.00	$ 4,500.00
Equal to 50 Acre but less than 100 Acres	$ 4,392.00	$ 1,708.00	$ 6,100.00
Equal to or greater than 100 Acres	$ 6,912.00	$ 2,688.00	$ 9,600.00

b. *Modification or Transfer of Registration Statement Fees.*

Construction Activity/Land Clearing Including Areas Within Common Plans of Development or Sale.	**Fee Remitted to City of Bristol**	**Fee Remitted to DEQ**
Less than 1 Acre	$ 20.00	$ 0.00
Equal to 1 Acre but less than 5 Acres	$ 200.00	$ 0.00
Equal to 5 Acre but less than 10 Acres	$ 250.00	$ 0.00
Equal to 10 Acre but less than 50 Acres	$ 300.00	$ 0.00

Equal to 50 Acre but less than 100 Acres	$ 450.00	$ 0.00
Equal to or greater than 100 Acres	$ 700.00	$ 0.00

c. *Permit Maintenance Fees.*

Construction Activity/Land Clearing Including Areas Within Common Plans of Development or Sale.	**Fee Remitted to City of Bristol**	**Fee Remitted to DEQ**
Less than 1 Acre	$ 50.00	$ 0.00
Equal to 1 Acre but less than 5 Acres	$ 400.00	$ 0.00
Equal to 5 Acre but less than 10 Acres	$ 500.00	$ 0.00
Equal to 10 Acre but less than 50 Acres	$ 650.00	$ 0.00
Equal to 50 Acre but less than 100 Acres	$ 900.00	$ 0.00
Equal to or greater than 100 Acres	$ 1,400.00	$ 0.00

(Res. No. 14.13, § 2, 6-24-14)

Sec. 5. Open burning.

The permit application processing fee for open burning shall be $50.00

(Res. No. 14.13, § 2, 6-24-14)