

Mathews County, VA  
Wednesday, January 6, 2016

## Chapter 175. Zoning

[HISTORY: Adopted by the Board of Supervisors of Mathews County 1-29-1987; as amended through 8-27-2013. Subsequent amendments noted where applicable.]

### GENERAL REFERENCES

Erosion and sediment control — See Ch. 50.

Floodplain management — See Ch. 63.

Parks and recreation — See Ch. 109.

Sanitary district — See Ch. 125.

Subdivision of land — See Ch. 140.

Wetlands — See Ch. 166.

## ARTICLE 1. Title, Authority and Purpose

### § 175-1.1. Title.

This chapter shall be known and may be cited as the "Zoning Ordinance of Mathews County, Virginia."

### § 175-1.2. Authority.

This chapter is adopted pursuant to the authority provided by Title 15.1, Chapter 11, Article 8, § 15.1-486 through § 15.1-498 of the Code of Virginia, 1950, as amended.

### § 175-1.3. Purpose.

This chapter has been designed for the purpose of promoting the health, safety, or general welfare of the public and further accomplishing the objectives of Section 15.1-427 of the Code of Virginia, 1950, as amended, by:

- A. Providing for adequate light, air, convenience of access, and safety from fire, flood, and other dangers;
- B. Reducing or preventing congestion in the public streets;
- C. Facilitating the creation of a convenient, attractive, and harmonious community;
- D. Expediting the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, and other public requirements;
- E. Protecting against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers;

- F. Encouraging economic development activities that provide desirable employment and enlarge the tax base; and
- G. Regulating, restricting, permitting, prohibiting, and determining:
  - (1) The use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential, 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 building, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the size of lots based on whether a public or community water supply or sewer system is available and used; and
  - (4) The excavation or mining of soil or other natural resources.

## ARTICLE 2. Definitions

### § 175-2.1. Interpretation of terms or words.

For purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B. The present tense includes the future tense, the singular tense includes the plural, and the plural number includes the singular.
- C. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- D. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- E. The word "lot" includes the words "plot" or "parcel."

### § 175-2.2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **ACCESS**

A way or means of approach or admission.

#### **ACCESSORY USE**

A subordinate use, customarily incidental to and subordinate to the principal use of the structure, and located upon the same lot occupied by the main use. Private sewage treatment systems shall be considered as accessory uses, buildings or structures and shall be permitted as a freestanding use on a vacant lot.

#### **ACREAGE**

A parcel of land, regardless of area, which is not a numbered lot on any recorded subdivision plat.

**ACREAGE, GROSS**

A unit of measure, the total land area to be developed including rights-of-way, easements, and land set aside for public purposes.

**ADMINISTRATOR, THE**

The Zoning Administrator of Mathews County, Virginia. The official, appointed by the governing body, with enforcement of this chapter.

**ADULT BOOKSTORE**

An establishment having a substantial or significant portion of its stock-in-trade, including but not limited to, books, magazines, periodicals, or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing, or related to specified sexual activities as defined, or an establishment with a segment or section devoted to the sale of such material.

**ADULT THEATER**

An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas as defined, for observation by patrons therein.

**AGRICULTURE**

The tilling of the soil, the raising of the crops, food and fiber; horticulture; and gardening, including the keeping of animals and fowl, and including any agricultural industry or business, such as fruit packing plants, dairies, or similar uses.

**ALGACULTURE**

The propagation, rearing, enhancement and harvesting of algae, kelp or seaweed.  
[Added 7-22-2014]

**ALLEY**

A public or private way affording secondary means of access to abutting property.

**ALTERATION**

Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

**APARTMENT HOUSE**

A building which is owned by an individual, person, firm, or corporation which is to be leased as the residence of three or more families independently of each other.

**AQUACULTURE**

The propagation, rearing, enhancement, and harvest of aquatic organisms in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water.  
[Added 7-22-2014]

**AQUACULTURE FACILITY**

Any land, structure, or other appurtenance that is used for aquaculture, including any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.  
[Added 7-22-2014]

**AQUATIC ORGANISM**

Any species or hybrid of aquatic animal or plant, including fish, shellfish, marine fish, and marine organisms.  
[Added 7-22-2014]

**ARCHITECT**

A person licensed to practice as an architect in the Commonwealth of Virginia.

**ASSISTED LIVING FACILITY**

An establishment that provides housing and other services which may include meals, housekeeping and personal care assistance for adult residents who typically are functionally impaired, but otherwise in good health and able to maintain a semi-independent lifestyle, not requiring more intensive care of a nursing or convalescent home.

**AUTOMOBILE DISMANTLING FACILITY**

A business holding a valid dealer's license and collecting state sales tax, whose primary concern is the recovery of automobile parts for resale or secondarily to distribute, by the recycling process, the residue of its scrap metal content.

**AUTOMOBILE GRAVEYARD**

Any 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 operable, are placed, located, or found.

**AUTO SERVICE (OWNER-OPERATOR ONLY)**

The repair of vehicles including, but not limited to, cars and trucks by the owner-operator of the repair facility. Such repair shall occur on property owned or leased by the operator and the operator shall reside on the same parcel as the repair facility.

**BASEMENT**

A story having part, but not more than 1/2, of its height below grade. A basement shall be counted a story for the purpose of height regulations if it is used for business purposes or for the dwelling purposes by other than a janitor employed on the premises.

**BED-AND-BREAKFAST/TOURIST HOME ESTABLISHMENT**

An owner- or operator-occupied private residence which contains no more than one kitchen and six or fewer rooms which are occupied for sleeping purposes by guests, other than temporary personal guests of an owner or operator, none of whom remain any more than seven consecutive nights, for compensation with or without meals.

**BLOCK**

That property abutting one side of the street, and lying between the two nearest intersecting or intercepting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing in any barrier to the continuity of development.

**BOARDING HOUSE**

A building where, for compensation, facilities are provided for lodging, or lodging and meals are provided for at least three and up to 14 persons.

**BOARD, THE**

The Board of Zoning Appeals of Mathews County, Virginia.

**BOAT HOUSE**

A single-story structure limited to the storage of watercraft and/or watercraft equipment and constructed over the water.

**BOAT LANDING**

A structure designed to launch and recover watercraft and including supporting facilities such as parking and storage.

**BUFFER/SCREENING**

A device or natural growth, or a combination of, designed or used as a barrier to vision or noise

between adjoining properties or land uses.

**BUILDING**

Any structure having a roof supported by columns or walls, designed or intended for the support, enclosure, shelter, or protection of persons, animals, or chattels.

**BUILDING, ACCESSORY**

A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure.

**BUILDING HEIGHT**

The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip, and gambrel roofs.

**BUILDING, PRINCIPAL**

A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUSINESS, CONVENIENCE**

Commercial establishments which cater to and can be located in close proximity to a residential or rural district without creating undue vehicular congestion, excessive noise, or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry facilities, and grocery stores, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day-to-day need in the neighborhood.

**BUSINESS, GENERAL**

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend in addition to serving day-to-day needs of the whole community, also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.

**BUSINESS, HIGHWAY**

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations, truck and auto sales and service, restaurants, and motels.

**BUSINESS, SERVICE**

Any profit-making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.

**BUSINESS, WHOLESALE**

Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

**CABARET**

An adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities as defined.

**CAMP, DAY**

A parcel of land devoted to primarily outdoor recreation uses not including overnight

accommodations for users.

**CAMPGROUND**

Any lot or land used, maintained, or held out to be public as a place of use for camping or lodging purposes, whether equipped with tents, tent houses, huts, cabins, cottages, campers, or trailers, or not so equipped, and by whatever name the same may be called, whether any fee is charged for the use thereof or not.

**CAMP, SUMMER**

A parcel of land used or designed to be used for seasonal accommodations of individuals in tents or similar rustic structures and for use by such individuals for sports, handicrafts and other outdoor oriented activities and recreation.

**CARPORT**

Any space outside a building and contiguous thereto wholly or partly covered by a roof, and used for the shelter of motor vehicles.

**CARNIVAL**

A traveling or transportable group or aggregation of rides, shows, games or concessions or any combination thereof.

**CARRY-OUT OR DRIVE-IN RESTAURANT**

Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages in motor vehicles on the premises; a refreshment stand; a "fast food" or primarily "carry establishments."

**CAR WASH, COMMERCIAL**

Any automatic or self-service facility where the washing of vehicles is conducted. It does not mean facilities that wash or steam-clean engines, buses, tankers or tractor-trailers. Also it does not include mobile car washes or charity car washes. Car washes shall utilize a low-volume water recycling system which provides for an average of at least 80% recycled water per wash.

**CELLAR**

A story having more than 1/2 of its height below grade.

**CENTRAL SEWER SYSTEM**

A publicly or privately owned sewer system, approved by the State Department of Health or the State Water Control Board, which serves three or more dwelling units or other structures, and which consists of collection and transmission lines or mains, pumping stations if necessary, and a sewage treatment and disposal facility. Such system functions by transmission of sewage away from the point of origin, collection and treatment of the sewage at a sewage treatment facility which is not located on any of the lots or parcels served by the system, and disposal or discharge of the treated effluent. Central sewer system shall not include mass drain fields, low pressure drain field systems, mound systems and other on-site wastewater disposal methods.

**CENTRAL WATER SYSTEM**

A publicly or privately owned water supply system which meets State Department of Health requirements for an approved water supply, and which serves five or more dwelling units or other structures. Such systems consist of a well or wells which are not located on any of the lots or parcels served by the system, pump houses, transmission lines or mains, and storage tanks if necessary.

**CHURCH OR PLACE OF RELIGIOUS WORSHIP OR ASSEMBLY**

Building in which the primary use is for assembly of persons for religious worship or religious purposes.

**CIRCUS**

A traveling or transportable show or exhibition consisting of performance by persons and animals under one tent or similar structure, with or without side shows.

**CLUB, PRIVATE**

Buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. Includes, but is not necessarily limited to, Masonic lodges, American Legion halls, and community associations. A lodge shall be considered a club.

**CLUSTER DEVELOPMENT**

An arrangement of structures or adjoining lots in groupings allowing closer spacing than would be generally permitted under ordinance requirements for lot widths with the decrease in lot width or area compensated by maintenance of equivalent open space either elsewhere on the lot or in the form of common open space.

**COMMERCIAL HOG FARM**

A farm where hogs are kept and raised primarily for sale, the principal product or use of which farm are such hogs.

**COMMERCIAL POULTRY FARM**

A farm where poultry are kept and raised primarily for sale, the principal product or use of which farm is such poultry.

**COMMISSION, THE**

The Planning Commission of Mathews County, Virginia.

**COMPREHENSIVE PLAN**

The adopted Comprehensive Plan for Mathews County, Virginia, including all amendments and elements.

**CONDITIONAL USE PERMIT**

Permission for a use listed as such in this chapter and which may be issued in a specified district under certain conditions, such conditions to be determined in each case by the terms of this chapter and by the Board of Supervisors, by means of the procedures specified by this chapter and applicable state laws.

**CONDOMINIUM**

A system of separate ownership of individual units in a multiple-unit building or development of residential, commercial, or industrial use; all owners have a right in common to use the common elements of the building or development with separate ownership confined to the individual units as provided for under §55-79.39 of the Code of Virginia.

**CONSTRUCTION/DEMOLITION/DEBRIS LANDFILL**

A land burial facility engineered, constructed, and operated to contain and isolate construction waste, demolition waste, debris waste, inert waste, or a combination of the above solid wastes under regulation of the Department of Waste Management or other applicable state or federal agency.

**CONTINUING CARE RETIREMENT COMMUNITY**

A housing development designed to provide a full range of accommodations for older adults (55 years of age or older), including independent living, assisted living and skilled full-time nursing or medical care. Residents may move from one level of care to another as their needs change.

**CONVALESCENT, NURSING OR REST HOME**

Any institution, however named, whether conducted for charity or for profit, which is advertised,

announced or maintained for the express or implied purpose of caring for two or more non-related persons admitted thereto for the purpose of nursing or convalescent care. Nursing and convalescent care includes care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine. (Certain nursing homes and homes for the aged may be "home occupation," if they comply with the definition herein.)

**CONVENIENCE STORE**

A single store retail use, the ground floor area of which is 5,000 square feet or less and which offers for sale, primarily, the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, general hardware articles and gasoline.

**CRAFT INDUSTRY**

Manufacture or processing of items by hand not involving assembly line techniques.

**DAY-CARE CENTERS**

Facilities providing day care or nursery services for six or more children.

**DEVELOPER OR SUBDIVIDER**

A person having legal title to any tract of land or parcel of land to be developed, whether or not they have given their power of attorney to one of their group, or another individual or entity to act on behalf in planning, negotiating or in representing or executing the requirements of the ordinances or the laws of the County.

**DISABLED VEHICLE**

A vehicle which is inoperable for mechanical or safety reasons and which is not eligible for licensing in its current state or condition.

**DISTRICT**

Districts as referred to in §15.1-486 of the Code of Virginia, 1950, as amended.

**DUMP, OPEN**

Any area of 100 square feet or more where trash, garbage, scrap material, or any solid waste is placed or any area where hazardous or infectious wastes are placed or stored in a manner not in accordance with applicable state and federal regulations.

**DWELLING, MULTIFAMILY**

A building containing three or more dwelling units, with varying arrangements of entrances and party walls.

**DWELLING, QUADRUPLEX**

Four attached dwellings in one building in which each unit has two open-space exposures and shares one or two walls with adjoining unit or units.

**DWELLING, SINGLE-FAMILY**

A building consisting of an unattached, single dwelling unit only, but excluding manufactured homes.

**DWELLING, SINGLE-FAMILY ATTACHED**

A group of two or more single-family dwelling units which are joined to one another by a common party wall, a common floor-ceiling and/or connecting permanent structures such as breezeways, carports, garages or screening fences or walls, whether or not such group is located on a single parcel of ground or on adjoining individual lots. Dwellings such as a semi-detached, garden court, patio house and townhouse shall be deemed a single-family attached dwelling.

**DWELLING, TRIPLEX**

A building containing three dwelling units, each of which has direct access to the outside or to a common hall.

**DWELLING, TWO-FAMILY**

A building consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

**DWELLING UNIT**

Space, within a building, comprising living, dining, and sleeping rooms, storage closets, and space and equipment for cooking, bathing, and toilet facilities, all for one family and its household employees.

**EASEMENT**

A grant by a property owner of the use of his land by another party for a specific purpose.

**ERECTED**

Shall be taken to mean constructed, reconstructed moved or structurally altered.

**FABRICATION**

The process of constructing or assembling a product from previously prepared parts, elements or material which have been manufactured off-site of the fabrication activity.

**FAMILY**

One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage; no such family shall contain over five persons.

**FAMILY, IMMEDIATE**

For the purposes of § 175-5.4A, "immediate family" is defined as a natural or legally defined offspring, brother, sister, grandchild, grandparent or parent of the owner, including step-relations.

**FARMERS MARKET**

An occasional or periodic market held in a structure or open area where farmers, fishermen and similar persons sell their produce, products, catch or homemade wares.

**FENCE**

A fixed structure designed to prevent escape or intrusion or to define property.

**FINANCIAL INSTITUTION**

Any establishment, the primary business of which is concerned with such state-regulated activities as banking, savings and loans, and consumer loans.

**FINFISH AQUACULTURE**

The propagation, rearing, enhancement, and harvest of hatchery produced cold-blooded aquatic vertebrates in controlled or selected aquatic environments.

[Added 7-22-2014]

**FIRE LANE**

A means of access of sufficient design to permit ingress and egress by firefighting equipment.

**FLEXIBLE RESIDENTIAL/BUSINESS USE**

A mixed-use structure in which residential and business uses are combined in the same building (i.e., a building with retail and residential uses on the same floor, or separated by floors). At least 15% of the ground floor space of the building is to be devoted solely to business use, while the rest of the floor space is flexible, and may be used for either business and/or residential uses. Only professional offices are to be permitted by right within a flexible residential/business use; all other proposed business uses must receive a conditional use permit prior to locating within the building. The structure shall comply

with both the standards of the underlying Business-2 (B-2) Zoning District, and all other terms and regulations of this chapter, including residential density. Flexible residential/business use shall be only located in the Business-2 (B-2) District and the Village Mixed Use (VMU) District.

[Added 7-28-2015]

**FLOOR AREA**

For the purpose of determining the number of off-street parking spaces required by this chapter, floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls; but excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows, fitting rooms, and similar areas.

**FORESTRY**

The cultivation, maintenance, development, and harvesting of forests.

**FRONTAGE**

The minimum width of a lot measured from one side lot line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein.

**GARAGE, PRIVATE**

Accessory building designed or used for the storage of private automobiles owned and used by the occupant of the building to which it is accessory.

**GARAGE, PUBLIC**

A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor vehicles.

**GARAGE, SERVICE STATION**

Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be sold. Uses permissible include major mechanical bodywork, straightening of body parts, painting, and welding; and storage of automobiles not in operating condition. Storage of automobiles awaiting parts or repair is permitted.

**GARDEN APARTMENT**

A residential building of no more than three stories in height designed for three or more dwelling units.

**GENERAL STORE, COUNTRY**

A single store which offers for sale general merchandise. Gasoline may also be offered for sale but only as a secondary activity of a general store.

**GLARE**

The effect of a light source that shines so as to be conspicuous and obtrusive.

**GOLF COURSE**

An area of 50 or more contiguous acres, publicly or privately owned, on which the game of golf is played, together with such necessary and usual accessory uses as a club house, caretakers' dwellings, dining and refreshment facilities, and other such uses provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

**GOLF DRIVING RANGE**

A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

**GOVERNING BODY**

The Board of Supervisors of Mathews County, Virginia.

**GRAIN DRYER**

A facility for drying grain. A commercial grain dryer is one in which the grain dried is primarily grown by sources other than the owner and/or operator of the facility. A noncommercial grain dryer is one in which the grain dried is primarily grown by the owner and/or operator of the facility.

**GUEST HOUSE**

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

**HAZARDOUS WASTE**

A hazardous waste as described by the Virginia Hazardous Waste Regulation or the Environmental Protection Agency (EPA).

**HEALTH OFFICIAL**

The legally designated health authority of the State Board of Health for Mathews County or his authorized representative.

**HOME OCCUPATIONS**

An occupation carried on by the occupant of a dwelling as a secondary use in connection with his residence, and which there is limited display.

**HOMEOWNERS' ASSOCIATION**

A nonprofit organization operating under recorded land agreements through which:

- A. Each lot and/or homeowner is automatically a member; and
- B. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organizations' activities, such as maintaining a common property or private road; and
- C. The charge if unpaid becomes a lien against the property.

**HOSPITAL**

An institution rendering medical, surgical, obstetrical, or convalescent care, including nursing homes, homes for the aged, and sanatoriums, but in all cases excluding institutions primarily for mental or feeble-minded patients, epileptics, alcoholics, or drug addicts.

**HOTEL or APARTMENT HOTEL**

A building or group of buildings on a lot in which food and lodging or food, board and lodging are provided and offered to the public for compensation. As such it is open to the public in contradistinction to a boarding house, which is herein defined. Irrespective of the nature or form of ownership of a hotel or of an apartment hotel or of ownership of any of its components, and irrespective of the occasional use without compensation of the hotel or apartment hotel by its owners, a hotel or apartment hotel shall not be deemed a condominium for purposes of this chapter.

**INFECTIOUS WASTE**

Solid wastes which contain pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease.

**INN**

A building in which up to 20 lodging rooms or lodging rooms and meals, not including in-room cooking facilities, are offered to the general public for compensation, and in which entrance to lodging rooms is made through a lobby or other common room.

**INOPERABLE MOTOR VEHICLE**

Any motor vehicle which is not in operating condition, or which, for a period of 60 days or longer, has

been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle, or on which are displayed neither valid license plates, nor a valid inspection decal. This term shall not include antique motor vehicles, or a vehicle used in agricultural or horticultural use as provided for in § 46.2-665 of the Code of Virginia, 1950, as amended.

**JUNK YARD**

Any land or building used for the abandonment, storage, keeping, collecting, or bailing of paper, rags, scrap metals, other scrap or discarded materials, or for the abandonment, demolition, dismantling, storage, or salvaging of automobiles or other vehicles not in running condition, machinery or part thereof.

**KENNEL**

A place prepared to house, board, breed, handle or otherwise keep or care for dogs for sale or in return for compensation.

**LANDFILL**

A sanitary landfill or a construction/demolition/debris landfill under regulation of the Department of Waste Management or other applicable state or federal agency.

**LOADING SPACE**

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

**LOT**

A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this chapter, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

**LOT, AREA**

The total horizontal area included within the rear, side and front lines or proposed street lines of the lot, excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking area and other accessory uses. Lot area shall not include portions under water except where the total area of a body of water is within a lot.

**LOT, CORNER**

A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.

**LOT, COVERAGE**

The area of a lot occupied by structures, off-street parking, driveways, outside storage, or any other improvements not considered open space.

**LOT, DEPTH OF**

The shortest horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE**

An interior lot having frontage on two streets.

**LOT, INTERIOR**

Any lot other than corner lot.

**LOT OF RECORD**

A lot, a plat, or description of which has been recorded in the Clerk's Office of the Circuit Court of Mathews County.

**LOT, WATERFRONT**

A lot abutting a body of water.

**LOT, WIDTH OF**

The shortest horizontal distance between side lot lines at the front lot line, building line or shoreline.

**LUMINARY**

A lighting fixture assembly or source of artificial illumination including, but not limited to, bulbs, lamps, reflectors, refractors and housings associated with them.

**MANUFACTURE AND/OR MANUFACTURING**

The process and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose.

**MANUFACTURED HOME**

A structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

**MANUFACTURED HOME PARK**

Any area of land designed to accommodate two or more manufactured homes intended for residential use where residence is in manufactured homes exclusively, regardless of whether the lots are rented or sold. This definition shall not apply to an area specifically used for display of manufactured homes by a manufactured homes sales agency.

**MANUFACTURING, LIGHT**

Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet, and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operating and storing within enclosed structures; dependent on highway transportation; and creating no nuisances.

**MARINA/BOATYARD**

A boating establishment located on a navigable waterway, which may include in-water berths/slips, which are covered or uncovered, dry berths/slips for boat storage on land, either indoors or outdoors, and provisions for transfer of boats to and from the water by means of ramps or mechanical equipment, boat repairs and/or construction, marine fuel and lubricants, marine supplies, restaurants, or refreshment facilities, and boat and boat motor sales. A marina may provide boats to rent, charter, lease, or hire for uses clearly incidental to watercraft activities.

**MARINA, PRIVATE NONCOMMERCIAL**

A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than necessary for minor servicing and repairs.

**MATERIALS RECOVERY FACILITY**

A solid waste management facility for the collection, processing and recovery of material from solid waste under regulation of the Department of Waste Management or other applicable state or federal agency.

**MIXED-USE DEVELOPMENT**

The development of a tract of land, building or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office and retail in a compact form.

**MIXED-USED BUILDING**

A single structure containing at least two complementary, integrated, or mutually supporting uses

(such as housing, offices and retail).

**MODULAR HOME OR UNIT**

A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure. This term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees and other prefabricated sub-elements incorporated into a structure at the site.

**MOTEL**

One or more buildings containing individual sleeping rooms, designed for or used temporarily by tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

**MOTORHOME**

A vehicle which is self-propelled or designed for self-propulsion, having a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings. (See "trailer, travel.")

**MOTORLESS WATERCRAFT**

A watercraft in or by which any person or persons is or may be transported on the waterways which is propelled by oars, paddles or sails without primary or secondary motor propulsion; for example, kayaks, canoes, sailboards, catamarans and small sailboats. Related accessories include oars, life preservers, boat trailers/racks and sails.

**MOTOR VEHICLE**

A vehicle in or by which any person or property is or may be transported or drawn on a highway which is self-propelled or designed for self-propulsion; excluding mopeds and motorized wheelchairs. Semi-trailers and trailers designed to transport only property are considered part of a motor vehicle.

**MUSEUM**

A facility intended primarily for the exhibit and/or repository and/or research of books, artworks, artifacts, archives and other similar items for public appreciation and information. Accessory sales and services may be permitted.

**NONCONFORMING LOT**

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**

An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the 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 the ordinance.

**NONCONFORMING USE**

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

**NONPROFIT ORGANIZATION**

An incorporated organization or group whose charter prohibits profit-making endeavors, and which enjoys tax exemption privileges.

**OCCUPANCY, CERTIFICATE OF**

The certificate issued by the Building Official, after approval by the Administrator, which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Building Code and this chapter.

**OFF-SITE**

Describes a location on an area of land which is proximate to a parcel of land defined as "on-site."

**OFF-SITE SEWAGE DISPOSAL SYSTEM**

A septic tank and drain field or similar installation such as a peat moss filtration (e.g., VDH GMP 79 such as PURAFLO7 system), approved by the State Department of Health, located on an individual lot or parcel as an accessory or principal use and serving a single dwelling unit or other structure located on a different lot or parcel, which provides proper and safe treatment and disposal of sewage. The term "off-site sewer" shall not include spray irrigation nor similar waste disposal methods.

**OFF-STREET PARKING AREA**

Space provided for vehicular parking not on a street or roadway.

**ON-SITE**

Shall be construed to be describing a location on all, or a portion of a parcel of land which is the subject of an application for approval by the Board of Supervisors, its agent, Planning Commission or Board of Zoning Appeals and which parcel of land is in single ownership or under unified control.

**ON-SITE SEWAGE DISPOSAL SYSTEM**

A septic tank and drain field or similar installation such as a peat moss filtration (e.g., VDH GMP 79 such as PURAFLO7 system), approved by the State Department of Health, located on an individual lot or parcel and serving a single dwelling unit or other structure located on that lot, which provides proper and safe treatment and disposal of sewage. The term "on-site sewer" shall not include spray irrigation or similar waste disposal methods.

**OPEN SPACE, USABLE**

That area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space may include, but need not be limited to, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas as to have no substantial value for the purposes stated in this definition.

**PARKS AND PLAYGROUNDS**

A parcel of land set aside for nonprofit activities of a recreational nature such as fishing, boating, swimming, camping, hiking, picnicking, outdoor games, and sports incidental to the foregoing, but not any activity that would upset the tranquility of the neighborhood.

**PERFORMANCE BOND**

A bond of surety and/or cash deposit approved by the Board of Supervisors equal to full cost of improvements required by these regulations and providing for completion of such improvements within a definite term.

**PIER (PRIVATE)**

A pier designed to be used for the mooring of a boat or boats by the landowner.

**PROFESSIONAL OFFICE**

The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical or agricultural, in which a professed knowledge or skill in some department of science or learning is used in its practical application to the affairs of others, either advising or guiding them, in serving their interest or welfare through the practice of an act founded thereon.

**PROPERTY**

Any tract, lot or parcel or several of the same collected together for the purpose of subdividing, preparing a site development plan and/or developing.

**PUBLIC ACCESS EASEMENT**

A legal easement, or series of easements, which grant and guarantee the right of access for emergency and public service vehicles to any given area or right-of-way.

**PUBLIC BUILDINGS**

Shall be considered for the purpose of this chapter to be any building owned by a governmental organization such as a County, state or federal government. Such buildings may include a County courthouse, a state armory, a federal office building, a post office, an auditorium, a museum, an art gallery, a college or university, hospitals, clinics, schools, libraries, police and fire stations, etc.

**PUBLIC FACILITIES**

Shall be considered for the purpose of this chapter to be any public works supplied generally by a governmental organization. Such public works shall include, but not be limited to: public roads, schools, water supply and sewer facilities and police, fire, rescue and emergency services protection facilities.

**PUBLIC SEWER SYSTEM**

A central system for the removal, carrying off, treatment and disposal of sewage serving or designed to serve three or more independent dwellings or structures, and which may be owned and/or operated by a municipality or County or service authority or by a person approved by the Board of Supervisors in accordance with Title 62.1 of the Code of Virginia, 1950, as amended, and licensed by the State Corporation Commission.

**PUBLIC VIEW**

An object being in sight or otherwise observable to persons from a public right-of-way, private right-of-way or another property.

**PUBLIC WATER SUPPLY**

A central system for supplying potable water to three or more independent dwellings and which may be owned and/or operated by a municipality or County or service authority or by a person approved by the Board of Supervisors and properly licensed by the State Board of Health in accordance with Title 62 of the Code of Virginia, 1950, as amended, and licensed by the State Corporation Commission.

**RECREATION AND AMUSEMENT ENTERPRISE**

Any structure utilized for relaxation, exercise, or entertainment sponsored by a private concern and held out to the public for its use. Includes, but is not limited to, video arcades, billiard parlors, and skating rinks.

**RECYCLING LOCATION (DROP OFF)**

Any site specified for collecting from the general public materials intended for periodic transfer to another site for remanufacture into new materials.

**REHABILITATION AND GROUP HOMES OR CENTERS**

Family care homes, foster homes or group homes serving physically handicapped, mentally ill, mentally retarded or other developmentally disabled persons not related by blood or marriage.

**REQUIRED OPEN SPACE**

Any space in any front, side, or rear yard, excluding required off-street parking areas.

**RESTAURANT, CARRY-OUT**

An establishment with limited or no eat-in facilities that provides prepared food for pick-up by the customer or delivery by the restaurant employees.

**RESTAURANT, DRIVE-IN**

An eating establishment where food and/or beverages are primarily served to customers in motor vehicles.

**RESTAURANT, FAST FOOD**

An establishment which prepares and sells food products intended for ready consumption, which are generally packaged in paper or served in other types of disposable plates, wrappers, or containers, for consumption inside the building, on a patio, or off the premises and, which may include service directly to customers in their motor vehicles.

**RESTAURANT, FULL SERVICE**

A traditional sit-down eating establishment with table service (order placement and delivery), provided to customers by a waiter or waitress; carry-out trade, if any, shall be a limited portion of the business.

**RETAIL STORES AND SHOPS**

Any building wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use of consumption by the immediate purchaser (but specifically exclusive of coal, wood and lumber yards), such as the following which will serve only as illustrations: drugstore, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

**RIGHT-OF-WAY**

A strip of land taken or dedicated for use as a public or private way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, and lighting and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, and bridges.

**SAND, GRAVEL, OR SOIL OPERATIONS**

Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of sand, gravel, stone, or soil conducted as an integral part of or connected with any full-time or part-time ongoing business or industry.

**SANITARY LANDFILL**

An engineered land burial facility for the disposal of solid waste which is so located, designed, constructed and operated to contain and isolate the solid waste so that it does not pose a substantial present or potential hazard to human health or the environment under regulation of the Department of Waste Management or other applicable state or federal agency.

**SAWMILL**

A permanently located mill or machine for sawing, planing, or otherwise converting logs into marketable wood products, and including any office or accessory buildings and storage areas.

**SAWMILL, PORTABLE**

A temporary sawmill located on the parcel to be harvested, or on a parcel immediately adjacent and contiguous to the parcel to be harvested, for a period not to exceed two years.

**SCREENING**

A visual barrier composed of masonry, wood, metal, or plant material of sufficient height and density

to obscure direct viewing of disabled vehicles or any other use as required by this chapter. All screening must be approved by the Administrator.

**SEAT**

For the purpose of determining the number of off-street parking spaces for certain uses, the number of individual seats and/or the number of seats contained in seating units such as booths, benches, etc., that are installed or indicated on plans.

**SENIOR HOUSING (also INDEPENDENT LIVING CENTER, AGE-RESTRICTED HOUSING or CONGREGATE HOUSING)**

A development providing self-contained dwelling units specifically designed for the needs of older adults (55 years of age or older). Units may be rented or owner-occupied.

**SETBACK**

The minimum distance by which any building or structure must be separated from the right-of-way line or center line, as applicable, of the street or highway upon which it fronts.

**SEWAGE TREATMENT SYSTEMS (PRIVATE)**

Any sewage treatment works, plant, or equipment, or any part of any treatment works, plant, or equipment within the County now or hereafter owned, managed or controlled by any corporation (other than a municipality) company, individual, or association of individuals or cooperative, their lessees, trustees, or court-appointed receivers, for the storing, treating, or reclaiming the water-carried human waste from residences, buildings, industrial establishments, or other places together with such other water as may be present, either directly or indirectly to any corporation, company, individual, or association of individuals, which will require a National Pollutant Discharge Elimination System permit/certificate issued by the State Water Control Board in order to discharge to state waters as defined in § 62.1-44.3 of the Code of Virginia, 1950, as amended. For the purposes of this chapter, private sewage treatment systems shall be considered as accessory uses, buildings or structures unless located as freestanding structures on a lot or parcel, in which case such facilities shall be considered principal or main use, buildings or structures. "Sewage treatment systems (private)" shall include, but not be limited to, any spray irrigation systems (e.g., VDH-GMP 74) or other similar technology that requires air dispersion or land application not associated with an agricultural or forestry management plan.

**SHELLFISH AQUACULTURE**

The propagation, rearing, enhancement, and harvest of hatchery-produced bivalve molluscan organisms in controlled or selected environments, which are conducted in total waters of the Commonwealth of Virginia.

[Added 7-22-2014.]

**SHELLFISH AQUACULTURE, COMMERCIAL**

The propagation, rearing and/or growout of shellfish that are to be sold, traded, bartered, or marketed to others for financial consideration or remuneration.

[Added 7-22-2014.]

**SHELLFISH AQUACULTURE, NONCOMMERCIAL**

The propagation, rearing, and/or growout of shellfish in protective structures such as floats, bags, cages, etc., adjacent to a private pier exclusively for noncommercial purposes.

[Added 7-22-2014.]

**SHOPPING CENTER**

A group of commercial establishments, planned, developed, owned and managed as a unit with off-street parking provided on the property and related in size and type of shops to the trade area the unit serves.

**SHORELINE**

The line where open tidal waters abut wetlands, dunes, fastland or beach area during mean high water.

**SIGN**

As defined in Article 13.

**SIGN STRUCTURE**

Includes the support, uprights, bracing, and frameworks of any structure, be it single-faced, double-faced, v-type, or otherwise, exhibiting a sign.

**SOLID WASTE MANAGEMENT FACILITY (SWMF)**

A non-incinerating facility and/or site used for planned treating, storing, and disposing of solid waste which are not considered by the Department of Waste Management to be a hazardous or infectious waste. A facility may consist of several treatment, storage, or disposal units under regulation of the Department of Waste Management or other applicable state or federal agency.

**SPECIAL EXCEPTION**

An exception to any provision of this chapter, permitted within a district, provided that certain conditions or criteria specified in the ordinance are met, requiring a special exception - special use permit and approval of the Board of Supervisors or requiring a special exception - conditional use permit and approval of the Board of Supervisors.

**SPECIAL EXCEPTION PERMIT**

A permit issued by the Administrator upon approval by the Board of Supervisors to allow a special exception to be established within a district.

**SPECIFIED ANATOMICAL AREAS**

Less than completely and opaquely covered human genitals, pubic region, buttocks, female breasts below a point immediately above the top of the areola and human male genitals in a discernibly turgid state even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES**

Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

**SPILLAGE (LIGHT)**

Light which falls or is transmitted from a luminary in one area or site into an adjoining area or site.

**STORY**

That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

**STORY, HALF**

A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than  $\frac{2}{3}$  of the floor plan is finished off for use.

**STREET LINE**

The dividing line between a street or road right-of-way and the contiguous property.

**STREET or ROAD**

A public thoroughfare which affords principal means of access to abutting property.

**STREET (PRIVATE)**

A street which affords principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and maintained by a private corporation or adjacent landowners within the platted subdivision, constructed to standards adopted by the County. The right-of-way shall not be less than 40 feet except as may be provided by the County Subdivision Ordinance.<sup>[1]</sup>

**STREET (PUBLIC)**

A street which affords principal means of access to abutting property, and encompassed by a right-of-way dedicated to public use and maintained by the Commonwealth as a part of the state primary or secondary road system. The right-of-way shall not be less than 40 feet.

**STRUCTURAL ALTERATION**

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof.

**STRUCTURE**

Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

**SUBDIVISION**

The division of land as defined in the Subdivision Ordinance of Mathews County, Virginia.<sup>[2]</sup>

**SUBDIVISION, MAJOR**

Division of a parent tract of land into more than five lots.

**SUBDIVISION, MINOR**

Division of a parent tract of land into not more than five lots.

**TEMPORARY RECEPTION FACILITY**

A portable shelter used on specified occasions that accommodates corporate events and social functions.

**THERAPEUTIC MASSAGE FACILITIES**

The office or place of business utilized by massage therapists certified by the state to render such services.

**TOURIST HOME**

A building which is owned by an individual containing individual sleeping rooms, designed for or used temporarily by tourists or transients and in which, for compensation, food or beverages may be dispensed for consumption on or off the premises with garage or parking space conveniently located on the premises of the home. This term shall include "bed-and-breakfast" establishments.

**TOWN HOUSE**

Any one of a group of not less than three and not more than eight attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling being separated from another by a party wall.

**TRAILER, BUSINESS**

A structure or vehicle mounted on wheels for use on roads, propelled or drawn by its own or other motor power, and designed and constructed to provide for temporary human habitation for one or more persons or for the conduct of a business, profession, trade or occupation or for use as a selling or advertising device.

**TRAILER, BUSINESS OFFICE**

An industrialized unit designed for transportation after fabrication on streets and highways on its own

wheels or on flatbed and arriving at the site where it is to be occupied as an office complete and ready for occupancy except for minor or incidental unpacking and assembly operation, located on jacks or permanent foundation, connected to utilities and the like.

### **TRAILER, CONSTRUCTION**

A portable structure built on a chassis and originally designed for use as a temporary office at a construction site.

### **TRAILER, TRAVEL**

A vehicle built on a chassis and designed to be used for temporary occupancy.

### **TRANSFER STATION**

Any solid waste storage or collection facility at which solid waste is transferred from collection vehicles to haulage vehicles for transportation to a central solid waste management facility for disposal, incineration or resource recovery under regulation of the Department of Waste Management or other applicable state or federal agency.

### **VACATION COTTAGES OR CABINS**

One or more buildings constructed independently of each other, designed for or used temporarily by tourists or transients. Cooking facilities may be provided for each unit.

### **VARIANCE**

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

### **VETERINARY HOSPITAL**

A place designated or maintained for the treatment of diseases of animals. It may also include as a secondary use the housing, boarding, breeding or otherwise keeping of or caring for animals.

### **WATERSHED**

The region drained by or contributing water to a stream, creek, pond or other body of water.

### **WATERTABLE**

The upper surface of the free groundwater in a zone of saturation except when separated by an underlying of groundwater by unsaturated material.

### **WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKET**

Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

### **YACHT CLUB**

A facility designed and intended to be operated by a club or organized group where hull and engine repair, boat and accessory sales, packaged food sales, and a restaurant are permitted.

### **YARD**

An open space on a lot other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

#### **A. FRONT**

An open, unoccupied space on the same lot as a building between the front line of the building (excluding steps) and the front line of the lot, and extending the full width of the lot.

**B. REAR**

An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot, and extending the full width of the lot.

**C. SIDE**

An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

**YOUTH CENTER, PRIVATE**

Any area or structure utilized for relaxation, exercise, or entertainment sponsored by a private nonprofit concern and reserved for use by their members and guests only.

**ZONING PERMIT**

A document issued by the Administrator authorizing the use of lots, structures, lots and structures, and the characteristics of uses.

[1] *Editor's Note: See Ch. 140, Subdivision of Land.*

[2] *Editor's Note: See Ch. 140, Subdivision of Land.*

## ARTICLE 3. Provisions For Official Zoning Map

### § 175-3.1. Official Zoning Map.

- A. The location and boundaries of the zoning districts established by this chapter are as indicated on a map entitled "Official Zoning Map, Mathews County, Virginia," identified by the signature of the Chairman of the Mathews County Board of Supervisors, attested to by the clerk of the Circuit Court of Mathews County, and bearing the seal of Mathews County, Virginia, together with the date of adoption of this chapter. Said map shall be deemed to be a part of this chapter as if it were fully set forth herein.
- B. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the Office of the Administrator, shall be the final authority as to the current zoning status of land, structures, and other uses in the County.

### § 175-3.2. Amendment of Official Zoning Map.

Whenever any amendment is made to the Official Zoning Map by action of the governing body, such change shall be incorporated onto said map at such time and in such manner as the governing body may prescribe. Said changes shall be validated with reference to correct notation by the Administrator, who shall affix his signature thereto, thereby certifying that approved amendments to the Official Zoning Map have been correctly incorporated. The date of official action and nature of the change shall be entered on the map. Any such change shall have the effect of law at 12:01 a.m. on the day following its legal adoption or on its effective date, if such effective date is officially established as other than the day following its legal adoption, whether or not it has been shown on the Official Zoning Map.

### § 175-3.3. Unauthorized changes.

No changes of any nature shall be made on the Official Zoning Map or any matter shown thereon, except in conformity with the procedures and requirements of this chapter. It shall be unlawful for any person to make unauthorized changes on the Official Zoning Map. Violations of this provision shall be punishable as provided in Article 20.

## § 175-3.4. Replacement of the Official Zoning Map.

- A. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the governing body may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendments thereof.
- B. The new Official Zoning Map shall be identified by the signature of the Chairman of the Mathews County Board of Supervisors, attested to by the clerk of the Circuit Court of Mathews County, and bear the seal of the County under the following words, "This is to certify that this Official Zoning Map was adopted on (Insert adoption date) as part of the Zoning Ordinance of Mathews County, Virginia." Unless the prior Official Zoning Map has been lost, or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

## § 175-3.5. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the zoning districts as shown on the Official Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of street or highways, street lines, or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries;
- B. Where district boundaries are so indicated that they are approximately paralleled to the center lines or street lines of streets, or the center lines, or right-of-way of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map;
- C. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
- D. Where a district boundary is indicated to follow a river, creek, branch, or other body of water, said boundary shall be construed to follow the center line at low water or the limit of the jurisdiction, and in the event of change in the shoreline such boundary shall be construed as moving with the actual shoreline; and
- E. If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the boundary line shall be property line or extension of a property line determined by the use of the scale shown on the Official Zoning Map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals, which shall determine the boundary.

## ARTICLE 4. District Regulations

### § 175-4.1. Compliance with district regulations.

The regulations for each district set forth by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure of land, except as hereinafter provided:

- A. No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
- B. No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements set forth herein.

## ARTICLE 5. Rural District (RU)

### § 175-5.1. Intent.

This district covers portions of the County which are occupied by various open uses, such as forests, parks, and farms necessary public and private industrial, recreational and religious facilities, single-family and two-family dwellings and certain transient uses in a rural environment. Manufactured home parks and certain commercial and light manufacturing uses are allowed by conditional use permit. This district is established for the specific purpose of facilitating existing and future farming operations, conservation of land and other natural resources, reducing soil erosion, and reducing hazards from flood, fire, and storms. Uses not consistent with the existing character of this district are not permitted.

### § 175-5.2. Uses permitted by right.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Rural District (RU).

- A. Accessory uses as defined in § 175-2.2.
- B. Agriculture.
- C. Alternative support structures as defined in § 175-23.2.
- D. Aquaculture.  
[Added 7-22-2014]
- E. Cemeteries.
- F. Churches.
- G. Cluster development of single-family dwellings.
- H. Dairying.
- I. Data poles as defined in § 175-23.2.
- J. Day-care centers.
- K. Drainage, erosion and flood control facilities.
- L. Dwelling, single-family.
- M. Dwelling, two-family, subject to § 175-15.15.
- N. Facilities for grading, packing, marketing and storage of agricultural, horticultural, and forestal products.

- O. Fire stations.
- P. Forestry activities and facilities.
- Q. Game preserves and conservation areas.
- R. General farming.
- S. Golf clubs and courses.
- T. Home occupations as defined in § 175-2.2.
- U. Horticulture.
- V. Hunting blinds and stands.
- W. Hunting clubs.
- X. Kennels.
- Y. Livestock/fowl horse penning and stables.
- Z. Lodges.
- AA. Manufactured homes located on individual lots, provided that:
  - (1) All of the development standards applicable to single-family dwelling in this district shall be applicable to such manufactured home.
  - (2) Manufactured homes shall be provided with a permanent foundation meeting the requirements of the Virginia Uniform Statewide Building Code. Where an approved permanent foundation does not consist of a foundation wall around the full perimeter of the manufactured home, skirting shall be provided so as to conceal from view the frame, axles, wheels, crawl space and all utility connections. Skirting shall be constructed of uniform weather-resistant material and shall meet the requirements of the Virginia Uniform Statewide Building Code.
- BB. Museums.
- CC. Nurseries and greenhouses.<sup>[1]</sup>
  - [1] *Editor's Note: Former Subsection CC, Parks, and Subsection DD, Playgrounds, which immediately followed, were repealed 9-22-2015.*
- DD. Post offices and other governmental buildings.
- EE. Private piers, docks and ramps pursuant to § 175-5.3A.
- FF. Professional offices within occupant's dwelling.
- GG. Recycling location (dropoff) with a total capacity of 10 cubic yards or less.
- HH. Rescue and police stations.
- II. Schools.
- JJ. Signs, subject to Article 13.
- KK. Silviculture.
- LL. Subdivisions, major.
- MM. Subdivisions, minor.

- NN. Summer and vacation cabins for seasonal and not permanent or year-round occupancy.
- OO. Tennis clubs.
- PP. Tourist homes and boarding houses.
- QQ. Tractor and farm equipment sales rental and repair.
- RR. Utility (public) - generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.
- SS. Wayside stands, roadside stands, and wayside markets.

### § 175-5.3. Conditional use permits.

- A. In order to ensure that special uses will not harm the natural environment, no zoning permit shall be issued therefor unless and until all other required permits are first obtained from environmental protection agencies, including the Mathews County Wetlands Zoning Board, the Virginia Marine Resources Commission, the State Water Control Board, the Virginia Department of Health, the United States Army Corps of Engineers, and any other applicable agency.
- B. The following uses shall be permitted in the Rural District (RU), subject to all the other requirements of this chapter, only upon obtaining of a conditional use permit from the Board of Supervisors.<sup>[1]</sup>
  - (1) Auto service (owner-operator only).
  - (2) Conditional sewage disposal permits granted by the Virginia Department of Health for less than year-round occupancy.
  - (3) Fairgrounds, carnivals.
  - (4) Farmer's market.
  - (5) Health care facilities.
  - (6) Light manufacturing and cottage and craft industries as defined.
  - (7) Manufacture of cement and stone products.
  - (8) Manufactured homes, individual, which are not permitted by § 175-5.2, where:
    - (a) The minimum lot size and width as well as the front, side and rear yards setback shall be doubled for the respective zoning districts, and the maximum height allowed will be 25 feet measured from the bottom to the top of the manufactured home.
    - (b) The electricity meter base shall not be attached to the manufactured home.
    - (c) All manufactured homes shall be skirted with some type of uniform durable weatherproof material, and installed with a set of permanent steps at each exit.
  - (9) Manufactured home parks in which lots are rented or sold, subject to Article 14.
  - (10) Office buildings.
  - (11) Parks.  
[Added 9-22-2015]

- (12) Playgrounds.  
[Added 9-22-2015]
- (13) Radio, television, and other communications towers and facilities.
- (14) Recreational facilities, including main and accessory buildings and parking areas.
- (15) Recycling location (dropoff) with a total capacity in excess of 10 cubic yards.
- (16) Rehabilitation and group homes or centers.
- (17) Retail general, and convenience stores and shops, including storage facilities.
- (18) Restaurants.
- (19) Sand and gravel operations.
- (20) Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[2]</sup> as being subject to inundation by waters of the one-hundred-year flood event.  
[2] *Editor's Note: See Ch. 63, Floodplain Management.*
- (21) Shellfish and finfish processing, packing and storage facilities.
- (22) Telecommunication towers as defined in § 175-23.2.
- (23) Transfer stations (publicly owned or operated).
- (24) Travel trailers (licensed), located outside of travel trailer parks, which are to be occupied for habitation on a temporary basis, other than allowed by § 175-15.3B if the Board of Supervisors grants a temporary conditional use permit and if the applicant agrees in writing to remove the travel trailer on or before the period specified in the permit.
- (25) Veterinary hospitals with or without kennels.  
[1] *Editor's Note: Former Subsection B(1), Aquaculture, which immediately followed, was repealed 7-22-2014.*

## § 175-5.4. Area regulations for all permitted uses, except as otherwise required in Article 15.

### A. Lot size.

- (1) The minimum lot area for each principal permitted use shall be 2.5 acres except as provided herein.
- (2) A maximum of one lot less than 2.5 acres may be subdivided from a parent parcel existing as a legally recorded lot prior to July 22, 1997. Legally recorded lots subsequent to July 22, 1997, shall not be subdivided pursuant to this exception. Lots subdivided pursuant to the exception permitted in § 175-5.4 shall not contain less than one acre. The parent parcel remaining after subdivision pursuant to the exception stated in this § 175-5.4 shall contain at least 2.5 acres.
- (3) The minimum lot area for a single-family dwelling or manufactured home shall be one acre, provided such lot is subdivided for the purpose of development or placement of such structures for occupancy by a member of the immediate family of the property owner.

- B. Setback regulations. Buildings and piers on all public or private rights-of-way shall be set back 50 feet or more from the edge of the right-of-way. Freestanding canopies over commercial fuel pumps shall

be setback a minimum of 15 feet from the edge of the right-of-way.

- C. Frontage and lot width regulations. The minimum frontage for permitted uses shall be 24 feet on any street or right-of-way and the lot shall be 100 feet at the setback line.
- D. Yard regulations.
  - (1) Side: The minimum side yard for each main building shall be 10 feet, and the total width of the two required side yards shall be 20 feet or more. The minimum side yard for accessory buildings and piers shall be five feet.
  - (2) Rear: Each main building shall have rear yard of 50 feet or more. Each accessory building shall have a rear yard of five feet.

## § 175-5.5. Height regulations.

- A. Buildings and accessory buildings and structures may be erected up to 50 feet in height.
- B. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antenna, radio aerials, farm buildings and structures excluding dwellings, smoke stacks, and observation towers are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

## § 175-5.6. Special provisions for corner lots.

- A. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.
- B. The minimum side yard on the side facing the side street shall be 40 feet or more for main buildings, accessory buildings and piers.

## § 175-5.7. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

## § 175-5.8. Off-street parking regulations.

Off-street parking shall be provided in conformance with Article 12 of this chapter.

# ARTICLE 6. Residential-1 District (R-1)

## § 175-6.1. Intent.

The intent of the Residential-1 District (R-1) is to preserve existing residential areas along or adjacent to the waterfront; to provide for low-density residential developments of high quality along or near the waterfront of Mathews County; to provide for uniformity in permitted uses and activities within subdivisions bordering in part or in whole on the waterfront; and to provide marine-related activities related to residential development. As a general rule, uses which do not require waterfront location or which do not complement uses requiring residential waterfront location are not permitted in the Residential-1 District (R-1).

## § 175-6.2. Uses permitted by right.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Residential-1 District (R-1):

- A. Accessory uses and structures as defined in § 175-2.2.
- B. Agriculture, including the growing of fruit, forest, field, and vegetable crops and for personal and home occupation uses only, fowl and animal handling and containment, excluding hogs; grain dryers, feeder lots, dairy barns, agricultural lagoons, poultry and hog houses and other structures or areas involving the concentrated handling or containment of animals and fowl are excluded.
- C. Alternative support structures as defined in § 175-23.2.
- D. Cemeteries.
- E. Churches and other places of worship.
- F. Cluster development of single-family dwellings.<sup>[1]</sup>
  - [1] *Editor's Note: Former Subsection G, Community-operated playgrounds, parks, and similar community recreational facilities, which immediately followed, was repealed 9-22-2015.*
- G. Data poles as defined in § 175-23.2.
- H. Drainage, erosion and flood control facilities.
- I. Dwelling, single-family.
- J. Dwelling, two-family, subject to § 175-15.15.
- K. Forestry.
- L. Horticulture.
- M. Home occupations as defined in § 175-2.2.
- N. Hunting blinds and daytime outdoor recreation.
- O. Manufactured homes, individual, where:
  - (1) The minimum lot size and width as well as the front, side and rear yards setback shall be doubled for the respective zoning districts and the maximum height allowed will be 25 feet measured from the bottom to the top of the manufactured home.
  - (2) The electricity meter base shall not be attached to the manufactured home.
  - (3) All manufactured homes shall be skirted with some type of uniform durable weatherproof material, and installed with a set of permanent steps at each exit.
- P. Museums.
- Q. Natural wildlife preserves and similar conservation uses.
- R. Private docks, piers, boat houses and boat ramps and landings pursuant to the mandates of § 175-6.3A of this chapter.
- S. Recycling location (dropoff) with a total capacity of 10 cubic yards or less.
- T. Shellfish aquaculture, commercial, up to and including 100,000 bivalve molluscan organisms,

individually or in combination, harvested annually as determined by the Department of Health Shellfish Sanitation mandatory sales records as a home occupation as defined in § 175-2.2 and subject to the provisions of § 175-15.5.

[Added 7-22-2014]

- U. Shellfish aquaculture, noncommercial.  
[Added 7-22-2014]
- V. Utility (public) - generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.
- W. Signs, subject to Article 13.
- X. Subdivisions, major.
- Y. Subdivisions, minor.
- Z. Summer and vacation cabins for seasonal and not permanent or year-round occupancy.

### § 175-6.3. Conditional use permits.

- A. In order to ensure that special uses will not harm the natural environment, no zoning permit shall be issued therefor unless and until all other required permits are first obtained from environmental protection agencies, including the Mathews County Wetlands Zoning Board, the Virginia Marine Resources Commission, the State Water Control Board, the Virginia Department of Health, the United States Army Corps of Engineers, and any other applicable agency.
- B. The following uses shall be permitted in the Residential-1 District (R-1) subject to all the other requirements of this chapter, only upon the obtaining of a conditional use permit from the Board of Supervisors.
  - (1) Community-operated playgrounds, parks and similar community recreational facilities.  
[Added 9-22-2015]
  - (2) Conditional sewage disposal permits granted by the Virginia Department of Health for less than year-round occupancy.
  - (3) Country clubs.
  - (4) Day-care centers.
  - (5) Golf courses.
  - (6) Craft industries as defined.
  - (7) Manufactured homes, individual, which are not permitted by § 175-6.2, where:
    - (a) The minimum lot size and width as well as the front, side and rear yards setback shall be doubled for the respective zoning districts and the maximum height allowed will be 25 feet measured from the bottom to the top of the manufactured home.
    - (b) The electricity meter base shall not be attached to the manufactured home.
    - (c) All manufactured homes shall be skirted with some type of uniform durable weatherproof material, and installed with a set of permanent steps at each exit.
  - (8) Marinas, private noncommercial; provided the application for construction of same is in

compliance with § 175-6.3A of this chapter.

- (9) Motor less watercraft sales and rentals, including related accessories.
- (10) Professional offices within occupant's dwelling.
- (11) Public service facilities such as firehouses, rescue squad, and police stations; post offices, government offices, schools and parks.
- (12) Rehabilitation and group homes or centers.
- (13) Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[1]</sup> as being subject to inundation by waters of the one-hundred-year flood event.  
[1] *Editor's Note: See Ch. 63, Floodplain Management.*
- (14) Shellfish aquaculture, commercial, for more than 100,000 bivalve molluscan organisms, individually or in combination, harvested annually.  
[Added 7-22-2014]
- (15) Swimming and tennis clubs.
- (16) Telecommunication towers as defined in § 175-23.2.
- (17) Temporary reception facility.
- (18) Tourist homes.
- (19) Travel trailers (licensed), located outside of travel trailer parks, which are to be occupied for habitation on a temporary basis, other than allowed by § 175-3.2B, if the Board of Supervisors grants a temporary conditional use permit and if the applicant agrees in writing to remove the travel trailer on or before the period specified in the permit.

## § 175-6.4. Area regulations for all permitted uses, except as otherwise required in Article 15.

- A. Lot size. For lots containing or intended to contain a single permitted principal use, the minimum lot area shall be one acre or 43,560 square feet.
- B. Setback regulations. Buildings and piers on all public or private rights-of-way shall be set back 50 feet or more from the edge of the right-of-way.
- C. Frontage and lot width regulations. The minimum frontage for permitted uses shall be 24 feet on any street or right-of-way and the lot shall be 100 feet at the setback line.
- D. Yard regulations.
  - (1) Side: The minimum side yard for each main building shall be 20 feet, and the total width of the two required side yards shall be 40 feet or more. The minimum side yard for accessory buildings and piers shall be five feet.
  - (2) Rear: Each main building shall have a rear yard of 50 feet or more. Each accessory building shall have a rear yard of five feet or more on lots not on the water. There is no minimum rear yard requirement for accessory buildings on lots on the water.

## § 175-6.5. Height regulations.

- A. Buildings and accessory buildings and structures may be erected up to 50 feet in height.
- B. Public utility buildings, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

## § 175-6.6. Special provisions for corner lots.

- A. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on streets.
- B. The minimum side yard on the side facing the side street shall be 40 feet or more for main buildings, accessory buildings and piers.

## § 175-6.7. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

## § 175-6.8. Off-street parking regulations.

Off-street parking shall be provided in conformance with Article 12 of this chapter.

# ARTICLE 7. Residential-2 District (R-2)

## § 175-7.1. Intent.

This residential district is composed chiefly of single-family dwellings, two-family dwellings, together with necessary recreational, religious, and educational facilities. Home occupations should be permitted along with transient residential uses such as boarding houses and tourist homes. Certain types of commercial uses are permitted upon obtaining a conditional use permit from the governing body.

## § 175-7.2. Uses permitted by right.

The following uses shall be permitted subject to all the other requirements of this chapter as a matter of right in the Residential-2 District (R-2):

- A. Accessory uses as defined in §175-2.2.
- B. Agriculture, including the growing of fruit, forest, field, vegetable crops and, for personal and home occupation uses only, fowl and animal handling and containment, excluding hogs; grain dryers, feeder lots, dairy barns, agricultural lagoons, poultry and hog houses and other structures or areas involving the concentrated handling or containment of animals and fowl are excluded.
- C. Cemeteries.
- D. Churches.
- E. Cluster development of single-family dwellings.<sup>[1]</sup>

[1] *Editor's Note: Former Subsection F, Community-operated playgrounds, parks, and similar community*

*recreational facilities, which immediately followed, was repealed 9-22-2015.*

- F. Drainage, erosion and flood control facilities.
- G. Dwelling, single-family.
- H. Dwelling, two-family, subject to §175-15.15.
- I. Forestry.
- J. Home occupations as defined in §175-2.2.
- K. Libraries.
- L. Manufactured homes, individual, where:
  - (1) The minimum lot size and width as well as the front, side and rear yards setback shall be doubled for the respective zoning districts and the maximum height allowed will be 25 feet measured from the bottom to the top of the manufactured home.
  - (2) The electricity meter base shall not be attached to the manufactured home.
  - (3) All manufactured homes shall be skirted with some type of uniform durable weatherproof material, and installed with a set of permanent steps at each exit.
- M. Museums.
- N. Recycling location (dropoff) with a total capacity of 10 cubic yards or less.
- O. Schools.
- P. Signs, subject to Article 13.
- Q. Subdivisions, major.
- R. Subdivisions, minor.
- S. Summer and vacation cabins for seasonal and not year-round occupancy.
- T. Utility (public) - generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.
- U. Wayside stands, roadside stands, and wayside markets.

### § 175-7.3. Conditional use permits.

The following uses shall be permitted in the Residential-2 District (R-2), subject to all the other requirements of this chapter, only upon obtaining of a conditional use permit from the Board of Supervisors.

- A. Community-operated playgrounds, parks and similar community recreational facilities.  
[Added 9-22-2015]
- B. Conditional sewage disposal permits granted by the Virginia Department of Health for less than year-round occupancy.
- C. Country clubs, golf courses and tennis clubs.

- D. Day-care centers.
- E. Governmental offices.
- F. Farmer's market.
- G. Fire, rescue squad and police stations.
- H. Light manufacturing and craft industries as defined in § 175-2.2.
- I. Manufactured homes, individual, which are not permitted by § 175-7.2, where:
  - (1) The minimum lot size and width as well as the front, side and rear yards setback shall be doubled for the respective zoning districts and the maximum height allowed will be 25 feet measured from the bottom to the top of the manufactured home.
  - (2) The electricity meter base shall not be attached to the manufactured home.
  - (3) All manufactured homes shall be skirted with some type of uniform durable weatherproof material, and installed with a set of permanent steps at each exit.
- J. Office buildings.
- K. Post offices.
- L. Professional offices in occupant's dwelling.
- M. Recycling location (dropoff) with a total capacity in excess of 10 cubic yards.
- N. Rehabilitation and group homes or centers as defined in § 175-2.2.
- O. Retail stores and shops, including storage facilities and neighborhood grocery stores.
- P. Schools.
- Q. Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[1]</sup> as being subject to inundation by waters of the one-hundred-year flood event.
 

[1] *Editor's Note: See Ch. 63, Floodplain Management.*
- R. Tourist home.
- S. Travel trailers (licensed), located outside of travel trailer parks, which are to be occupied for habitation on a temporary basis, other than allowed by § 175-15.3B, if the Board of Supervisors grants a temporary conditional use permit and if the applicant agrees in writing to remove the travel trailer on or before the period specified in the permit.
- T. Youth center, private.

## § 175-7.4. Area regulations for all permitted uses, except as otherwise required in Article 15.

- A. Lot size. The minimum lot area for each principal permitted uses shall be:
  - (1) Twenty-five thousand square feet if central sewer or both central water and sewer are provided and other requirements of the Health Department and this chapter are met; or
  - (2) Thirty-five thousand square feet if individual on-site facilities for sewer only or both water and

sewer are provided and other requirements of the Health Department and this chapter are met.

- B. Setback regulations. Buildings on all public or private rights-of-way shall be set back 50 feet or more from the edge of right-of-way.
- C. Frontage and lot width regulations. The minimum frontage for permitted uses shall be 24 feet on any street or right-of-way and 100 feet at the setback line.
- D. Yard regulations.
  - (1) Side: The minimum side yard for each main building shall be 10 feet, and the total width of the two required side yards shall be 20 feet or more. The minimum side yard for accessory buildings shall be five feet.
  - (2) Rear: Each main building shall have a rear yard of 50 feet or more. Each accessory building shall have a rear yard of five feet.

## § 175-7.5. Height regulations.

- A. Buildings and accessory buildings and structures may be erected up to 50 feet in height.
- B. Public utility buildings, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

## § 175-7.6. Special provisions for corner lots.

- A. Of the two sides of a corner lot, the front shall be deemed the shorter of the two sides fronting on streets.
- B. The minimum side yard on the side facing the side street shall be 40 feet or more for both main and accessory buildings.

## § 175-7.7. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

## § 175-7.8. Off-street parking regulations.

Off-street parking shall be provided in conformance with Article 12 of this chapter.

# ARTICLE 8. Business-1 District (B-1)

## § 175-8.1. Purpose.

Certain types of commercial activities either require waterfront locations or are enhanced by such locations. Such activities usually have special requirements for physical design, layout, and supporting facilities and services which may be incompatible with other uses. The Business-1 District is intended to accommodate these uses with special needs. As a general rule, uses which do not require waterfront location, or which do not complement uses requiring waterfront location, are not permitted in the B-1

District. District regulations are designed to afford adequate protection to the natural environment.

## § 175-8.2. Permitted uses.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Business-1 District (B-1):

- A. Accessory uses as defined in §175-2.2.
- B. Agriculture, including the growing of fruit, forest, field, vegetable crops and, for personal and home occupation uses only, fowl and animal handling and containment, excluding hogs; grain dryers, feeder lots, dairy barns, agricultural lagoons, poultry and hog houses and other structures or areas involving the concentrated handling or containment of animals and fowl are excluded.
- C. Alternative support structures as defined in § 175-23.2.
- D. Aquaculture.
- E. Bait and tackle shops, boat and motor sales, and other retail sales catering to marine trade.
- F. Boat ramps.
- G. Boats-for-hire.
- H. Boatyards, boat building and boat repairs.
- I. Campgrounds.
- J. Cruise and tourist ship dockage.
- K. Data poles as defined in §175-23.2.
- L. Docks, commercial and private.
- M. Fishing piers.
- N. Forestry.
- O. Grain storage and transport facilities.
- P. Home occupations as defined in §175-2.2.
- Q. Hotels, motels and tourist homes.
- R. Local, state and federal water-based facilities.
- S. Marinas and yacht clubs.
- T. Marine railways.
- U. Marine salvage.
- V. Recycling location (dropoff) with a total capacity of 10 cubic yards or less.
- W. Restaurants.
- X. Retail marine fuel sales.
- Y. Seafood sales.

- Z. Shellfish and finfish processing, packing and storage facilities.
- AA. Shops offering such services as marine welding, sheet metal fabrication, small engine repair, and sail mending.
- BB. Signs, subject to Article 13.
- CC. Single-family residences for occupancy by business owner or tenant.
- DD. Utility (public) generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.
- EE. Water-powered facilities such as grist mills.
- FF. Watercraft clubs and schools.
- GG. Wood landings.

### § 175-8.3. Conditional use permits.

- A. In order to ensure that special uses will not harm the natural environment, no zoning permit shall be issued therefor unless and until all other required permits are first obtained from environmental protection agencies, including the Mathews County Wetlands Zoning Board, the Virginia Marine Resources Commission, the State Water Control Board, the Virginia Department of Health, the United States Army Corps of Engineers, and any other applicable agency.
- B. The following uses shall be permitted in the Business-1 District (B-1) subject to all the other requirements of this chapter, only upon the obtaining of a conditional use permit from the Board of Supervisors.
  - (1) Museums.
  - (2) Recycling location (dropoff) with a total capacity in excess of 10 cubic yards.
  - (3) Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[1]</sup> as being subject to inundation by waters of the one-hundred-year flood event.
    - [1] *Editor's Note: See Ch. 63, Floodplain Management.*
  - (4) Telecommunication towers as defined in § 175-23.2.

### § 175-8.4. Requirements for permitted uses.

- A. In order to ensure that permitted uses will not harm the natural environment, no zoning permit shall be issued therefor unless and until all other required permits are first obtained from environmental protection agencies, including the Mathews County Wetlands Board, Virginia Marine Resources Commission, State Water Control Board, State Department of Health, U.S. Army Corps of Engineers, and any other applicable agency.
- B. The Administrator may require landscaping within any established or required setback area and that sufficient area be provided:
  - (1) To adequately screen permitted uses from adjacent business and residential districts; and

- (2) For off-street parking of vehicles incidental to the business and its employees and clients.

## § 175-8.5. Area regulations for all permitted uses, except as otherwise required in Article 15.

- A. Lot size. The minimum lot area for each principal permitted use shall be one acre (43,560 square feet).
- B. Setback regulations. Buildings and piers on all public or private rights-of-way shall be set back 50 feet or more from the edge of the right-of-way or 75 feet from the center line, whichever is greater.
- C. Frontage and lot width regulations. The minimum frontage for permitted uses shall be 24 feet on any street or right-of-way and 100 feet at the setback line.
- D. Yard regulations.
- (1) Side: The minimum side yard for each main building shall be 20 feet, and the total width of the two required side yards shall be 40 feet or more. The minimum side yard for accessory buildings and piers shall be five feet.
- (2) Rear: Each main building of a lot bordering on the water and not requiring on-the-waterfront location shall have a rear yard of 50 feet or more. There is no minimum rear yard requirement for main buildings requiring on-the-waterfront location for the practical operation of the permitted activity. There is no minimum yard requirement for accessory buildings.

## § 175-8.6. Height regulations.

- A. Buildings and accessory buildings may be erected up to 50 feet in height.
- B. Public utility buildings, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antenna, radio aerials, farm buildings and buildings excluding dwellings, smoke stacks, observation towers are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

## § 175-8.7. Special provisions for corner lots.

- A. Of the two sides of a corner lot, the front shall be deemed to be the shorter of the two sides fronting on the streets.
- B. The minimum side yard on the side facing the side street shall be 40 feet or more for main buildings, accessory buildings and piers.

## § 175-8.8. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

## § 175-8.9. Off-street parking regulations.

Off-street parking shall be provided in conformance with Article 12 of this chapter.

## ARTICLE 9. Business-2 District (B-2)

### § 175-9.1. Intent.

Generally this district covers that portion of the community intended for the conduct of general business not requiring waterfront location or access and to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than occasioned by incidental light and noise or congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants, garages, and service stations. Multifamily dwellings, such as apartment houses and townhouses, may be permitted upon obtaining a conditional use permit from the governing body.

### § 175-9.2. Uses permitted by right.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Business-2 District (B-2):

- A. Accessory uses as defined in §175-2.2.
- B. Agriculture, including the growing of fruit, forest, field, vegetable crops and, for personal and home occupation uses only, fowl and animal handling and containment excluding hogs; grain dryers, feeder lots, dairy barns, agricultural lagoons, poultry and hog houses and other structures or areas involving the concentrated handling or containment of animals and fowl are excluded.
- C. Alternative support structures as defined in §175-23.2.
- D. Auto sales and services.
- E. Bakeries.
- F. Banks.
- G. Barber and beauty shops.
- H. Boarding houses and tourist homes.
- I. Car wash, commercial.
- J. Churches.
- K. Clubs and lodges.
- L. Convalescent, nursing or rest homes.
- M. Data poles as defined in §175-23.2.
- N. Day-care centers.
- O. Doctor and dentist offices.
- P. Drainage, erosion and flood control facilities.
- Q. Drug and variety stores.
- R. Dry cleaners and laundries.

- S. Flexible residential/business use with professional offices, subject to §175-15.15.
- T. Florist shops.
- U. Forestry.
- V. Funeral homes.
- W. Garage and service stations.
- X. General stores.
- Y. Home appliance services.
- Z. Home occupations as defined in §175-2.2.
- AA. Hospitals.
- BB. Hotels, motels and apartment motels.
- CC. Insurance offices.
- DD. Legal, architectural, engineering and other professional offices.
- EE. Libraries.
- FF. Light manufacturing and cottage and craft industries as defined.
- GG. Lumber and building supply, with storage either under cover or screened from public view if not under cover.
- HH. Machinery and tool sales, rental and service.
- II. Office buildings and business and governmental offices, including schools, post offices and fire, rescue squad and police stations.
- JJ. Plumbing and electrical supply, with storage either under cover or screened from public view if not under cover.
- KK. Printing offices.
- LL. Radio and television broadcast studios excluding transmission towers.
- MM. Recycling location (dropoff) with a total capacity of 10 cubic yards or less.
- NN. Residential apartments above stores.
- OO. Restaurants.
- PP. Retail food stores.
- QQ. Retail stores and shops.
- RR. Signs, subject to Article 13.
- SS. Theaters.
- TT. Therapeutic massage facilities in accordance with §175-15.23.
- UU. Utility (public) generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.

- VV. Veterinary hospitals with or without kennels.
- WW. Wayside stands, roadside stands, and wayside markets.
- XX. Wearing apparel stores.
- YY. Wholesale and processing not objectionable because of dust, noise, or odors.

### § 175-9.3. Conditional use permits.

The following uses shall be permitted in Business-2 District (B-2), subject to all the other requirements of this chapter, only upon obtaining of a conditional use permit from the Board of Supervisors.

- A. Apartment houses, subject to § 175-15.15.
- B. Adult bookstore in accordance with § 175-15.24.
- C. Adult theater in accordance with § 175-15.24.
- D. Cabaret in accordance with § 175-15.24.
- E. Cluster development of multifamily dwellings, in accordance with § 175-15.13.
- F. Condominiums.
- G. Dwelling, multifamily, subject to § 175-15.15.
- H. Farmer's market.
- I. Flexible residential/business use with a business use other than professional offices, subject to § 175-15.15.
- J. Fuel wholesale and retail distribution.
- K. Local shopping centers.
- L. Museums.
- M. Recreation and amusement enterprise.
- N. Recycling location (dropoff) with a total capacity in excess of 10 cubic yards.
- O. Self-storage facilities and offices.
- P. Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[1]</sup> as being subject to inundation by waters of the one-hundred-year flood event.  
[1] *Editor's Note: See Ch. 63, Floodplain Management.*
- Q. Telecommunication towers as defined in § 175-23.2.
- R. Townhouses, subject to § 175-15.15.

### § 175-9.4. Requirements for permitted uses.

The Administrator may require landscaping within any established or required setback area and that sufficient area be provided:

- A. To adequately screen permitted uses from adjacent business and residential districts; and
- B. For off-street parking of vehicles incidental to the business and its employees and clients.

## § 175-9.5. Area regulations for all permitted uses, except as otherwise required in Article 15.

- A. Lot size.
  - (1) For all multifamily structures see § 175-15.15.
  - (2) For permitted business uses:
    - (a) No minimum lot size shall be required if central sewer or both central water and sewer are provided and other requirements of the Health Department and this chapter are met;
    - (b) All uses utilizing individual on-site facilities for sewer only or both water and sewer shall provide a minimum lot size of 25,000 square feet or greater if required by the Health Department.
- B. Frontage and lot width regulations. The minimum frontage for permitted uses shall be the same width as the width at the setback line except as otherwise required herein.
- C. Lot coverage. The maximum percentage of any lot used for a permitted business use, including parking areas and roads, will be as follows:
  - (1) Where both public water and sewer are available: 100%.
  - (2) Where only public sewer is available: 100%.
  - (3) Where only public water is available: 65%.
  - (4) Where neither public water nor sewer are available: 65%.
- D. Setback regulations.
  - (1) If permitted uses occupy the adjacent parcels, the setback line shall be the average of the adjacent buildings or structures, but not less than 15 feet where no parking is provided in the front and not less than 45 feet where front parking is provided from the edge of public and private rights-of-way. If a permitted use occupies the existing parcel and is less than 50 feet from a right-of-way, the setback line shall be the average distance of the existing structures/buildings from the edge of the public and private right-of-way, but not less than 15 feet from the public and private right-of-way.
  - (2) If a permitted use exists on only one side, the setback line shall be the same as the permitted use, but not less than 15 feet where no parking is permitted in the front and not less than 45 feet where front parking is provided.
  - (3) If neither of the above formulas applies, buildings shall be set back a minimum of 50 feet from the edge of the right-of-way or 75 feet from the center line, whichever is greater, on all lands adjacent to public or private rights-of-way.
  - (4) Freestanding canopies over commercial fuel pumps shall be setback a minimum of 15 feet from the edge of the right-of-way.
- E. Yard regulations.

- (1) There shall be no minimum side or rear yard for main buildings except as otherwise required in this chapter.
- (2) The minimum side and rear yards setbacks for accessory buildings shall be per the requirements set forth in the Building Officials and Code Administrator (BOCA) Basic/National Building Code; except that when abutting a residential use or residential, rural or conservation zone the side and rear yard setbacks shall be 10 feet.
- (3) For all multifamily structures, see § 175-15.15.

## § 175-9.6. Height regulations.

- A. Buildings and accessory buildings may be erected to a height of 50 feet.
- B. Public utility buildings, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.
- C. For all multifamily structures, see § 175-15.15.

## § 175-9.7. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

## § 175-9.8. Off-street parking regulations.

Off-street parking shall be provided in conformance with Article 12 of this chapter.

# ARTICLE 10. Industrial District (I)

## § 175-10.1. Intent.

Industrial District (I) is intended to provide certain areas within the County for the development of industrial uses that are incompatible with residential uses because of dust, smoke, odor, vibration, etc. This district should not be allowed to locate in any area adjacent to significant residential development.

## § 175-10.2. Uses permitted by right.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Industrial District (I).

- A. Abattoirs/slaughter houses.
- B. Accessory buildings and uses as defined in § 175-2.2.
- C. Agriculture except the use of fertilizers which are byproducts of brewer or sewerage operations and require a conditional use permit.
- D. Alternative support structures as defined in § 175-23.2.

- E. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts, such as coils, condensers, transformers, and crystal holders.
- F. Automobile assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire re-treading or recapping.
- G. Automobile graveyards and dismantling facilities and junkyards.
- H. Blacksmith shop, welding or machine shop, excluding punch presses exceeding forty-ton rated capacity and drop hammers.
- I. Boat building.
- J. Boiler shops.
- K. Book bindery.
- L. Brick manufacture.
- M. Building material sales yards, plumbing supplies storage.
- N. Cabinets, furniture and upholstery shops.
- O. Coal and wood yards, lumber yards, feed and seed stores.
- P. Commercial fisheries.
- Q. Communications towers and facilities related to business use.
- R. Contractors' equipment storage yards or plants or sale or rental of equipment commonly used by contractors.
- S. Creamery.
- T. Data poles as defined in § 175-23.2.
- U. Drainage, erosion and flood control facilities.
- V. Engraving or printing plant.
- W. Feed and flour mills.
- X. Forestry.
- Y. General advertising, business and identification signs, subject to Article 13.
- Z. Laboratories, pharmaceutical and/or medical.
- AA. Manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries and food products.
- BB. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, yarn, and paint.
- CC. Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- DD. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.

- EE. Meat, poultry and seafood processing and packing operations.
- FF. Monumental stone works.
- GG. Motor vehicle sales and leasing as an accessory use provided that:
  - (1) A conforming industrial use operates as the primary use on the property;
  - (2) No more than 25 vehicles for sale/lease are permitted on the property;
  - (3) All vehicles for sale/lease are screened from public view with a hedge of 3 1/2 feet high along the road and all sides visible from the road;
  - (4) No more than 25% of the total number of employees are to engage in the sales/lease operation; and
  - (5) One sign not to exceed 16 square feet per side is permitted.
- HH. Petroleum storage operation, including by products.
- II. Recycling location (dropoff).
- JJ. Sawmills and planing mills.
- KK. Self-storage facilities and offices.
- LL. Solid waste management facility as herein recognized public or private construction/demolition/debris landfill, public or private materials recovery facility, publicly owned or operated sanitary landfill, and publicly owned or operated transfer station.
- MM. Utility (public) generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.
- NN. Veterinary or dog or cat hospitals and kennels.
- OO. Wholesale businesses, storage warehouses.

### § 175-10.3. Conditional use permits.

The following uses shall be permitted in the Industrial District (I), subject to all the other requirements of this chapter, only upon obtaining of a conditional use permit from the Board of Supervisors.

- A. Airports.
- B. Crushed stone operations.
- C. Farmer's market.
- D. Manufacture of cement and stone products.
- E. Railroads and facilities.
- F. Sand and gravel operations.
- G. Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[1]</sup> as being subject to inundation by waters of the one-hundred-year flood event.

[1] *Editor's Note: See Ch. 63, Floodplain Management.*

- H. Use of fertilizers which are byproducts of brewery or sewage operations.

## § 175-10.4. Requirements for permitted uses.

- A. Permitted uses, exclusive of forestal and agricultural activities, shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or evergreen hedge six feet in height. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operations may be exempt from this provision. The exception does not include storage of any materials. However, this requirement may be waived by the Planning Commission should the applicant be able to demonstrate hardship or that this requirement is incompatible with the activity.
- B. Landscaping may be required within any established or required front setback area. The plans and specifications must take into consideration traffic hazards. Landscaping may be permitted up to a height of three feet and to within 50 feet from the corner or any intersecting streets.
- C. Sufficient area shall be provided:
- (1) To adequately screen permitted uses from adjacent residential, business rural, and conservation districts and residences; and
  - (2) For off-street parking of vehicles incidental to the industry, its employees and clients.
- D. Automobile graveyards and junkyards shall be allowed up to three years after adoption of this chapter in which to completely screen, on any side open to view from a public road, the operation or use by a masonry wall, a uniformly painted solid board fence, or an evergreen hedge, six feet in height.

## § 175-10.5. Area regulations for all permitted uses, except as otherwise required in Article 15.

- A. Lot size. The minimum lot area for each principal use shall be 25,000 square feet.
- B. Setback regulations. Buildings shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width, or 75 feet or more from the center line of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."
- C. Frontage and lot width regulations. The minimum frontage for permitted uses shall be 24 feet on any street or right-of-way and the lot shall be 100 feet at the setback line.
- D. Yard regulations.
- (1) For permitted uses the minimum side or rear yard adjoining or adjacent to a residential use or a business, rural, residential or conservation district shall be 50 feet. The side yard of corner lots shall be 50 feet or more.
  - (2) The minimum side and rear yard setbacks for accessory buildings shall be per the requirements set forth in the Building Officials and Code Administrators (BOCA) Basic/National Building Code. If abutting residential use or residential, rural or conservation zone, setback shall be 10 feet.
- E. Coverage regulations. The maximum percentage of any lot used for a permitted industrial use, including parking and roads, shall be 70% of the area of the lot.

## § 175-10.6. Height regulations.

- A. Buildings and accessory buildings may be erected up to a height of 50 feet. For buildings over 50 feet in height, approval shall be obtained from the administrator.
- B. Chimneys, flues, cooling towers, flag poles, radio or communication towers or their accessory facilities not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.

## § 175-10.7. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

## § 175-10.8. Off-street parking regulations.

Off-street parking shall be provided in conformance with Article 12 of this chapter.

# ARTICLE 11. Conservation District (C)

## § 175-11.1. Intent.

This district is intended to protect, preserve and propagate the County's living marine environment and its natural resources. The district is intended for use in water, wetlands and shoreline areas and other areas which are not suited for development and where such development would have an adverse effect on the environment and public and private areas which have been set aside for conservation purposes. Areas within the district generally are unsuitable for development or intensive use due to soil, water or high flood hazard conditions.

## § 175-11.2. Uses permitted by right.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Conservation District (C):

- A. Aids to navigation which are authorized by governmental authority.
- B. Accessory uses as defined in §175-2.2.
- C. Conservation, repletion and research activities, and wildlife preserves and conservation areas of the Virginia Marine Resources Commission, the Virginia Institute of Marine Science and other related conservation agencies.
- D. Cultivation and harvesting of agricultural or horticultural products; excluding grain dryers, feeder lots, dairy barns, agricultural lagoons, poultry and hog houses and other structures or areas involving the concentrated handling or containment of animals and fowl.
- E. Cultivation and harvesting of shellfish, finfish and crustaceans.
- F. Emergency decrees of any duly appointed health officer of a governmental subdivision acting to protect the public health.
- G. Flood control devices and drainage ditches.
- H. Forestry.

- I. Governmental activity on shorelands owned or leased by the Commonwealth of Virginia, or a political subdivision thereof.
- J. Noncommercial catwalks, piers, boathouses, boat shelters, fences, duck blinds, wildlife management shelters, footbridges, observation decks and shelter and other similar structures; provided that such structures are so constructed on pilings as to permit the reasonable unobstructed flow of the tide.
- K. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shell fishing, horseback riding, swimming, skeet and trap shooting and shooting preserves; provided that no structure shall be constructed except as permitted in §175-11.1.
- L. Normal maintenance, repair or addition to presently existing roads, highways, railroad beds, or the facilities of any person, firm, corporation, utility, federal, state, or County abutting on or crossing shorelands, provided that no waterway or primary dune is altered and no additional shorelands are covered.
- M. Normal maintenance of manmade drainage ditches, provided that no additional shorelands are covered; and provided further that this subsection shall not be deemed to authorize construction of any drainage ditch.
- N. Public utilities: poles, lines, transformers, pipes, meters and similar facilities; water and sewer distribution lines.
- O. Signs, as permitted and regulated in Article 13.

### § 175-11.3. Conditional use permits.

The following uses shall be permitted in the Conservation District (C) subject to all the other requirements of this chapter, only upon the obtaining of a conditional use permit from the Board of Supervisors.

- A. Public utilities: Public water and sewer transmission or trunk lines and treatment facilities, and pumping stations; electrical power transmission and distribution substations and transmission lines and towers; unmanned telephone exchange centers.

### § 175-11.4. Requirements for permitted uses.

In order to ensure that permitted uses will not harm the natural environment, no zoning permit shall be issued therefor unless and until all other required permits are first obtained from environmental protection agencies, including the Mathews County Wetlands Zoning Board, the Virginia Marine Resources Commission, the State Water Control Board, the Virginia Department of Health, the United States Army Corps of Engineers, and any other applicable agency.

### § 175-11.5. Area regulations for all permitted uses, except as otherwise required in Article 15.

- A. Lot size. There shall be no minimum lot area.
- B. Setback regulations. There shall be no minimum setback from public or private rights-of-way.
- C. Frontage and lot width regulations. There shall be no minimum frontage requirement on streets or rights-of-way and no minimum lot width requirements.
- D. Yard regulations.

- (1) Side: There shall be no minimum side yard requirement for main or accessory buildings.
- (2) Rear: There shall be no minimum rear yard requirement for main or accessory buildings.

### § 175-11.6. Height regulations.

- A. Buildings and accessory structures may be erected up to 50 feet in height.
- B. Public utility structures, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, television antenna, radio aerials, farm buildings and structures excluding dwellings, smoke stacks, observation towers are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

### § 175-11.7. Special provisions for corner lots.

There shall be no minimum requirement for side yards for corner lots.

### § 175-11.8. Sign regulations.

Sign regulations shall conform to Article 13 of this chapter.

### § 175-11.9. Off-street parking regulations.

There shall be no minimum off-street parking requirement.

## ARTICLE 12. Minimum Off-Street Parking

### § 175-12.1. Minimum off-street parking required.

- A. There shall be provided, at the time of erection of any building or at the time any main building is enlarged, minimum off-street parking space with adequate provisions for entrance and exit by standard sized automobiles, as follows:

<b>Type Of Use</b>	<b>Parking Spaces Required</b>
<b>Residential:</b>	
1. Single-family dwellings, two-family dwellings or manufactured homes	2 per dwelling unit
2. Multifamily dwellings	2 per dwelling unit
3. Boarding houses	1 for each sleeping room
<b>Commercial:</b>	
1. Automobile repair/service	2 for each service bay
2. Hotels, motels, inns or bed-and-breakfast/tourist homes	1 for each guest room plus one for each employee or owner-operator
3. Retail stores	1 for each 300 square feet of floor area
4. Restaurant	1 for each table or booth plus one for each employee for sit-down restaurants. One for each 100 square feet of floor area for fast food, drive-through or carry-out restaurants

- |                                                                           |                                          |
|---------------------------------------------------------------------------|------------------------------------------|
| 5. Banks/financial institutions                                           | 1 for each 300 square feet of floor area |
| 6. General and professional offices (excluding medical or dental offices) | 1 for each 500 square feet of floor area |
| 7. Personal services                                                      | 1 for each 300 square feet of floor area |

**Recreation or Entertainment:**

- |                                                                |                                          |
|----------------------------------------------------------------|------------------------------------------|
| 1. Auditoriums, gymnasiums, stadiums, theaters or similar uses | 1 for each 4 seats                       |
| 2. Fraternal lodges, clubs, or golf courses                    | 1 for each 400 square feet of floor area |
| 3. Campgrounds                                                 | 1 for each campsite                      |
| 4. Marinas                                                     | 1 for each 5 slips                       |

**Institutional:**

- |                                                                |                                                         |
|----------------------------------------------------------------|---------------------------------------------------------|
| 1. Hospitals, convalescent homes or assisted living facilities | 1 for each 2 beds                                       |
| 2. Medical or dental offices/clinics                           | 1 for each 300 square feet of floor area                |
| 3. Churches and other places of religious assembly             | 1 for each 4 seats                                      |
| 4. Libraries                                                   | 1 for each 400 square feet of floor area                |
| 5. Museums                                                     | 1 for each 400 square feet of floor area                |
| 6. Post offices                                                | 1 for every 100 box holders, but not less than 5 spaces |

**Schools:**

- |                                                        |                                                  |
|--------------------------------------------------------|--------------------------------------------------|
| 1. Public or private elementary, middle or high school | 2 per classroom                                  |
| 2. Nursery schools or child care centers               | 2 per classroom, but not less 6 for the building |

**Industrial:**

- |                                                                                 |                                                        |
|---------------------------------------------------------------------------------|--------------------------------------------------------|
| 1. All types of manufacturing, fabrication, assembly or distribution facilities | 1 for each employee, plus one for each company vehicle |
|---------------------------------------------------------------------------------|--------------------------------------------------------|

- B. Common hallways, stairwells, elevator shafts, mechanical equipment rooms, rest rooms, and similar nonleasable floor area shall be excluded from parking tabulations.
- C. For any use not specifically addressed by the above parking requirements, the Zoning Administrator through information provided by the applicant shall determine the appropriate number of parking spaces based upon a use that most closely approximates the proposed use.

## § 175-12.2. Location, size and design of required parking areas.

- A. Parking space as required in § 175-12.1 of this chapter shall be on the same lot with the main building, except that in the case of buildings other than dwellings, spaces may be located as far away as 600 feet. Every parcel of land hereafter used as a public parking area shall be surfaced with gravel, stone, asphalt, or concrete or other approved all-weather surface.
- B. Any lights used to illuminate said parking areas shall be arranged as to direct light down and to reflect the light away from adjoining premises.
- C. Each parking space shall be a minimum of nine feet wide and 20 feet long; except for parallel spaces which shall be nine feet wide and 22 feet long. Driveway entrances and lanes shall accommodate all vehicle types expected to enter the site. Parking requirements shall at no time be considered sufficient for any other use of the premises, and additional spaces shall be provided to meet requirements when there is any change to a different nonresidential use.

D. Minimum aisle widths required for parking areas shall be according to the following table:

<b>Parking Angle (degrees)</b>	<b>Direction of Traffic</b>	<b>Aisle Width (feet)</b>
Parallel	One-way	12
45	One-way	12
60	One-way	12
90	Two-way	24

(1) For access lanes/driveways which provide internal circulation, but do not provide direct access to parking spaces, the minimum width of a lane/driveway for one-way traffic shall be 12 feet and for two-way traffic shall be 24 feet.

(2) Turning areas shall have adequate radii to assure ease of mobility, ample clearance and convenience of ingress and egress.

E. Requirements for handicapped access. For each 25 off-street parking spaces, there shall be one off-street parking space for handicapped persons. Parking spaces and parking signs for handicapped persons shall be constructed and designated in accordance with the Virginia Uniform Statewide Building Code and the Virginia Department of Transportation standards.

## § 175-12.3. Shared parking.

A. Required parking spaces may be shared for two or more adjoining buildings or uses provided that the total of such parking spaces when combined or used together shall not be less than the sum of the requirements for the several individual uses computed separately. Before such spaces are approved for use, a written agreement shall be executed by the parties concerned and filed with the Zoning Administrator to assure the continued use of the shared parking agreement.

B. The Zoning Administrator may reduce the amount of space otherwise required if the total parking needs can be shown to be less than the standard due to uses having different hours of operation.

## ARTICLE 13. Sign Regulations

### § 175-13.1. Intent.

The following sign regulations are established to assure compatibility of exterior signs with surrounding land usage, to enhance the economy of the County, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to protect the historic, rural and natural beauty of the County, and to promote the reasonable, orderly and effective display of outdoor advertising.

### § 175-13.2. Conformance with applicable codes and ordinances.

All signs shall be installed in conformance with the provisions of this article, and other applicable provisions of this chapter. Where there is conflict between the provisions of this article and other applicable provisions of this chapter, the most restrictive shall govern.

### § 175-13.3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

**SIGN**

Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to, or as a part of a structure, surface, or any other thing, including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which same is located. A display of less than one square foot in area is excluded from this definition.

**SIGN, ANIMATED OR MOVING**

Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

**SIGN, AWNING**

A sign that is mounted, painted, or attached to an awning or other window or door canopy.

**SIGN, BANNER**

Any sign made of fabric or any non-rigid material with no enclosing framework.

**SIGN, BUSINESS**

A sign which directs attention to a product, commodity, or service available on the premises.

**SIGN, DIRECTIONAL**

A sign (one end of which may be pointed, or on which an arrow may be painted, indicating the direction to which attention is called) giving the name and approximate location only of the firm or business responsible for the erection of same.

**SIGN, FREESTANDING**

Any sign supported by an upright structural member or by braces on or in the ground and not attached to a building.

**SIGN, GENERAL ADVERTISING**

A sign which directs attention to a product, commodity, or service not necessarily conducted, sold, or offered upon the same lot where such sign is located.

**SIGN, GRAND OPENING**

A sign which is used for the introduction, promotion, or announcement of a new business, store, shopping center, office, or the announcement, introduction, or promotion of a new establishment.

**SIGN, HOME OCCUPATION**

A sign directing attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling.

**SIGN, IDENTIFICATION**

A sign which carries only the name of the firm, the major enterprise, or the principal product offered for sale on the premises, or a combination of these.

**SIGN, ILLUMINATED**

Any sign illuminated by electricity, gas, or other artificial light, including reflecting or phosphorescent light.

**SIGN, MONUMENT**

A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles.

**SIGN, OFF-PREMISE**

A sign which directs attention to a business, commodity, service or establishment conducted, sold or offered at a location other than the premises on which the sign is erected.

**SIGN, OUTDOOR ADVERTISING**

A freestanding or building-mounted sign bearing a message which is not appurtenant to the use of the property where the sign is located, and which does not identify the place of business where the sign is located as the purveyor of merchandise or service upon the sign. Such signs may also be referred to as billboards or poster panels.

**SIGN, PORTABLE**

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operations of the business and is currently licensed by the state with a valid inspection decal displayed.

**SIGN, PROJECTING**

Any sign which projects from the exterior of a building.

**SIGN, ROOF**

A sign erected wholly upon or over the roof of a structure.

**SIGN, ROOF LINE**

A sign erected either on the edge of the roof or on top of the parapet wall, whichever forms the top line of the building silhouette and, where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

**SIGN, TEMPORARY**

Any sign not permanently attached to a structure nor permanently mounted in the ground which can be transported to other locations. Such signs may include, but not be limited to, paper or poster signs, portable signs, sandwich board signs, or other movable signs announcing or advertising weekly specials, real estate, or special services offered by a business establishment, seasonal, or brief activities or the like.

**SIGN, WALL**

A sign affixed directly to or painted on or otherwise inscribed on an exterior wall or parapet and confined within the limits thereof, of any building and which projects from that surface less than 12 inches at all points.

**SIGN, WINDOW**

A sign painted, stenciled, or affixed on a window, which is visible from a right-of-way.

## § 175-13.4. General regulations.

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this chapter.

- A. Sign permit required. No sign, unless herein exempted, shall be erected, constructed, posted, altered, painted, or relocated except as provided in this article and in these regulations, until a zoning permit has been approved and issued by the Mathews County Department of Planning and Zoning. All signs which are electrically illuminated shall require a separate electrical permit approved and issued by the building official.

- (1) Before any permit is granted for the erection of a sign, plans and specifications shall be filed with

the Department of Planning and Zoning showing the dimensions, type of materials and the details of construction including anchorage, illumination, colors and wording or graphics.

- B. Signs prohibited in all districts. The following signs are prohibited in all zoning districts.
- (1) Any sign that violates any provision of any law of the state or federal government relative to outdoor advertising.
  - (2) Any sign that violates any provision of the Uniform State-wide Building Code.
  - (3) Any sign which advertises an activity, business, product, or service no longer conducted or sold on the premises upon which the sign is located.
  - (4) Any sign that uses the word "stop" or "danger" or which a copy or imitation is of or which for any reason is likely to be confused with any sign displayed by a public authority.
  - (5) Any sign of which all or any part is in motion by any means, including fluttering, rotating, or other moving signs set in motion by movement of the atmosphere. This shall not apply to the hands of a clock or a weathervane.
  - (6) Any sign that contains or consists of pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices.
  - (7) Any sign, except official notices and advertisements, which is nailed, tacked, posted, placed or in any other manner attached to any utility pole or structure for supporting wire, cable, or pipe, or to any tree on any street or sidewalk.
  - (8) Any sign placed in any public right-of-way except publicly owned signs, such as traffic control signs and directional signs.
  - (9) Any sign attached to a chimney, tower, tank, or structure of like kind which extends above the district height limits.
  - (10) Any sign located above the roofline of a building.
  - (11) Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs displayed on vehicles that are decals, magnetic signs or painted on vehicles used in the daily function of the business to which such signs relate.
  - (12) Any luminous tube (neon or xenon) sign external to a building.
- C. Exempt signs. The following signs are exempted from the provisions of these regulations and may be erected, constructed or altered without a permit.
- (1) Official traffic signs, warning signs, rezoning, conditional use, and the like, when required to be erected by a governmental agency, and temporary signs indicating danger.
  - (2) Commemorative plaques and historical markers erected by a recognized historical agency or governmental body.
  - (3) Address or identification sign, indicating the address and/or names of occupants of the premises, not exceeding four square feet in area.
  - (4) Flags, emblems and insignia of any governmental agency or religious, charitable, public or nonprofit organization; provided, however, that no single flag shall exceed 50 square feet in area and no single zoning lot shall display more than three such flags.
  - (5) Handicapped parking space signs.

- (6) Security and warning signs posted on private property warning the public against trespassing, hunting, fishing or similar messages, provided that any such sign does not exceed four square feet in area.
- (7) Political campaign signs on private property up to a maximum of 32 square feet in area.
- (8) Real estate signs advertising the sale, rental, or lease of the premises, or part of the premises on which the signs are displayed. The total aggregate sign area shall not exceed 32 square feet. No real estate sign shall exceed a height of six feet. One such sign is permitted per parcel.
- (9) Construction signs not to exceed one per road frontage. The total area of all such signs shall not exceed 12 square feet and are limited to a maximum height of six feet. Such signs shall be removed within 14 days following completion of the project.
- (10) Freestanding, ground-mounted or monument signs, not exceeding a total of 40 square feet in area for the identification of a subdivision or planned development, if located at the entrance to the subdivision or planned development. No subdivision or planned development sign shall exceed a height of six feet.
- (11) Signs which are within a ball park or other similar private recreational use.

D. Determining sign area.

- (1) Measurement. The sign area shall be measured as the area of a sign face within the smallest area that encompasses the limits of the letters, figures, designs, devices, pictures, projected images, symbols, fixtures, logos, emblems or insignias, or any part of combination thereof, together with any materials or colors forming an integral part of the background of the sign face or used to differentiate the sign from the backdrop or structure against which it is placed. Whenever a double-faced or V-shaped sign contains lettering or other advertising information on both sides, one side only shall be used in computing the surface area of the sign.
- (2) Area not included. The sign area shall not include any supporting framework, bracing or decorative fence or wall when such feature otherwise complies with the regulations and is clearly incidental to the sign itself.

E. Determining sign height. The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher, and shall include the sign base.

F. Determining structure frontage. The structure frontage shall be measured to calculate the permitted wall/building-mounted signage as provided herein.

- (1) Measurement. The structure frontage is the horizontal length of the outside structure wall of the establishment adjacent to a right-of-way.

G. Illumination.

- (1) The light from any illuminated sign shall not cause direct glare into or upon any building or property other than the building or property to which the sign may be related.
- (2) No sign shall display flashing or intermittent lights, or other lights of changing degrees of intensity, brightness or color, except a sign indicating time or temperature, which changes alteration on not less than a five-second cycle when such time or temperature sign does not constitute a public hazard, in the judgment of the Zoning Administrator.
- (3) No colored lights shall be used at any location or in any manner so as to be confused with, or constituted as, traffic-control devices.

(4) Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.

H. Projections. No projecting sign shall be erected or maintained from a building more than four feet, measured perpendicularly from the building.

I. Setback requirements. Freestanding, ground-mounted or monument signs shall be subject to a ten-foot side yard setback and shall be set back from all rights-of-way according to the following sign height and minimum setback requirements:

<b>Sign Height (feet)</b>	<b>Minimum Setback (feet)</b>
Less than 6	5
6 to 10	10
Greater than 10	15

J. Removal of signs. The Zoning Administrator may order the removal of any sign erected or maintained in violation of this chapter. He shall give 30 days' notice in writing to the owner of such sign or of the building, structure, or premises on which such sign is located to remove the sign or to bring it into compliance. Failure to comply shall constitute grounds for the Zoning Administrator to have the sign removed at cost to the owner.

K. Abandoned signs. A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. If the owner or lessee fails to remove it, the Zoning Administrator shall give the owner 30 days' notice in writing to remove such sign. Failure to comply shall constitute grounds for the Zoning Administrator to have the sign removed at cost to the owner.

L. Structural requirements. All signs shall meet the structural requirements for same as set forth in the Uniform State-wide Building Code.

### § 175-13.5. Signs permitted by district.

A. Signs permitted in the Conservation (C) District, Rural (RU) District, and Residential Districts (R-1) and (R-2).

(i) The following signs shall be permitted in the Conservation (C) District, Rural (RU) District and Residential Districts (R-1) and (R-2):

(a) One freestanding home occupation sign limited to eight square feet in area and eight feet in height.

(b) For permitted commercial/recreational/public/institutional/religious uses, the total sign area for building-mounted (wall or facade) signs on buildings shall not exceed in the aggregate one square foot of sign area for each linear foot of building frontage. No such sign area shall be required to be less than 20 square feet, nor shall it exceed 60 square feet.

(c) Projecting signs, provided that such signs shall not exceed eight square feet in area and shall not project more than four feet from the building front.

(d) In addition to building-mounted signs, freestanding (post or pedestal) signs shall be permitted for structures that are set back from a right-of-way. The area permitted for freestanding signs shall be in addition to that permitted for building-mounted signs. Freestanding (post and pedestal) signs shall not exceed 40 square feet in area and shall not extend higher than 20 feet. No more than one freestanding sign shall be permitted for each building, unless otherwise specified. No freestanding sign shall project beyond any property

line.

- (e) In place of a freestanding sign, a ground-mounted or monument sign shall be permitted. The area permitted for a ground-mounted or monument sign shall not exceed 40 square feet in area and shall not extend higher than six feet.
- (f) Temporary grand opening signs shall be permitted, provided that such signs shall not be displayed more than 30 days and no such sign shall exceed 25 square feet in area. A permit is required.
- (g) Temporary signs advertising special sales shall be permitted, provided that such signs shall not be displayed more than 30 days and no such sign shall exceed 25 square feet in area. A permit is required.
- (h) Directional signs limited to two square feet in area each, no limit on number.

B. Signs permitted in Business Districts (B-1) and (B-2) and Industrial District (I).

- (1) The following signs shall be permitted in Business Districts (B-1) and (B-2) and Industrial District (I):
  - (a) One freestanding home occupation sign limited to eight square feet in area and eight feet in height.
  - (b) For permitted commercial/recreational/public/institutional/religious uses, the total sign area for building-mounted (wall or facade) signs on buildings housing one tenant shall not exceed in the aggregate one square foot of sign area for each linear foot of building frontage. No such sign area shall be required to be less than 20 square feet, nor shall it exceed 80 square feet.
  - (c) On lots containing buildings housing more than one tenant, sign area for building-mounted (wall or facade) signs for each tenant shall not exceed in the aggregate one square foot for each linear foot of building frontage occupied by that tenant. No such sign area shall be required to be less than 20 square feet, nor shall it exceed 80 square feet.
  - (d) Projecting signs, provided that such signs shall not exceed eight square feet in area and shall not project more than four feet from the building front.
  - (e) In addition to building-mounted signs, freestanding (post or pedestal) signs shall be permitted for structures that are set back from a right-of-way. The area permitted for freestanding signs shall be in addition to that permitted for building-mounted signs. Freestanding (post or pedestal) signs shall not exceed 40 square feet in area and shall not extend higher than 20 feet. No more than one freestanding sign shall be permitted for each building, unless otherwise specified. No freestanding sign shall project beyond any property line.
  - (f) No more than one freestanding (post or pedestal) sign shall be permitted for a multiple tenant complex or shopping center, limited in area to 60 square feet, and shall not extend higher than 20 feet. Such sign shall indicate only the name of the multiple tenant complex/shopping center and/or a business use or a combination of business uses within the complex/shopping center. No other freestanding (post or pedestal) sign shall be permitted. No freestanding (post or pedestal) sign shall project beyond any property line.
  - (g) In place of a freestanding sign, a ground-mounted or monument sign shall be permitted. The sign area permitted for a ground-mounted or monument sign shall not exceed 60 square feet and shall not extend higher than six feet.
  - (h) Temporary grand opening signs shall be permitted, provided that such signs shall not be

displayed more than 30 days and no such sign shall exceed 25 square feet in area. A permit is required.

- (i) Temporary signs advertising special sales shall be permitted, provided that such signs shall not be displayed more than 30 days and no such sign shall exceed 25 square feet in area. A permit is required.
- (j) Directional signs limited to two square feet in area each, no limit on number.
- (k) Window signs shall be permitted, provided that the aggregate area of all such signs shall not exceed 25% of the window area on which such signs are displayed.
- (l) Luminous tube signs (neon, xenon, etc.) shall be permitted on the interior of storefront windows, provided that the aggregate sign area of all such signs does not exceed four square feet.
- (m) Signs on awnings, provided that such signs shall be limited to the drop leaf and letters shall not exceed 10 inches in height.
- (n) Roof signs, provided that such signs shall not project above the roof line.

## § 175-13.6. Off-premises signs.

Off-premises signs for businesses other than home occupations shall be permitted by the Zoning Administrator in accordance with the following criteria:

- A. Signs are permitted only if a business is not visible from a state primary or secondary road.
- B. Signs shall be limited to the following information: business name and/or logo, business function(s), operating hours, location and route directions.
- C. No more than two non-illuminated signs will be permitted and such signs shall be constructed of wood with nonreflective painted surfaces.
- D. Signs on primary roads shall be no larger than 32 square feet in area and signs on secondary roads shall be no larger than 16 square feet in area.
- E. Businesses with access to a primary road shall not have signs located on a secondary road. Businesses with access to a secondary road shall have no more than one sign located on a primary road but may have both permitted signs on secondary roads only.
- F. Signs will be permitted only on properties zoned B-1, B-2 or I along those state routes leading to a business.

## § 175-13.7. Nonconforming signs.

No nonconforming sign shall be enlarged nor be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign.

- A. Signs lawfully existing on the effective date of this article or prior ordinances, which do not conform to the provisions of this article, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. Such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area. The burden of establishing nonconforming status of signs and of the physical characteristics/location of such signs shall be that of

the owner of the property. Such nonconforming signs shall comply with the requirements of Article 16, relating to nonconforming uses.

- B. Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign; provided, however, that no nonconforming sign which has been declared by the Zoning Administrator to be unsafe because of its physical condition, as provided for in this chapter, shall be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable regulations.
- C. No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform to the provisions of this article.
- D. If a nonconforming sign is destroyed, demolished, or removed due to any reason, it shall not be replaced without complying with all provisions of this article.
- E. A nonconforming sign which is changed to or replaced by a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this article.

## ARTICLE 14. Manufactured Home Parks

### § 175-14.1. Area regulations.

- A. Lot size, setback and buffer requirements.
  - (1) The developer of a manufactured home park shall reserve 25 feet of open space abutting all the adjoining property owners before establishing lots within the park. An evergreen hedge or screen, a minimum of six feet in height and of sufficient density to adequately screen the site from adjacent properties and roadways, shall be installed at the time of establishment of the park and maintained thereafter in compliance with the intent of this requirement.
  - (2) The operator of a manufactured home park shall provide manufactured home lots of not less than 15,000 square feet of ground, with a minimum width of 75 feet, for each manufactured home on the premises. Each manufactured home lot shall front on, but be setback at least 20 feet from, an internal manufactured home park street, road, or right-of-way. Each manufactured home shall be so situated that there is a minimum of 30 feet between manufactured homes. In addition, each manufactured home lot shall be numbered with a suitable marker.
  - (3) Except as required in § 175-15.20, buildings on all public rights-of-way shall be set back 50 feet or more from the edge of the right-of-way or 75 feet or more from the center line, whichever is greater.
- B. Open space requirements. A minimum of 10% of the gross land area of the manufactured home park shall be reserved for recreational and open space uses. This area may be within or outside of a building, but must be for recreational purposes and is in addition to any other open space areas required by yard or buffer requirements or other sections of this chapter.

### § 175-14.2. Access.

Manufactured home parks shall have access to public street or highway. The design and construction of the interior street system and access road shall be sufficient to adequately serve the size and density of the project or development and shall conform to the requirements of the Department of Highways and Transportation and the County. All interior streets and access roads shall meet the specifications of the

Department of Highways and Transportation and shall comply in width with the requirements of said Department of Highways and Transportation.

### § 175-14.3. Off-street parking spaces.

Off-street parking shall comply with the provisions of Article 12 of this chapter for all residential and nonresidential uses within the project or development.

### § 175-14.4. Water and sewer facilities.

The operator of a manufactured home park shall provide water and sewer facilities to all manufactured homes on the premises. These facilities must be approved by the Health Official, and a valid health permit must have been issued as required by state law to the operator of said manufactured home park. Central water systems must have separate cutoffs for each dwelling and office.

### § 175-14.5. Registration of manufactured homes.

- A. The manufactured home park operator shall maintain a register for each manufactured home lot for at least the previous three years; such register shall be available at all times for inspection by law enforcement officers, public health officials, and other state and local officials and representatives whose duties necessitate acquisition of the information contained in such register.
- B. The register shall show at least the following information:
  - (1) The names of each manufactured home owner and occupants.
  - (2) The dates of arrivals and departures of each manufactured home on each manufactured home lot.
  - (3) The name, make and serial number of the manufactured home.
- C. The license number of each manufactured home and motor vehicle.

### § 175-14.6. Conditional uses; conditional use permits.

- A. The Board of Supervisors shall have the authority to consider applications for a conditional use and may grant a conditional use permit for the establishment of manufactured home parks pursuant to all provisions of this chapter. Any expansion or establishment of additional lots in any existing manufactured home park shall also require a conditional use permit from the Board of Supervisors.
- B. A request for the location of a manufactured home in an approved manufactured home park shall not require a conditional use permit from the Board of Supervisors; provided, however, the location of a manufactured home in a manufactured home park shall be subject to all the requirements relating to manufactured homes as set forth in § 175-14.8 of this chapter. The Zoning Administrator or his agent may approve such applications for the location of manufactured homes in approved manufactured home parks, subject to all the provisions of this chapter.

### § 175-14.7. Performance bond.

- A. Before an application for a permit for the construction of a manufactured home park shall be

approved by the Board of Supervisors the applicant shall, in lieu of construction, furnish cash escrow or a performance bond in an amount calculated by the Board of Supervisors to secure the required improvements in a workmanlike manner and in accordance with established or approved specifications and construction schedules, which bond shall be payable to and held by the County. The manufactured home park's plans, construction schedule, and amount of bond shall be reevaluated by the Board of Supervisors at least once every year to insure compliance with the requirements of this chapter.

- B. The Board of Supervisors may reduce or increase the amount of bond based upon improvements completed and escalation of costs for pending improvements. Within six months after the completion of construction of the manufactured home park, such bond or cash escrow, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be.

## § 175-14.8. Special provisions.

- A. There must be tightly covered leak-proof garbage containers with an adequate garbage collection service provided to each manufactured home on the premises.
- B. All manufactured home lots shall be well-drained and kept in a clean and orderly manner by the manufactured home park operator.
- C. The Board of Supervisors shall create a list of manufactured home parks which were in existence prior to the enactment of this chapter. The manufactured home parks on this list and any manufactured home parks which may be approved by the Board of Supervisors in the future will be considered as approved manufactured home parks.
- D. All manufactured homes located in a manufactured home park shall be:
- (1) Located on the site as outlined in this article of this chapter;
  - (2) Anchored according to the Building Code;
  - (3) Installed with a set of steps at each exit;
  - (4) Approved by the Department of Health;
  - (5) Completely skirted with some type of durable weatherproof material; and
  - (6) Approved by the Building Official by a final inspection with a certificate of occupancy being received by the owner or manufactured home park operator from said Building Official prior to being occupied.
- E. It shall be unlawful to allow any occupied manufactured home to remain in a manufactured home park unless all the provisions of this article have been met.

## ARTICLE 15. Supplemental District Regulations

### § 175-15.1. General.

The purpose of supplementary district regulations is to set specific conditions of various uses, classifications of uses, or areas where problems are frequently encountered or have the potential to arise.

### § 175-15.2. Conversion of dwellings to a greater number of

## units.

No residence may be converted to accommodate an increased number of dwelling units unless:

- A. The number of dwelling units currently existing is less than the number permitted by the zoning regulations for new structures in that district;
- B. The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district;
- C. The lot area per family or dwelling unit equals the lot area requirements for new structures in that district; and
- D. The conversion is in compliance with all other relevant codes and ordinances, including the off-street parking requirements of Article 12 herein.

## § 175-15.3. Temporary buildings, construction trailers, and manufactured homes.

- A. Temporary buildings, construction trailers, manufactured homes, and manufactured home camps used in conjunction with construction work only may be permitted in any district during the period that construction work is in progress as shown by the possession of a valid building permit, but such temporary facilities shall be removed immediately upon completion of the construction work.
- B. Individual manufactured homes or travel trailers may be permitted in any single-family residential district as temporary residences by the landowners during construction or reconstruction of permanent residential structures for up to one year subject to the following conditions:
  - (1) The manufactured home or travel trailer will utilize the well water/sanitary system installed on site.
  - (2) Before a certificate of occupancy is issued for the single-family residence, the manufactured home or travel trailer will be disconnected from the well water/sanitary system.
  - (3) No structure of any type may be added to the manufactured home or travel trailer.
  - (4) Electrical service and telephone service may be provided to the manufactured home or travel trailer in a manner that meets the approval of the Mathews County Building Official.
- C. A landowner occupying a single-family dwelling, may, upon obtaining a permit from the Administrator, in conformance with the following conditions, locate a manufactured home in the Residential-1, Residential-2 or Rural District on his tract, lot, or parcel of land, if said manufactured home is to be occupied by a member of his immediate family: father, mother, father-in-law, mother-in-law, sister, brother, son, daughter, grandchild, grandfather, grandmother, grandfather-in-law, grandmother-in-law, provided said manufactured home shall be removed from said tract, lot or parcel of land within 60 days of said manufactured home being unoccupied by the member or members of his immediate family:
  - (1) Located on the site as approved by the Administrator;
  - (2) Anchored according to the Building Code;
  - (3) Installed with a set of steps at each exit;
  - (4) Approved by the Department of Health;

- (5) Completely skirted with some type of durable weatherproof material;
- (6) Approved by the Building Official by a final inspection with a certificate of occupancy being received by the owner or occupant of the manufactured home prior to being occupied; and
- (7) Certified in writing by the landowner that the use of the manufactured home complies with the requirements of this section and ordinance regarding occupancy only by immediate family members, as defined herein, and that the manufactured home shall be removed upon said dwelling being unoccupied by the member or members; the Zoning Administrator may require recertification by the landowner upon the annual anniversary of the zoning permit approving the temporary placement of a manufactured home under the provisions of this section indicating continued compliance.

## § 175-15.4. Architectural projections.

Open structures such as porches, canopies, balconies, platforms, carports, decks, covered patios, and similar architectural projections shall be considered part of the building to which attached and shall not project into the required minimum front, side, or rear yard.

## § 175-15.5. Home occupations.

The following regulations shall govern the establishment of residential home occupations:

- A. Alterations to the exterior or principal use of the dwelling or exterior of any accessory building which changes the character hereof as a primarily residential use shall not be made.
- B. Shall not be advertised by business sign, but may be advertised by a home occupation sign per Article 13.
- C. Shall not generate noise, smoke, fumes, glare, or traffic or fire hazards which would create a nuisance on adjacent properties.

## § 175-15.6. Required screening for trash areas.

All commercial, industrial, and multifamily residential uses that provide trash and/or garbage collection areas shall enclose such areas on at least three sides by a solid wall or fence of at least six feet in height if such area is not within an enclosed building or structure. Provisions for adequate vehicular access to such areas for collection of trash and/or garbage shall be provided.

## § 175-15.7. Side and rear yard requirements.

- A. Nonresidential uses of buildings shall not be conducted or located closer than 50 feet to any lot line of the Residential-1 (R-1), Residential-2 (R-2), Rural (RU) or Conservation (C) District except that the minimum yard requirements may be reduced by up to 50% if acceptable landscaping approved by the Administrator is provided. Such landscaping shall consist of a strip of land extending along the entire length of the subject lot line and not less than 25 feet in width planted with an evergreen hedge or dense planting of evergreen shrubs not less than six feet in height and in healthy condition at the time of planting. Such landscaping shall not obscure traffic visibility within 50 feet of an intersection.
- B. For those nonresidential uses of buildings that will share a common lot line of the RU, R-1, R-2, and C District with an existing nonresidential use on similarly zoned land, up to 100% of the required

landscaping along such lot line may be relocated on the site, as approved by the Administrator, in a manner that enhances the general aesthetics and screening and buffering needs of the site.

## § 175-15.8. Special provisions for commercial and industrial uses.

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious, or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are taken to reduce dangerous and objectionable conditions to acceptable limits and are approved by the Administrator prior to initiation of the use.

## § 175-15.9. Hazardous, toxic or obnoxious elements.

The Administrator, prior to the approval of an application for a building permit, may require the submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances.

## § 175-15.10. Inoperable/junk vehicles.

The parking of more than one inoperable motor vehicle, excluding farm vehicles, boat trailers and antique motor vehicles in operable condition within the eight zoning districts created by this chapter for a period of more than 60 continuous days shall be prohibited, unless such vehicle is stored within a fully enclosed building or structure or otherwise shielded or screened from view.

A. Definitions as used in this section:

- (1) **MOTOR VEHICLE OR VEHICLE** — Any motor vehicle, trailer or semitrailer, or any part thereof as defined in § 46.2-100 of the Code of Virginia, 1950, as amended.
- (2) **SHIELDED OR SCREENED FROM VIEW** — Not visible by someone standing at ground level from the outside of the property on which the subject vehicle is located by using one of the following methods:
  - (a) A hedge or dense evergreen landscape planting not less than six feet high that is neat and well maintained; or
  - (b) An opaque masonry wall or treated wood fence of stockade, board and batten, panel or similar type design in good repair of not less than six feet high.

B. An inoperable vehicle being repaired at a permitted automobile repair business may be kept at such property for no more than 60 continuous days; or the inoperable vehicle being repaired shall be kept within a fully enclosed building or structure.

C. The provisions of this section shall not apply to any entity which was licensed and regularly engaged in business as an automobile dealer, salvage dealer or scrap processor lawfully established before or after the adoption of this chapter.

D. The Zoning Administrator may remove or cause to be removed any inoperable motor vehicle, trailer or semitrailer not kept within a fully enclosed building or structure or properly shielded or screened from view, whenever the owner of the premises, after 30 days' notice, has failed to do so. In the event

the Administrator has removed or caused to be removed such motor vehicle trailer or semitrailer, he may, after giving an additional 14 days' notice to the owner of the vehicle, disposal of such vehicle. The cost of any such removal and disposal of such vehicle shall be charged to the owner of the vehicle or premises and may be collected by the County as taxes are collected. Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the County.

- E. A violation of this section is also subject to the enforcement procedures, remedies and penalties identified in Article 20 of this chapter.

## § 175-15.11. Emergency permits.

- A. To prevent a hardship where a structure or manufactured home has been destroyed by fire or by any other cause beyond the owner's control and a conditional use permit is required by this chapter to replace the same, the Zoning Administrator may approve the replacement of the structure or the manufactured home by the owner of the original structure or manufactured home.
- B. If a structure is destroyed, the Zoning Administrator may also approve the location of a manufactured home on the same lot for a limited period of time to permit the owner to have a place to live or conduct his business during repair or rebuilding of the structure.
- C. The Zoning Administrator shall not require a variance and/or conditional use permit when considering the aforesaid applications.
- D. The foregoing provision shall not apply where there is a change of ownership of the land, structure or manufactured home.

## § 175-15.12. Widening of highways and street.

Wherever there shall be plans in existence, approved by either the State Department of Highways or by the governing body for the widening of any street or highway, the commission or governing body may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way, in order to preserve and protect the right-of-way for such planned street or highway widening.

## § 175-15.13. Cluster development.

- A. Cluster development objective. The objective of "cluster development" is flexibility with the objectives to:
- (1) Provide a more desirable living environment;
  - (2) Encourage creative approaches in residential development;
  - (3) Encourage a more efficient, aesthetic and desirable use of open areas;
  - (4) Encourage variety in the physical development pattern of the County;
  - (5) Assist in reducing cost in residential development; and
  - (6) Maintain the agricultural resources in the County through more efficient use of land.

- B. Where permitted.
- (1) Cluster development of multifamily dwellings shall be permitted with conditional use permit in the Business-2 (B-2) Zoning District provided that site plan approval shall be required for any cluster development prior to issuance of a conditional use permit.
  - (2) Cluster development of single-family dwellings shall be permitted by right in the RU, R-1, and R-2 Zoning Districts.
- C. Cluster density and intensity. Cluster development, under subdivision and site plan control, may be permitted provided the gross population or housing density or intensity of an area remains unchanged and conforms to the basic overall density requirements of the zoning district in which the development is proposed.
- D. Cluster development standards.
- (1) There are no lot width or area requirements. This flexibility is offered to encourage innovative site designs that are in accord with the intent of promoting efficient use of land, variety in housing choices, higher levels of amenities, and reservation of open spaces and natural features.
  - (2) The above notwithstanding, any lots abutting the exterior boundary of the cluster development shall be the same size as would be required of conventional development unless the abutting development shall have been developed as a cluster development. A lot shall be considered to be abutting unless an area of open space separates it, which is not less than 50 feet in width.
  - (3) Ingress and egress to a cluster development shall meet the following requirements:
    - (a) Minimum forty-foot right-of-way.
    - (b) Be designed and constructed to Virginia Department of Transportation standards.
    - (c) Maintained through being publicly dedicated and accepted by the Virginia Department of Transportation or through provisions of a recorded homeowners' association charter.
  - (4) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.
  - (5) The minimum setback from internal streets shall be 30 feet.
  - (6) Side yard setbacks on each individual lot shall be a minimum of 10 feet, and rear yard setbacks shall be a minimum of 20 feet.
  - (7) No less than 40% of the gross area of a cluster development shall be reserved as common open space, including recreational space, which shall be maintained for the benefits of the residents of the development.
  - (8) The common open space shall be arranged and designed so as to facilitate its use, ensure continuity of design, and preserve sensitive environmental features. Failure to achieve these goals shall be sufficient reason for the Zoning Administrator to deny applications for cluster development approval or to require modifications, which may include loss of lots.
  - (9) Whenever there is a conflict or difference between the provisions of the article and those of the other articles of this chapter or the County's subdivision ordinance, the provisions of this article shall prevail for the development of cluster developments. The applicable provisions found elsewhere in this chapter or the subdivision ordinance shall govern subjects not covered by this article.
- E. Cluster development applications. Applications for cluster developments shall be made in the same

manner as prescribed for conventional subdivisions in the County's subdivision ordinance. Applications for cluster developments shall also include the following:

- (1) A tabulation of the total number of acres in the project and the percentage thereof proposed to be devoted to the different dwelling types, off-street parking, streets, parks and open space.
- (2) A statement setting forth the maximum number of dwelling units that are proposed, the overall project density in dwelling units per acre and the range of approximate lot sizes.
- (3) A delineation of those general areas that have scenic assets or natural features deserving of protection and preservation and a statement of how such will be accomplished.
- (4) A statement or visual presentation of how adjacent and neighboring properties shall be protected from any adverse effects prompted by the proposed development, to include vehicular access plans, proposed measures and types of screening, and dimensions of all buffers that will be provided.
- (5) A statement setting forth the maximum height of all proposed buildings and the general location of all the buildings.
- (6) A statement of those special amenities that shall be provided within the cluster development.
- (7) A report setting forth the proposed development schedule indicating the sequence of development of the various sections and the approximate starting and completion date for the construction of each stage.

### § 175-15.14. Requirements for condominiums.

- A. Definitions. For purposes of this section, the meaning of all terms shall be controlled by Chapter 4.2 of Title 55 of the Code of Virginia, 1950, as amended.
- B. Where permitted. Condominiums shall be permitted with a conditional use permit in the Business-2 (B-2) Zoning District, in which is permitted physically identical development provided that site plan approval shall be required for any condominium development prior to issuance of a conditional use permit.
- C. Compliance with chapter. All condominiums and the use thereof shall in all respects comply with the provisions of this chapter and its districts, and no vested rights shall be created upon the conversion to condominiums of the use thereof if either the condominium or the use thereof does not conform to the provisions of this chapter. Except as otherwise specified, provisions of this chapter applicable to condominiums shall be those provisions applicable to physically identical developments.

### § 175-15.15. Supplemental regulations for multifamily residential and flexible residential/business uses.

- A. Area, setback, height, and other supplemental regulations for multifamily residential uses and flexible residential/business uses shall be as follows:

	<b>Two- Family/Duplex</b>	<b>Apartments</b>	<b>Townhouses</b>
1. Lot Size (Minimum)	2 times the single-family residence lot size in the applicable zone	2,000 square feet per unit	2,000 square feet per unit

2.	Development Size (Minimum)	35,000 square feet	43,560 square feet	43,560 square feet
3.	Density Per Net Acre (Maximum)			
	Without Public Central Sewer	4 units/8 bedrooms in the B-2 District	4 units/8 bedrooms	4 units/8 bedrooms
	With Public Central Sewer	4 units/8 bedrooms in the B-2 District	6 units/12 bedrooms	6 units/12 bedrooms
4.	Lot Coverage (Maximum)	N/A	40%	40%
5.	Street Frontage (Minimum)	24 feet	24 feet	24 feet
6.	Width Building Line (Minimum)	125	150	150
7.	Building Setback (Greater of two:)			
	Right-of-Way (Minimum)	50 feet	50 feet	50 feet
	Center Line (Minimum)	75 feet	75 feet	75 feet
8.	Side Yards			
	Main Buildings (Minimum)	15 feet	20 feet	20 feet
	Accessory Buildings (Minimum)	5 feet	5 feet	5 feet
9.	Rear Yards:			
	Main Buildings (Minimum)			
	Interior Lot	50 feet	50 feet	50 feet
	Waterfront Lot	75 feet	75 feet	75 feet
	Accessory Buildings (Minimum)			
	Interior Lot	5 feet	5 feet	5 feet
	Waterfront Lot	none	none	none
10.	Setback Along Portions of Routes 14 and 198 Per § 175-15.20 (Minimum)	100 feet	100 feet	100 feet
11.	Height			
	Main and Accessory Buildings (Maximum)	50 feet	50 feet	50 feet
12.	Corner Lots Side Yard			
	*On Side Street (Minimum)	35 feet	40 feet	40 feet

- B. Multifamily residential uses shall comply with the other requirements of this chapter such as, but not limited to, the off-street parking regulations set forth in Article 12.
- C. For all multifamily residential uses, a minimum of four copies of all proposed Homeowner association agreements shall be submitted to the agent for review upon site plan submittal to ensure adequate future operation, maintenance and repair of commonly held private facilities and properties such as potable water, sanitary sewer, stormwater drainage, open space and recreation areas, and road and off-street parking areas. For all multifamily condominium residential uses, four copies of the proposed instrument(s) to be used to convey said dwelling units under the Virginia Condominium Act also shall be provided upon site plan submittal for adequate documentation of such method of property conveyance.
- D. Flexible Residential/Business Uses.

(1) Use regulation:

**Flexible Residential/Business Structure**

Lot Size (Minimum)	2,000 square feet per dwelling unit
Development Size (Minimum)	43,560 square feet
Density Per Net Acre (Maximum)	6 dwelling units/12 bedrooms
Lot Coverage (Maximum)	100%
Street Frontage (Minimum)	24 feet

- (2) All side and rear yard setbacks, lot width and building setbacks must meet all other applicable regulations in this chapter for business uses.

## § 175-15.16. Minimum setback and distance requirements for certain permitted agricultural and forestal uses.

All uses and/or buildings given below shall comply with the following minimum distance requirements as applicable:

	<b>Adjoining lot line of residence not on same property or Business, Conservation or Residential District (feet)</b>	<b>Adjoining side or rear lot line that does not border other lots with residence or Business, Conservation or Residential District (feet)</b>	<b>Adjoining street or road right-of-way (feet)</b>	<b>Adjoining drainageway or drainage Easement (feet)</b>
Grain, pea or bean dryer	100	50	75*	10
Hog feed lots, containment buildings and lagoons	200	100	100	50
Poultry operation buildings, commercial	200	100	100	50
Buildings for the caring or raising of large or small animals, fish or birds not otherwise provided herein; but excluding home occupations	200	100	100	50
Buildings for storage of farm equipment	20	20	75*	10
Permanent buildings for the sale of products raised on the premises	100	50	75*	10
Temporary buildings for the sale of products raised on the premises	100	50	25	10
Sawmill, permanent or temporary	200	100	100	10
Stable buildings, commercial or private	200	100	100	50

**NOTES:**

- \* Except as required by Article 21

## § 175-15.17. Measuring of lot width.

- A. Lot width at the front lot line shall be measured as the shortest distance between the two points created where the side lot lines intersect the front lot line.
- B. Lot width at the front building line shall be measured as the shortest distance along a straight line which passes through a point on each side lot line and the point on the building, structure or use, subject to such regulation, nearest the front lot line.
- C. Lot width at the shoreline shall be measured at the straight line distance which is the shortest of the following:
  - (1) A line between the points of intersection of the side lot lines with the shoreline.
  - (2) A line drawn perpendicular to a side lot line from the point of intersection with the shoreline and intersecting the other side lot line or such side lot line extended.

## § 175-15.18. Measuring of shoreline setback.

Every shoreline setback required by this chapter shall be measured as the shortest distance between any point on the shoreline and any point on the building, structure or use subject to such setback requirement. The Board of Zoning Appeals may waive shoreline setback and permit a principal building on or near the shoreline where access to proximity to the water is reasonably necessary to the operation of the facility. Such waiver shall be given as a variance in accordance with the provisions of Article 19.

## § 175-15.19. Wetlands and water areas excluded from lot area.

In calculating the area of any lot for the purpose of compliance with the minimum lot area requirements of the district regulations, wetlands, including marsh, and areas outboard of the shoreline shall be excluded.

## § 175-15.20. Greater setback required for portions of Route 14 and Route 198.

- A. Along both sides of Route 14 from the Gloucester County - Mathews County jurisdictional boundary to the highway's intersection with Route 621, the minimum setback (yard requirement) for buildings, both primary and accessory, shall be 100 feet from the edge of the right-of-way.
- B. Along both sides of Route 198 from the northern edge of the right-of-way of Route 223 where it intersects with Route 198 to the southernmost point of the right-of-way of Route 641 where it intersects with Route 198/14, the minimum setback (yard requirement) for buildings, both primary and accessory, shall be 100 feet from the edge of the right-of-way.

## § 175-15.21. Interpretation of area requirements for multiple uses.

- A. In instances where it is proposed that more than one dwelling unit or principal business activity be conducted on the same lot or parcel, the minimum lot size requirement to conduct such multiple uses shall be equal to the number of principal uses times the minimum lot size for that zoning district. This requirement shall not apply to home occupations, accessory buildings appurtenant to residential,

business, and conservation uses and to individual manufactured homes per § 175-15.3.

- B. In instances where more than one permitted principal use is allowed on the same parcel or lot such uses shall be situated on the lot in a manner that each use complies with the minimum yard, setback, lot width and other requirements for the zoning district in which it is located.
- C. Where such multiple uses on the same tract or lot utilize potable water or sanitary sewer facilities, the subdivision of such tracts or lots shall have prior approval by the Virginia Department of Health.

## § 175-15.22. Open dumps.

- A. Any open dump in existence upon the effective date of § 175-15.22A through D of this chapter shall be removed upon notice as required by § 175-20.8 of this chapter on or before 12 consecutive months subsequent to the effective date of this section.
- B. Any open dump in existence upon the effective date of this section and continuing in existence subsequent to 12 consecutive months after the effective date of said ordinance sections shall be removed 14 days after notice pursuant to § 175-20.8 of this chapter.
- C. Any open dump brought into existence after the effective date this section shall be removed within 14 days after receipt of notice of violation as required by § 175-20.8.
- D. Should the property owner fail to correct the above described condition after receipt of notice of violation as required by § 175-20.8 and Subsection A through C above, the Zoning Administrator shall order such condition to be corrected by County employees or agents. The cost thereof, together with an administrative handling charge of \$20, shall be charged to and paid by the owners of such property and shall be collected by the County as taxes and levies are collected. The Zoning Administrator shall certify the costs and expenses to the Treasurer of the County who shall collect such amount and, if such amount shall remain unpaid for a period of 60 days, then the Treasurer of the County shall certify such charges as being unpaid to the Clerk of the Circuit Court of the County who shall record such amounts as unpaid in the Judgment Lien record book as a lien against said property.

## § 175-15.23. Special regulations for therapeutic massage facilities.

The following regulations shall apply to persons offering Therapeutic Massage services:

- A. Proof of certification and, if applicable, licensure from the State of Virginia shall be provided prior to approval of any zoning permit or business license.
- B. Therapeutic massage facilities shall be permitted by right in the B-2 district.
- C. Therapeutic massage services shall be permitted by right in structures including, but not limited to, schools, doctors' offices, and a client or patient's home. Zoning permits shall not be required for chiropractors, nurses, osteopaths, physical therapists, physicians, or surgeons located at an established medical professional office. Business licenses may still be required by the Commissioner of Revenue.

## § 175-15.24. Special regulations for certain adult uses.

Adult bookstores, adult theaters and cabarets shall be located a minimum of 500 feet from any church, school, residential district or other place where minors regularly congregate.

## § 175-15.25. Conditional use permit requirement for certain commercial uses.

- A. General requirements. A conditional use permit issued by the Board of Supervisors shall be required for:
- (1) Any convenience store;
  - (2) Any commercial building (including a flexible residential/business structure) which exceeds 7,500 square feet of floor area; or
  - (3) Any commercial building, not including those dedicated exclusively to office uses, which generates, or would be expected to generate, 150 or more additional trips to and from the site during the peak hour of the operation based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained within the latest edition of its book entitled Trip Generation. The applicable trip generation rate shall be determined by the Director of Planning and Zoning. The Director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates and such documentation is acceptable to the Director and the Virginia Department of Transportation.
- B. New buildings, additions or expansions. A conditional use permit issued by the Board of Supervisors shall be required for a new building, addition or expansion when:
- (1) In combination with the existing structure, it exceeds the thresholds set forth in Subsection A of this section;
  - (2) Five thousand square feet or more of commercial space is added or in combination with other new buildings or development 75 or more peak hour trips are generated above the rate generated by existing development; and
  - (3) Such development is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:
    - (a) Common ownership or control of the parcels under consideration by the same person(s), entity(ies) or similar or related entity(ies);
    - (b) Regardless of Subsection B(3)(a) above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and
    - (c) Proximity. For the purpose of this Subsection, "proximity" means adjacent parcels; parcels separated by property under common ownership or control by the same person(s) or entity(ies) or similar or related entity(ies), or parcels separated by a public or private right-of-way.

## § 175-15.26. Lighting.

All nonresidential uses shall be subject to the following regulations:

- A. Parking areas. The lighting in parking areas shall be directed and designed so as not to produce glare on any adjacent property or right-of-way and no lighting fixture shall exceed a height of 30 feet.
- B. Canopies, awnings and roofs. Canopies and awnings may be internally illuminated by luminaries hidden from public view or by recessed fixtures with no bulb, lens or globe extending below the casing. The

tops and sides of roofs shall not be illuminated by internal or external luminaries. Building mounted luminaries shall be horizontally mounted with recessed fixtures with no bulb, lens or globe extending below the casing. Visibility of lamps or bulbs shall be prohibited unless the applicant can demonstrate to the Director of Planning and Zoning that proposed luminaries shall not cast any glare on any adjacent property or right-of-way and such luminaries are limited in number and or intensity such that their purpose is accessory or decorative relative to the overall lighting plan for the site and not intended to provide general illumination for such site.

- C. Signs. If illuminated, signs shall have luminaries casting no glare upon any adjacent property or right-of-way. If external luminaries are used, such luminaries shall be ground-mounted spotlights or horizontal light bars/strips. The lamps or bulbs of external luminaries shall not be visible and spotlights shall be concealed by landscaping.

## § 175-15.27. Special regulations for owner-operator auto service.

The following shall apply to all owner-operator auto service facilities in addition to any conditions imposed with the requisite conditional use permit:

- A. The use of an unenclosed lift is permitted provided a privacy fence is installed to shield work performed on the lift from the view of the public roadway, consistent with Subsection **D** of this section. Vehicles too large for the enclosed garage may be repaired provided they do not remain on the property longer than 72 hours.
- B. No more than six vehicles under repair or awaiting repair are permitted on the site. All such vehicles shall be parked in an orderly fashion.
- C. Hours of operation may be determined by the County.
- D. All outside storage, including vehicles awaiting repair, waste disposal and recycling facilities, shall be screened from view by height appropriate opaque fencing and/or landscaping.
- E. One freestanding sign no larger than 16 square feet shall be used to identify the proposed auto repair. The sign shall not be internally illuminated and any illumination sources shall be shielded or otherwise screened from view to prevent glare and other potentially adverse effects. No additional business identification signs may be attached to or made part of the sign.

## ARTICLE 16. Nonconforming Uses and Lots

### § 175-16.1. Vested rights protected (grandfather provisions): continuation of nonconforming uses.

- A. If at the time of enactment of this chapter any lot, tract of land or structure was being legally utilized and was in fact actually being used, prior to the date of this chapter, for such purposes and in such a manner which does not conform to the provisions of this chapter, such evident use may be continued as herein provided. For an existing use to enjoy nonconforming status, the use must be actual and not merely contemplative. For new construction, rehabilitation or renovation to enjoy nonconforming status, the use must:
- (1) Have a current, valid building permit that was issued by the Building Official of Mathews County prior to the effective time and date of this chapter;

- (2) Be under actual construction within 90 days of the effective time and date of this chapter; and
  - (3) Be constructed in a diligent manner in order to expedite the completion of the building or structure and activation of the use.
- B. If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

## § 175-16.2. Certain uses to be considered nonconforming.

Automobile graveyards and junkyards and automotive dismantling facilities in existence in Residential-1, Residential-2, Business-1, Business-2, Rural, Conservation and Industrial Districts at the time of the adoption of this chapter are to be considered as nonconforming uses. They shall be allowed up to three years after the adoption of this chapter in which to completely screen, on any side open to view from a public street, the operation or use by a masonry wall, a uniformly painted solid board fence, or an evergreen hedge, which wall, fence or hedge, shall be minimum of six feet in height.

## § 175-16.3. Change in district boundaries.

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

## § 175-16.4. Expansion or enlargement.

- A. A nonconforming structure, development or project to be extended or enlarged shall conform with all the provisions of this chapter; provided, however, that a single-family or two-family dwelling may be expanded consistent with the following provisions:
- (1) Such expansion shall occur along the existing nonconforming building setback line and extend no further than the existing footprint of the dwelling.
  - (2) Such expansion shall be permitted only for those dwellings having certificates of occupancy issued on or prior to March 28, 2000 or to those dwellings constructed prior to the County establishing requirements for certificates of occupancy.
  - (3) The Zoning Administrator may require a landscaped buffer or screen in those instances where an expansion or addition would be visible to adjacent properties. At a minimum, such landscaped buffer or screen shall consist of two staggered rows of evergreen shrub and/or tree species not less than six feet in height at the time of installation for a distance not less than the length or width of the expansion, whichever is greater.
  - (4) Under no circumstances shall any expansion or enlargement of a residential or nonresidential structure result in the encroachment of, or additional encroachment into, buffer areas as required by § 175-22.7. Encroachment along established buffer areas may be permitted in accordance with §§ 175-22.45 and § 175-22.46.
- B. A nonconforming activity may be extended throughout any part of an existing structure which was arranged or designed for such activity at the time of enactment of this chapter.
- C. If any nonconforming use, structure or activity is discontinued for a period exceeding two years after enactment of this chapter, it shall be deemed abandoned, and any subsequent use shall conform to the requirements of this chapter. This requirement shall not apply to structures used for certain permitted agricultural and forestal uses as regulated by § 175-15.16. Any expansion of such exempted structure

shall only be permitted in accordance with all applicable regulations.

## § 175-16.5. Nonconforming unimproved lots.

Any unimproved nonconforming lot of record at the time of the effective date of this chapter, or if the specific recorded lot is reconvened after the date of this chapter, such lot shall be considered as a lot of record. Said lot or parcel of record may be used as a building site provided the use proposed is a permitted use as established by this chapter and provided further the minimum requirements for setback (front yard), side and rear yards can be met. If such lot is of insufficient size to meet the minimum requirements of this chapter regarding setback, or side and rear yard requirements, the owner must request a variance from the Board of Zoning Appeals prior to improvement.

## ARTICLE 17. Site Development Plan (Final Development Plan)

### § 175-17.1. Purpose and intent.

- A. There is a mutual responsibility between the County of Mathews and the developer to develop the land in an orderly and environmentally compatible manner.
- B. The purpose is to encourage innovative and creative design and facilitate use of the most advantageous techniques in the development of land in Mathews County, and to insure the efficient use of land and resources and to promote high standards in the layout, design, landscaping and construction of development.

### § 175-17.2. Development or land use requiring a site development plan.

Site development plans shall be required for the construction of any building or structure on any land in the County and shall be subject to review and approval per the items of this article and Chapter, except that the provisions of this article shall not apply to:

- A. Single-family dwellings, two-family dwellings, individual manufactured homes and accessory buildings and structures to single-family dwellings, two-family dwellings and individual manufactured homes.
- B. Individual private piers, docks, boat ramps, boat houses, hunting blinds, other private recreation facilities, shoreline stabilization structures, tennis courts, swimming pools, and other buildings or structures normally accessory to permitted principal residential, recreational or conservation uses that may or may not be situated on a lot having a single-family dwelling, two-family dwelling or individual manufactured home.
- C. A subdivision for single-family dwellings and/or individual manufactured homes (excluding manufactured home, which shall submit a site plan per the terms of Article 17) where a site development plan has been submitted and approved in accordance with the existing subdivision, erosion and sediment control and other land development ordinances of the County and the standards of the Virginia Departments of Transportation and Health.
- D. Wayside and roadside stands; signs.
- E. Any farming, horticultural, silvicultural or forestal activity.

- F. Any individual home occupation, general retail business or professional office or activity and their accessory buildings containing less than 5,000 square feet in floor space. (Newly constructed developments containing two or more businesses and all businesses providing fuel service to the motoring public shall submit a site plan per the terms of Article 17 regardless of the square footage of each proposed business within the development or the business providing the fuel service.)

## § 175-17.3. Site development plan information required.

Every site development plan, as hereafter provided, shall contain the following information:

- A. Location of tract or parcel by vicinity map at a scale of not less than one inch equals 2,000 feet, and landmarks sufficient to properly identify the location of the property.
- B. A boundary survey of the proposed site or a certified copy of a previously recorded survey. If a boundary survey is required, a certificate or plat signed by the engineer or surveyor setting forth the source and title of the owner of the tract and the place of record of the last instrument in the chain of title.
- C. Existing and proposed streets and easements, their names, numbers and widths; existing and proposed utilities of all types; water courses and their names; owners, zoning and present use of adjoining tracts.
- D. Location, type and size of ingress and egress to the site.
- E. Location, type, size, floor area, number of floors and height of all structures; fencing, screening, and retaining walls where required under the provision of applicable ordinances; and proposed general use for each building; if a multifamily residential building, townhouse or patio house, the number, size and type of dwelling units shall be shown.
- F. All off-street parking and parking bays, loading spaces and walkways indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required in accordance with this chapter.
- G. All shoreline alteration, including dredging, filling, and bulkheading as approved by the appropriate local, state and federal regulatory agencies and commissions. Provision for disposition of spoils. Provision for the prevention of saltwater intrusion. Provision for preservation of the ecology of the area and prevention of damage to the groundwater supply.
- H. Existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types, and grades and where connection is to be made to an existing or a proposed central water and sewer system.
- I. Provision for the adequate disposition of natural and stormwater in accordance with design criteria and construction standards of the Commonwealth of Virginia and/or Mathews County in effect at the time the site plan is submitted indicating location, sizes, types and grades of ditches, catch basins and pipes, and connections to existing drainage system.
- J. Provisions and schedule for the adequate control of erosion and sedimentation indicating proposed temporary and permanent control practices and measures which shall be implemented during all phases of clearing, grading and construction in keeping with the requirements of the Soil Erosion and Sediment Control Ordinance of Mathews County.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*
- K. As applicable, existing topography and finished grading in conformance with the Mathews County Erosion and Sediment Control Ordinance and Virginia Department of Transportation standards.
- L. All dimensions shown per standard surveying industry practices.

- M. If required by this chapter or the Zoning Administrator per terms of this chapter, a landscape design plan.
- N. Provisions for firefighting services and facilities, including emergency services, if deemed appropriate.

**§ 175-17.4. Preparation procedure and specific items, to be shown preparation procedure and specific items to be shown for the site development plan are as follows.**

- A. The site plan or any portion thereof shall be prepared by persons qualified to do such work.
- B. The site plan shall show the name and address of the owner or developer, magisterial district, County, state, North point, date, and scale of drawing and number of sheets. In addition it shall reserve a blank space four inches by four inches in size on the plan face for the use of the approving authority.
- C. The site plan may be prepared on one or more sheets drawn to a scale noted thereon. If prepared on more than one sheet, match lines shall clearly indicate where the several sheets join. Six clearly legible copies of a site development plan shall be filed with the agent for Mathews County.
- D. Profile shall be submitted for all sanitary and storm sewers, streets and curbs adjacent thereto, and other utilities and shall be submitted on standard profile sheets. Special studies as required may be submitted on standard cross-section paper and shall have a scale approved by the Zoning Administrator. No sheet size shall exceed 42 inches. Floodplain limit studies required shall be shown on all profile sheets with reference to properties affected and center line of stream.
- E. In addition to the information required on site development plans by § 175-17.3 and above, the following specific items shall also be shown on all site development plans if applicable:
  - (1) Right-of-way line, center lines, departing lot lines, lot numbers, subdivision limits, limits of construction and building locations.
  - (2) Center line curve data, including delta radius arc and chord and tangent.
  - (3) Radius of all curb returns to face of curb and on streets where curb and gutter are not required indicate radius to edge of bituminous treatment.
  - (4) The edge of proposed street surface or the face of curb as the case may be for full length of all streets.
  - (5) The width of rights-of-way, and all easements and the width of surface or distance between curb faces and relation to center line. Easements and rights-of-way of all utilities shall be clearly defined for the purpose intended, and whether they are to be publicly or privately maintained.
  - (6) When proposed streets intersect with or adjoin existing streets or travel ways, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of 100 feet or the length of connection, whichever is the greater distance.
  - (7) Existing and proposed drainage easements and the direction of drainage flow in streets, storm sewers, streams and sub drainage, etc.
  - (8) All water mains, sizes, valves, fire hydrant locations.
  - (9) All sanitary or septic tank systems and storm sewers and appurtenances, identifying appurtenances by type and number; the station on the plan must conform to the station shown on the profile. Indicate the top and invert elevation of each structure.

- (10) The contributing drainage area in acres (statistically). Show all culvert, pipe curb inlets and other entrances exclusive of driveway pipes.
- (11) Floodplain limits which shall be established by current FIA maps, soil survey and/or engineering methods.
- (12) The location of all streams or drainage ways related to the street construction as proposed by the developer and proposed drainage ditches or stream relocation. Easements shall not be considered part of the street right-of-way. Furnish detail typical drainage section and type of stabilization to be provided.
- (13) The location of all drainage pipe and paved roadside ditches to be installed.
- (14) Location of no-through street signs where required on cul-de-sac streets or temporary cul-de-sac streets.
- (15) The proper drive-way entrance type, computed culvert size and/or Virginia Department of Transportation design designation.
- (16) Provision at ends of curb and gutter for erosion control.
- (17) Typical street sections to be used.
- (18) Symmetrical transition of pavement at intersection with existing streets.
- (19) Connection to proposed Virginia Department of Transportation construction when necessary.
- (20) A minimum of one datum references for elevations used on plans and profiles and correlate, where practical, to U.S. Geological Survey datum.
- (21) Any necessary notes that may be required to explain the intent and purposes of specific items on the plan or profile.

## § 175-17.5. Minimum standards and improvements required.

- A. All improvements required by this article shall be installed at the cost of the developer. Where cost sharing or reimbursement agreements between the County of Mathews and the developer are appropriate, the same shall be recognized by formal written agreement prior to site development plan approval, and shall be subject to the Virginia Department of Transportation review and acceptance. Where specifications have been established either by the Virginia Department of Transportation for streets, etc., or by this chapter for related facilities and utilities, such specifications shall be followed. The developer's performance bond shall not be released until construction has been inspected and accepted by the County and the Virginia Department of Transportation.
- B. Prior to approval of any site plan, there shall be executed by the owner or developer an agreement to construct required physical improvements located within public rights-of-way or easements or connected to any public facility, together with a bond with surety approved by the governing body in the amount of the estimated cost of the required physical improvements as determined by the agent for Mathews County. The agreement and bond or condition shall provide for the completion of all work within a time specified to be determined by the agent.
- C. Lot sizes and densities for residential areas shall conform to the Zoning Ordinance in effect for the County of Mathews at the time of filing of the site development plan.
- D. Condominium and common wall house projects of all types shall indicate on the plat those areas reserved for rental purposes and those areas reserved for sale purposes. All common wall housing

projects where programmed for sale purposes shall be required to submit a subdivision plat showing all lots as required Subdivision Ordinance of Mathews County.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 140, Subdivision of Land.*

- E. Where the adopted Comprehensive Plan for Mathews County indicates a proposed right-of-way greater than that existing along the boundaries of the site development plan, such additional right-of-way shall be dedicated for public use when the plan is approved. Where a site development plan is presented on public streets of less than 50 feet in width, additional right-of-way shall be required so that the public street or right-of-way shall be a minimum of 25 feet from the existing centerline if so required to meet the standards and criteria of the Virginia Department of Transportation. All building setbacks shall be measured from the additional dedicated right-of-way.
- F. All accessway, street and highway construction standards and geometric design, including, but not limited to, right-of-way, width, surface treatment and drainage, shall be in accord with those specified in the Subdivision Ordinance of Mathews County for all single-family subdivisions under the purview of the Subdivision Ordinance.<sup>[2]</sup> All accessway geometric design for all other permitted uses and developments shall be in accord with those specified by the Virginia Department of Transportation as based upon the estimated vehicle trips per day for the proposed use, project or development.
- [2] *Editor's Note: See Ch. 140, Subdivision of Land.*
- G. The pavement of vehicular traffic lanes or driveways designed to permit vehicular travel on the site and to and from adjacent property and parking areas shall be not less than 25 feet in width.
- (1) On any site bordering a primary highway in the state highway system, the developer, in lieu of providing travel lanes, parking areas and adjacent property, may dedicate where necessary for such roads. In such event, the setback requirement shall be no greater if the service road is dedicated than the setback required without the dedication, except in no instance shall a building be constructed closer than 20 feet from the nearest right-of-way.
- (2) Upon satisfactory completion, inspection and only upon application by the developer, the County shall take the necessary steps to have such service road accepted by the Virginia Department of Transportation for maintenance.
- H. Where pipe stem residential lots are used in a site development plan, the width of the pipe stem (driveway) shall not be less than 25 feet.
- I. Culs-de-sac shall be designed and constructed in accordance with the street standards specified in the Subdivision Ordinance of Mathews County,<sup>[3]</sup> and may not be construed or employed as a parking bay.
- [3] *Editor's Note: See Ch. 140, Subdivision of Land.*
- J. Parking bays shall be constructed to the same construction standard as the appurtenant public street to which the parking bay abuts and be of a dustless surface. This requirement shall apply also to interior travel lanes or driveways. Every parking bay shall be so designed that no vehicle when parked will overhang property lines, sidewalks or moving travel lanes, public or private.
- K. Where geometric design standards are modified from those required in the Subdivision Ordinance of Mathews County as set forth in Subsection F above, the developer shall be responsible for the placing of "No Parking" signs on all travel lanes, driveways, or streets to prohibit parking on such roads or driveways.
- L. Adequate easements shall be provided for drainage and all utilities. Minimum easement width shall be 15 feet. Where multiple structures or pipes are installed or the edge of the easements do not follow the established lot lines, the nearest edge of any easement shall be a minimum of five feet from any building.
- M. Adequate drainage for the disposition of storm and natural waters both on and off-site shall be

provided. The extent and nature of both on-site and off-site treatment is to be determined by the developer in conference with the agent for Mathews County.

- N. Provision shall be made for all necessary temporary and permanent erosion and sedimentation control measures, both on and off-site as determined to meet the provisions of the Mathews County Erosion and Sediment Control Ordinance.<sup>[4]</sup>  
[4] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*
- O. Adequate provision shall be made by the developer for all utilities, both on and off-site. Design requirements shall be established by the developer in conference with the agent for Mathews County.
- (1) Percolation tests and/or other methods of soil evaluation deemed necessary by the Health Department shall be the responsibility of the developer.
  - (2) When a central water and/or sewer service system or district having sufficient capacity, either existing or proposed, is within a reasonable distance of the area of the site development plan, provisions shall be made to connect to the system(s); however, nothing herein shall either obligate the County of Mathews to establish a new or expand an existing Sanitary District or other public service district nor prohibit the County from charging the costs of all on-site and off-site transmission and treatment facility improvements necessitated by the development to said development.
- P. All public facilities, utility and drainage easements outside the right-of-way of public streets or accessways are to be shown on the final site development plan. Where it is necessary to place public utilities in public rights-of-way, a permit shall first be obtained from the governing body or its agent for such installation. Utility installations to be installed in public streets and rights-of-way shall be coordinated with street construction plans and profiles approved by the Virginia Department of Highways and Transportation resident engineer for Mathews County and, if applicable, County public service district officials.
- Q. Adequate fire hydrants and distribution systems shall be provided by the developer in areas where central or public water systems are available.
- R. Provision shall be made for sidewalks and pedestrian walkways which will enable patrons and/or tenants to walk safely and conveniently from one building to another or to adjacent sites as well.
- (1) Where feasible, pedestrian underpasses or overpasses are to be encouraged in conjunction with major vehicular routes.
  - (2) Provision shall be made where applicable for pedestrian walkways in relation to private and public areas of recreation and open spaces, e.g., schools, parks, gardens, and areas of similar nature.
  - (3) Connections shall be made wherever possible of all walkways and with similar facilities on adjacent developments.
- S. Landscape planting, screening, fences, walks, curbs, gutters and other physical improvements as required by ordinances and the regulations of the Virginia Department of Transportation and shall be provided by the developer.
- T. One set of approved plans, profiles and specifications shall be at the site at all times when work is being performed.
- U. Upon the completion of all required improvements shown on the approved site development plan, the developer shall submit to the agent for the governing body two copies of the completed as-built site plan or building location plat certified by an engineer, architect or surveyor. The as-built site plan shall be submitted at least one week prior to the anticipated occupancy of any building for the review and approval by the agent for conformity with the approved site plan and the ordinances and regulations

of Mathews County and state agencies.

- V. The approval of a site development plan or the installation of the improvements as required in this chapter shall not obligate the County to accept improvements for maintenance, repair or operation. Acceptance shall be subject to County and/or state regulations, where applicable, concerning the acceptance of each type of improvement.

## § 175-17.6. Administration and procedures for processing site development plans.

- A. The agent appointed by resolution by the governing body is delegated the authority and power to administer the site development plan regulations.
- B. The agent shall be responsible for the receipt, review, processing and approval of site development plans.
- C. The agent may request opinions and/or decisions from other departments, divisions, agencies, or authorities of the County government, officials, departments or agencies of the Commonwealth of Virginia and the federal government, or from other persons as may from time to time be retained.
- D. The agent, subject to approval of the governing body, may from time to time establish reasonable administrative procedures necessary for the proper administration of the ordinance.
- E. Any person aggrieved of any decision of the agent pursuant to this chapter may within 10 days of such decision appeal in writing to have a determination made by the governing body.
- F. Approval, modification and approval, or disapproval, of a site development plan by the governing body or its agent shall occur within 60 days of filing of the required documents in the office of the agent, unless abnormal circumstances exist in which case time may be extended by action of the governing body.
- G. No public easement, right-of-way or public dedication shown on any site development plan shall be accepted for dedication for public use until such proposed dedication shall first be approved by the governing body and evidence of such approval is shown on the instrument to be recorded.
- H. Final approval of a site plan submitted under the terms of this article shall expire five years after the date of such approval. During that period all building permits shall be obtained and the development shall be put into use.
- (1) For so long as the final site plan remains valid in accordance with the provisions of this section, no change or amendment to any County ordinance, map, resolution, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the developer or successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.
- (2) Application for minor modifications to approved site plans made during the five-year term of validity shall not constitute a waiver of provisions of this Section nor shall the approval of such minor modifications extend the period of validity.
- I. No permit shall be issued by any administrative officer or agent of Mathews County for the construction of any building or improvement requiring a permit in any area covered by the site development plan except in conformity to the provisions of this chapter and after approval of a site development plan.
- J. County and state agencies responsible for the supervision and enforcement of this chapter shall

periodically inspect the site during the period of construction.

- K. Upon compliance with the terms of this chapter and the satisfactory completion of construction, the agent of Mathews County shall furnish a certificate of approval. Certificates of approval, upon ratification by the governing body shall release all of the bonds which may have been furnished.
- L. Any requirement of Article 17 may be waived by the governing body where the applicant establishes that an undue hardship would be created by the strict enforcement of this chapter, providing such a waiver, as requested, shall not be adverse to the purposes of this chapter.
- M. No change, revision, or erasure shall be made on any pending or final site development plan or on any accompanying data sheet where approval has been endorsed on the plat or sheets unless authorization for such changes is granted in writing by the approving body or the agent.
- N. Any site development plan may be revised, provided request for revision shall be filed and processed in the same manner as the original site plan.
- O. The Board of Supervisors, by resolution, shall establish from time to time a schedule of fees for the examination and approval or disapproval of site development plans. Such fee shall be payable to the Treasurer of Mathews County and shall be submitted to the agent in the following manner: 50% due and payable at the time of filing a site development plan, and 50% due and payable prior to final approval.
- P. The Board of Supervisors reserves the right to review a site plan and any action of the agent.

## **ARTICLE 18. Administrative Bodies and Their Responsibilities**

### **§ 175-18.1. Zoning Administrator.**

- A. This chapter shall be administered and enforced by a Zoning Administrator who shall be appointed by the governing body and shall serve at the pleasure of that body. He may be provided with the assistance of such other persons as the governing body may direct. Compensation for the Administrator shall be fixed by of the governing body.
- B. The Zoning Administrator shall have the following duties:
  - (1) Upon finding that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation(s) indicating the nature of the violation(s) and ordering the action necessary to correct such violation(s);
  - (2) Order discontinuance of illegal uses of land, building, or structures;
  - (3) Order removal of illegal buildings or structures or illegal additions, alterations, or structural changes;
  - (4) Order discontinuance of any illegal work being done;
  - (5) Take any other action authorized by this chapter to ensure compliance with or to prevent violations of this chapter. This may include the issuance of and action on zoning permits and such similar administrative duties as are permissible by/under the law; and
  - (6) Other duties as may be assigned by the governing body or the County Administrator.

### **§ 175-18.2. Planning Commission.**

For the purpose of this chapter, the Planning Commission shall have the following duties:

- A. Review all proposed amendments to this chapter and make recommendations to the governing body;
- B. Review all conditional use permit proposals and make recommendations to the governing body;
- C. Review other proposals as directed by the governing body.

### § 175-18.3. Board of Zoning Appeals (BZA).

- A. A Board of Zoning Appeals is hereby created, which shall consist of five members who shall be appointed by the Circuit Court of Mathews County.
  - (1) Their terms of office shall be for five years each, except that original appointment shall be made as follows:
    - (a) One member who shall serve for one year;
    - (b) One member who shall serve for two years;
    - (c) One member who shall serve for three years;
    - (d) One member who shall serve for four years;
    - (e) One member who shall serve for five years.
  - (2) The secretary of the Board shall notify the Circuit Court at least 30 days in advance of the expiration of any term of office and shall also notify the Circuit Court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the Board shall hold no other public office in Mathews County, except that one may be an active member of the Planning Commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.
    - (a) Members shall serve without compensation other than for reasonable and necessary expenses unless otherwise provided by the governing body.
    - (b) Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office, or other just cause, by the Circuit Court of Mathews County, after hearing held after at least 15 days' notice; notice to be served upon the member by hand delivering or sending by certified mail, return receipt requested, a copy of all charges against him.
    - (c) The Board shall elect from its own membership a Chairman, Vice-Chairman, and Secretary, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board. The Board may make, alter, and rescind rules and forms for its procedures, consistent with ordinances of Mathews County and general laws of the commonwealth. The Board shall keep a full public record of its proceedings and shall submit a report of its activities to the Board of Supervisors at least once at year.
    - (d) Within the limits of the funds appropriated for its use by the Board of Supervisors, the Board of Zoning Appeals may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services.
- B. Proceedings of the Board of Zoning Appeals. The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the

Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board. For the conduct of any hearing or the taking of any action, a quorum shall not be less than a majority of all members of the Board.

C. Duties of the Board of Zoning Appeals.

- (1) In exercising its duties, the Board may, as long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from the Administrator and may make such order, requirement, decision, or determination as ought to be made. For the purpose of this chapter, the Board has the following specific responsibilities:
  - (a) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Administrator;
  - (b) To authorize such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done;
  - (c) To hear and decide upon applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected, and after public hearing with notice as required by § 15.1-431 of the Code of Virginia, 1950, as amended, the Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change substantially the locations of district boundaries as established by this chapter.
- (2) No provisions of § 15.1-495 of the Code of Virginia, 1950, as amended, shall be construed as granting the Board the power to rezone property or amend this chapter.

## § 175-18.4. Duties of Zoning Administrator, Board of Zoning Appeals, and courts on matters of appeal.

It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Administrator, that such questions shall be presented to the Board only on appeal from the decision of the Administrator, and that recourse from the decisions of the Board shall be the courts as provided by law.

## § 175-18.5. Duties of governing body.

- A. It is the intent of this chapter that the duties of the governing body in connection with this chapter shall not include hearing and deciding questions in interpretation and enforcement that may arise. The procedure for deciding such questions shall be stated in this article of this chapter. Under this chapter, the governing body shall have the duties of considering and adopting or rejecting proposed amendments, rezoning requests, or the repeal of this chapter as provided by law; considering and approving or rejecting applications for conditional use permits; and of establishing a schedule of fees and charges.
- B. Applications for conditional use permits as may be authorized by this chapter. The governing body

may impose such conditions relating to the use for which a conditional use permit is granted as it may deem necessary to ensure compliance with the provisions and intent of this chapter and may require a guarantee of bond to insure that the conditions imposed are complied with. No conditional use permit may be granted except after notice and public hearing as provided in § 15.1-431 of the Code of Virginia, 1950, as amended.

## **ARTICLE 19. Administrative Procedures**

### **§ 175-19.1. Procedure for amendments or district changes.**

This chapter may be amended by utilizing the procedures specified in §§ 175-19.2 through 19.10, inclusive.

### **§ 175-19.2. General.**

Whenever the public necessity, convenience, general welfare, or good zoning practices require, the governing body may by resolution after receipt of recommendation thereon from the Commission, and subject to the procedures provided by law, amend, supplement, change, or repeal the regulations, restriction, and boundaries or classification of property.

### **§ 175-19.3. Initiation of zoning amendments.**

Amendments to this chapter may be initiated in one of the following ways:

- A. By resolution of the governing body;
- B. On a motion by the Commission; or
- C. By a petition of any property owner addressed to the governing body.

### **§ 175-19.4. Contents of application.**

- A. Applications for amendments to the Official Zoning Map adopted as part of this chapter shall contain at least the following information:
  - (1) Name, address, and telephone number of applicant and owner;
  - (2) Proposed amending resolution, approved as to form by the Commonwealth's Attorney;
  - (3) Present use;
  - (4) Present zoning district;
  - (5) Proposed use;
  - (6) Proposed zoning district;
  - (7) Three vicinity maps at a scale approved by the Administrator showing property lines and dimensions, thoroughfares, existing and proposed zoning, and any other items as the Administrator may require;
  - (8) List of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned;

- (9) A statement on how the proposed amendment relates to the Comprehensive Plan;
  - (10) Other such information as may be required by the zoning administrator in order for him to determine conformance with this chapter; and
  - (11) A fee as established by the governing body.
- B. Applications for amendments proposing to amend, supplement, change, or repeal portions of this chapter other than the Official Zoning Map shall include the items in Subsections A(1), (2), (9), (10), and (11) listed above.

## § 175-19.5. Transmittal to Planning Commission.

Immediately after the adoption of a resolution by the governing body or the filing of an application by a property owner, said resolution or application shall be transmitted to the Commission.

## § 175-19.6. Public hearing.

Within 30 days after the receipt of a resolution or application, or after adoption of its own motion, and after public notice as required by § 15.1-431 of the Code of Virginia, 1950, as amended, the Commission and the governing body shall hold a joint public hearing on the proposed zoning amendment or change.

## § 175-19.7. Recommendation by Planning Commission.

Within 70 days after public hearing required by § 175-19.6 of this chapter, the Commission shall recommend to the governing body that the proposed zoning amendment or change be approved as presented, approved with modifications and/or voluntary proffers, or disapproved. The Commission shall then transmit all papers constituting the record and the recommendations to the governing body.

## § 175-19.8. Final action by governing body.

Within 100 days of receipt of the Planning Commission recommendation, whichever occurs last, the governing body shall either approve as presented, approve with modifications and/or voluntary proffers, or disapprove the proposed zoning amendment or change; provided, however, that no land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice as required by § 15.1-431 of the Code of Virginia, 1950, as amended. Upon approval of an amendment to the text of this chapter, such amendment shall be attached to the ordinance, signed by the Chairman of the Board of Supervisors, and attested to by the Clerk of the Circuit Court of Mathews County. Amendments to the Official Zoning Map shall be made in accordance with the provisions of § 175-3.2 of this chapter.

## § 175-19.9. Limitation on zoning amendments.

Substantially the same zoning amendment or change shall not be reconsidered within six months of any final action thereon by the governing body.

- A. Conditional zoning. As part of the petition to rezone property in the Residential-1, Residential-2, Business-1, Business-2, Rural, Industrial and Conservation Districts and amend the Official Zoning Map, the property owner(s) may include a voluntary proffering in writing placing certain conditions and

restrictions on the use and development of said property, and the administration shall be vested with all necessary authority to administer and enforce such conditions and restrictions, all in accordance with §§ 15.2-2296 through 15.2-2302 of the Code of Virginia, 1950, as amended. The County of Mathews, having met the prerequisites set out in § 15.2-2298, the proffered conditions may include, but are not limited to, substantial cash payments and the dedication of real property of substantial value pursuant to the aforesaid code section. All proffers accepted pursuant to § 15.2-2298 are subject to the terms and conditions of said code section of the Code of Virginia of 1950, as amended. Before any proffered conditions or restrictions shall be accepted and become a part of the rezoning, the governing body shall hold a public hearing in accordance with § 15.2-2204 of the Code of Virginia, 1950, as amended.

## § 175-19.10. Appeals to Board of Zoning Appeals and Circuit Court.

- A. Appeals to the Board may be taken by any person aggrieved or by an officer, department, board, or bureau of the County affected by any decision of the Administrator. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Administrator and with the Board a notice of appeal, specifying the grounds thereof. The Administrator shall immediately transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay, in his opinion, would cause imminent peril to life or property, in which proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by the Circuit Court, on application and on notice to the Administrator and for good cause shown.
- B. The Board shall fix a reasonable time for the hearing of an appeal, give public notice thereof as well as due notice to the parties, in interest, and decide the same within 60 days. The concurring vote of three members shall be necessary to reverse any order requirement, decision, or determination of the Administrator or to decide in favor of the applicant.
- C. Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board, or bureau of the County, may present to the Circuit Court of the County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the Board.
- D. Upon presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the Realtor's attorney which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board, and on due cause, grant a restraining order.
- E. The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such fact as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- F. If, upon hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- G. Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from.

- H. The time limitations for raising certain issues and filing certain proceedings with the Board shall be the following:
- (1) No issue or alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Board later than 30 days from the time such ordinance, map, or amendment takes effect, unless the person raising such issue alleges and proves that he failed to receive adequate notice of the enactment or amendment. If such person has succeeded to his interest after the enactment of the ordinance, adequate notice to his predecessor in interest shall be deemed adequate notice to him.
  - (2) No person shall be allowed to file any proceedings with the Board later than 30 days after any application for development, preliminary or final, has been approved by an appropriate County officer, agency, or body, if such proceedings are designed to secure reversal or to limit the approval. If such person has succeeded to his interest after such approval, adequate notice to his predecessor in interest shall be deemed adequate notice to him.

## § 175-19.11. Variances.

Application for variance from the terms of this chapter may be made by any property owner to the Board of Zoning Appeals when owing to special condition, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. The procedures set forth in § 175-19.11, inclusive, of this chapter shall be followed.

- A. Contents of application for variance. At a minimum, the application for variance shall contain the following information:
- (1) Name, address, and phone number of applicant and owner;
  - (2) Legal description of property;
  - (3) Present zoning district;
  - (4) Description of nature of variance requested;
  - (5) A narrative statement demonstrating that the requested variance conforms to the following standards;
    - (a) The property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant; and
    - (b) That special conditions and circumstances do not result from the actions of the applicant;
  - (6) Signature of the applicant attesting to the truth of all information required;
  - (7) Other such information as may be required by the Zoning Administrator in order for him to assist approving authority evaluate the application; and
  - (8) A fee as established by the governing body.

- B. Within 30 days after receipt of an application for variance and after public notice as required by § 15.2-2204 of the Code of Virginia, 1950, as amended, the Board shall hold a public hearing on the requested variance.
- (1) Within 100 days after public hearing required by § 175-19.11-2 of this chapter the Board shall either approve or disapprove the variance. No variance shall be authorized by the Board unless it finds:
    - (a) That the strict application of the ordinance would produce undue hardship;
    - (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
    - (c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
    - (d) That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
  - (2) 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 insure that the conditions imposed are being and will continue to be complied with.
- C. Appeals on variances. Appeals from any decision of the Board of Zoning Appeals on a variance shall be made in accordance with the provisions of Section 19.10 of this chapter.
- D. Administrative variance.
- (1) The Zoning Administrator shall have the authority to grant variances of 50% or less from any setback requirement contained in this chapter provided that the Zoning Administrator finds in writing that:
    - (a) The strict application of the ordinance would produce an 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 variance 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 variance.
  - (2) Prior to granting the variance, the Zoning Administrator shall give all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within 21 days of the date of the notice. If any adjoining property owner objects to said request in writing within the time period specified above, the request shall be transferred to the Board of Zoning Appeals for decision.

## § 175-19.12. Conditional use permit.

Applications for conditional uses may be made by the property owner, tenant, governing official, department, board, or bureau. Such application shall be made to the Administrator in accordance with rules adopted by the governing body. Procedures for the granting of a conditional use permit shall be set forth in § 175-19.12, inclusive, of this chapter.

- A. Contents of application for conditional use permit. At a minimum, the application for a conditional use

permit shall contain the following information:

- (1) Name, address, and telephone number of the applicant and owner;
  - (2) Nature and location of the conditional use;
  - (3) Present zoning district;
  - (4) A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Mathews County Comprehensive Plan;
  - (5) Evidence that the specific criteria set forth in the ordinance for the conditional use requested will be met;
  - (6) Signature of the applicant attesting to the truth of all information required;
  - (7) Other such information as may be required by the Zoning Administrator in order for him to assist approving authority evaluate the application; and
  - (8) A fee as established by the governing body.
- B. Public hearing. Within 30 days after the receipt of an application for conditional use, and after notice as required by § 15.2-2204 of the Code of Virginia, 1950, as amended, the Commission and the governing body shall hold a joint public hearing on the conditional use.
- C. Action by the Planning Commission and the governing body.
- (1) The Commission shall have 70 days after the public hearing to make a recommendation on the conditional use to the governing body. Within 100 days after receipt of the Commission's recommendation the governing body shall either approve or disapprove the conditional use. The governing body may impose such conditions relating to the use for which a conditional use permit is granted as it may deem necessary to ensure compliance with the provisions and intent of this chapter and may require a guarantee of bond to insure that the conditions imposed are complied with.
  - (2) Before issuing any conditional use permit, the Commission and the Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:
    - (a) Is in fact a conditional use and appears on the Official Schedule of District Regulations, or elsewhere in the ordinance;
    - (b) Will be harmonious with and in accordance with the general objectives of the County's Comprehensive Plan and this chapter;
    - (c) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
    - (d) Will not be hazardous or disturbing to existing or future neighboring uses;
    - (e) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
    - (f) Will not create excessive additional requirements at public cost for public facilities and

services and will not be detrimental to the economic welfare of the County;

- (g) Will not involve uses, activities, processes, materials equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors;
  - (h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
  - (i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance; and
  - (j) Will not result in the destruction or degradation of sensitive environmental features.
- (3) Before any conditional use permit shall be issued, the governing body shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
- (a) Ingress and egress to property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;
  - (b) Off-street parking and loading areas where required, with particular attention to the items in Subsection **C(3)(a)** above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
  - (c) Refuse and service areas, with particular attention to the items in Subsection **C(3)(a)** and **(b)** above;
  - (d) Utilities, with reference to locations, availability and compatibility;
  - (e) Screening and buffering with reference to type, dimensions and character;
  - (f) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - (g) Required yard and other open space; and
  - (h) General compatibility with adjacent properties and other property in the district.
- D. Appeals on decision of governing body. Appeals from any decision of the governing body on a conditional use may be taken in accordance with the provisions contained in § 175-19.10.

## § 175-19.13. Uses not provided for.

- A. If in any district established under this chapter a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Commission. The Commission shall make its recommendations to the governing body within 60 days as to whether:
- (1) To amend the ordinance to allow the unrestricted use in that district;
  - (2) To amend the ordinance to allow the use as a conditional use;
  - (3) To amend the ordinance by rezoning the district and thereby allow the use; or
  - (4) To deny the use in that district.

- B. The procedure for consideration and action on such requests by the Planning Commission and governing body shall be according to that provided in §§ 175-19.3 through 175-19.10 of this chapter.

## § 175-19.14. Petitions.

Petitions brought by property owners or their agents shall be sworn to under oath before a notary public or other official before whom oaths may be taken, stating whether or not any member of the Planning Commission or Board of Zoning Appeals had any interest in such property either individually, by ownership of stock in a corporation owning such land, or partnership, or whether a member of the immediate household of any member of the Planning Commission or Board of Zoning Appeals has any such interest.

## ARTICLE 20. Enforcement

### § 175-20.1. Zoning permits (clearances) required.

Except for fences, flag poles, mail and newspaper boxes, hunting blinds, dog pens and other noncommercial animal containment facilities (except those addressed in § 175-15.16 which shall obtain a zoning clearance) and television and radio receiving antennas, it shall be unlawful to use land or structures or to alter or erect structures until a zoning permit (clearance) is obtained from the Zoning Administrator. If an activity requires a building permit, the Zoning Administrator shall review the application for the zoning clearance and approve such application before building permits are issued. Where site plan review is required, the application for zoning clearance may be incorporated into the application for site plan review, in which case the requirements for site plan review, in Article 17 herein shall apply. The intent of the zoning clearance is to show that land, structures, and uses of land and structures are in conformity with the provisions of this chapter and any other lawfully adopted statutes, rules, regulations, or ordinances.

### § 175-20.2. Contents of application for zoning permits.

The application for a zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire if a building permit has not been acquired for the work described in the zoning permit within one year from the date of issuance thereof. At a minimum, the application shall contain the following information:

- A. Name, address, and telephone number of applicant and owner;
- B. Legal description of property;
- C. Existing use;
- D. Proposed use;
- E. Zoning district;
- F. Plans in triplicate drawn to scale, showing the dimensions and the shape of the lot to be built upon; the size and location of existing buildings on the lot, if any; and the location and dimension of the proposed building(s) or alteration;
  - (i) A setback verification survey prepared by a Virginia licensed surveyor is required whenever any building or addition is being constructed within a Resource Protection Area (RPA) or within 10 feet of any front, rear, side or corner side setback; RPA boundary line; or tidal or non-tidal wetland. Setback compliance must be certified by the surveyor before an approved foundation

(footing) inspection will be granted. The setback verification survey may be waived by the Administrator if either an improvements survey or other means of accurately determining setback compliance exists.

- G. Building heights;
- H. Number of off-street parking spaces or loading berths;
- I. Number of dwelling units;
- J. Such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter; and
- K. A fee as established by the governing body.

### § 175-20.3. Approval of zoning permits.

Within 30 days after the receipt of an application, the Administrator shall either approve or disapprove the application in conformance with the provisions of this chapter. Zoning clearances incorporated into building permits and/or site plan review procedures shall expire in the same manner as building permit and/or site plan approval. Zoning clearances incorporated into site plan submittal shall be approved or disapproved under the same time frame as set forth for approval or disapproval of site plans in Article 17. All zoning permits shall, however, be conditional upon the commencement of work within one year. The original plans shall be retained by the Administrator after he shall have marked such plans either approved or disapproved and attested to same by his signature. One copy of the plans similarly marked shall be returned to the applicant by the Administrator. A second copy of the plans similarly marked shall be forwarded to the Building Official by the applicant.

### § 175-20.4. Expiration of zoning permit.

If a building permit has not been acquired for the work described in any zoning permit within one year from the date of issuance thereof, said zoning permit shall expire.

### § 175-20.5. Building permits.

- A. Except as provided in § 175-20.1, no building permit shall be issued after the effective date of this chapter unless a zoning permit shall have been issued by the Administrator first.
- B. Nothing contained herein shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to the effective date of this chapter; however, such construction must commence within the same time period as established by the building permit regulations for conforming uses and within the time period provided in § 175-16.1 for nonconforming uses. If construction is discontinued for a period of 12 months or more for conforming uses not complying with the area requirements of the district in which it is located, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located. Construction of nonconforming uses as provided in § 175-16.1 shall not be discontinued for extended periods of time except under unusual circumstances, such as inclement weather, which are not brought on by actions or inactions of the owner or his agents.

### § 175-20.6. Certificate of occupancy.

Buildings or land may be used or occupied and buildings structurally altered or newly erected may be used or changed in use only after a certificate of occupancy, approved by the Administrator, has been issued by the Building Official. Such permit shall state that the building or the proposed use or the use of the land complies with the provisions of this chapter.

## **§ 175-20.7. Compliance with applications, plans, permits and certificates.**

Building and zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Administrator and Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this chapter and punishable accordingly.

## **§ 175-20.8. Enforcement procedures.**

- A. If the Administrator shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. If such violation continues, the Administrator shall immediately notify the County Attorney of such violation.
- B. The County Attorney shall immediately institute an appropriate action or proceeding in law or equity to prevent such violation, or to restrain, correct, or abate such violation.

## **§ 175-20.9. Enforcement remedies.**

In case any building, structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this chapter, the Administrator, with the assistance of the County Attorney, in addition to other remedies, may institute in the name of the County any appropriate action or proceeding to prevent, restrain, correct, or abate such building, structure, or land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.

## **§ 175-20.10. Violations and penalties.**

- A. All departments, officials, and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.
- B. Any person, firm, or corporation, whether as principal, agent, employed or otherwise, violating, causing, or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to \$1,000. 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 misdemeanor offense punishable by a fine of not more than \$1,000 and any such failure during any succeeding ten-day

period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100 nor more than \$1,500.

## **§ 175-20.11. Schedule of fees, charges, expenses and required materials.**

The governing body shall establish by resolution a schedule of fees, charges, expenses, and required materials, and a collection procedure for building permits, certificates of occupancy, appeals, and other matters pertaining to this chapter. The schedule of fees which is adopted by reference and declared to be a part of the ordinance shall be posted in the offices of the Administrator and may be altered or amended only by the governing body. Sufficient fees shall be collected to cover the cost of making inspections, issuing permits, advertising of notices, and other expenses incident to the administration of this chapter. Until all applicable fees, charges, and expenses have been paid in full and all required material has been submitted, no action shall be taken on any application or appeal and required time limitations for review and consideration of such application or appeal shall not commence until receipt of all applicable fees and materials.

## **ARTICLE 21. In General**

### **§ 175-21.1. Severability.**

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

### **§ 175-21.2. Effective date.**

This zoning ordinance of Mathews County, Virginia, was duly considered, following a required public hearing held on January 29, 1987, and was adopted by the Board of Supervisors of Mathews County on January 29, 1987. This chapter shall be effective at and after 12:01 a.m. on January 30, 1987.

### **§ 175-21.3. Repeal of conflicting ordinances.**

All ordinances or portions of ordinance in conflict with this chapter are hereby repealed to the extent necessary to give this chapter full force and effect.

### **§ 175-21.4. Conflict with other laws.**

Whenever these standards are at variance with the requirements of any other lawfully adopted statutes, rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **§ 175-21.5. County liability.**

The zoning of any land and the granting of any permit or certificate for the use of land and/or structure shall not be interpreted as a guarantee by the County of Mathews of the suitability of such land or structure for development or use.

## § 175-21.6. No exclusionary intent.

It is not the intent of this chapter to exclude any economic, racial, religious or ethnic group from enjoyment or residence, land ownership, or tenancy within the County nor is it the intent of this chapter to use public powers in any way to promote the separation within the County of economic, racial, religious or ethnic groups, except as may be the incidental result of meeting the purpose outlined in § 175-1.3 herein.

## ARTICLE 22. Chesapeake Bay Preservation Area Overlay District

### DIVISION I. General Provisions and Application of District

#### § 175-22.1. Findings of fact.

- A. The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of Mathews County and the Commonwealth of Virginia. The health of the Bay is vital to maintaining Mathews County's economy and the welfare of its citizens. Healthy state and local economies and a healthy Chesapeake Bay are integrally related, and balanced economic development and water quality protection are beneficial to the County and are not mutually exclusive.
- B. The Chesapeake Bay's waters, as well as the Piankatank, North and East Rivers, and Mobjack Bay, have been degraded significantly by many sources of pollution, including non-point source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by the Board of Supervisors of Mathews County as the Chesapeake Bay Preservation Area Overlay District, need to be protected from destruction and damage in order to protect the quality of water in the Bay and, consequently, the quality of life in Mathews County and the Commonwealth of Virginia.

#### § 175-22.2. Purpose and intent.

The purpose of The Chesapeake Bay Preservation Area Overlay District (the "Overlay District") is to implement the requirements of the Chesapeake Bay Preservation Act ("the Act"), §§ 10.1-2100 and 15.2-2283, et seq., Code of Virginia,<sup>[1]</sup> and its implementing regulations, 9VAC 10-20 et seq., and to provide for the preservation of lands of significance for the protection of the natural environment and to protect in a manner consistent with applicable state water quality standards, surface water and groundwater as defined in Section 62.1-255, Code of Virginia, and is intended to:

- A. Protect existing high quality state waters;
- B. Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;

- C. Safeguard the clean waters of the commonwealth from pollution;
  - D. Prevent any increase in pollution;
  - E. Reduce existing pollution; and
  - F. Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of Mathews County and the Commonwealth of Virginia.
- [1] *Editor's Note: Section 10.1-2100 of the Code of Virginia was repealed by Acts 2013, cc. 756 and 793, cl. 2.*

## § 175-22.3. Authority.

This Article is enacted pursuant to the authority of Section 10.1-2100, et seq. ("the Act") and § 15.2-2283, Code of Virginia.

## § 175-22.4. Application of district.

The Overlay District shall be in addition to and shall overlay all other zoning districts established by this chapter and shown on the Official Zoning Map, which other districts shall be known as underlying districts. Every parcel of land lying within the Overlay District shall also lie within one or more of the underlying districts established by this chapter.

## § 175-22.5. Definitions.

The words and terms used in this article shall be given the meanings set forth in Article 2 of this chapter with the following additions. The words and terms, whether defined in Article 2 or in Article 22, shall be interpreted as having such meaning as set forth, unless a specific meaning to the contrary is indicated elsewhere in this chapter. Words and terms not defined in Article 2 or in this Article 22 shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context.

### **AGRICULTURAL LANDS**

Those lands used for the planting and harvesting of crops or plant growth of any kind in the open, pasture, horticulture, dairying, floriculture, or raising of poultry and/or livestock.

### **BEST MANAGEMENT PRACTICES OR BMPs**

A practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals.

### **BUFFER AREA**

An area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

### **CHESAPEAKE BAY PRESERVATION AREA OR CBPA**

Any land designated by the Board of Supervisors of Mathews County pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VAC10-20 et seq., and Section 10.1-2107 of the Code of Virginia, as amended.<sup>[1]</sup> A Chesapeake Bay Preservation Area shall consist of a resource protection area and resource management area.

### **CONSTRUCTION FOOTPRINT**

The area of all impervious surface, including but not limited to buildings, roads and drives, parking areas and sidewalks and the area necessary for construction of such improvements.

**DEVELOPMENT**

The construction, or substantial alteration, of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures or other uses or structures.

**DIAMETER AT BREAST HEIGHT OR DBH**

The diameter of a tree measured outside the bark at a point 4.5 feet above ground.

**DRIP LINE**

A vertical projection to the ground surface from the furthest lateral extent of a tree's leafy canopy.

**FLOODPLAIN**

All lands that would be inundated by flood water as a result of a storm event of a one-hundred-year return interval.

**HIGHLY ERODIBLE SOILS**

Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula  $RKLS/T$ , where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

**HIGHLY PERMEABLE SOILS**

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

**IMPERVIOUS COVER**

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

**LAND**

In addition to the definition contained in Article 2, shall include the terms "water" and "marsh."

**NON-POINT SOURCE POLLUTION**

Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

**NON-TIDAL WETLANDS**

Those wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3(b).

**NOXIOUS WEEDS**

Weeds that are difficult to control effectively, such as Johnson Grass, Kudzu and multiflora rose.

**PLAN OF DEVELOPMENT**

The process for site plan or subdivision plat review and including other related plans and studies described in Division IV of this article to ensure compliance with Section 10.1-2109 of the Code of Virginia and this article, prior to any clearing or grading of a site or the issuance of a building permit.

**PUBLIC ROAD**

A publicly owned road designed and constructed in accordance with water quality protection criteria

at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) The Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (Section 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by Mathews County in accordance with the County standards.

**REDEVELOPMENT**

The process of developing land that is or has been previously developed.

**RESOURCE MANAGEMENT AREA OR RMA**

That component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the resource protection area.

**RESOURCE PROTECTION AREA OR RPA**

That component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

**SILVICULTURAL ACTIVITIES**

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

**TIDAL SHORE OR SHORE**

Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

**TIDAL WETLANDS**

Vegetated and nonvegetated wetlands as defined in § 28.2-1300 of the Code of Virginia.

**VARIANCE**

In the application of this chapter, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of this chapter, and would result in substantial justice being done. It shall not include a change in use, which shall be accomplished by a rezoning or a conditional zoning.

**WATER BODY WITH PERENNIAL FLOW**

A body of water that flows in a natural or manmade channel year-round during a year of normal precipitation. This includes, but is not limited to, streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.

**WATER-DEPENDENT FACILITY**

A development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to:

- A. Ports;
- B. The intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers;
- C. Marinas and other boat docking structures;
- D. Beaches and other public water-oriented recreation areas; and
- E. Fisheries or other marine resources facilities.

[1] *Editor's Note: Section 10.1-2107 of the Code of Virginia was repealed by Acts 2013, cc. 756 and 793, cl. 2.*

## § 175-22.6. Conflict with other regulations.

- A. Unless otherwise stated in this article or specifically modified by the requirements of this article, the permitted uses, conditional use, area, bulk, yard, height and other regulations and requirements, including the review and approval processes, applicable within the underlying district(s) and set forth elsewhere in this chapter or in other ordinances of Mathews County shall be applicable to all development, redevelopment and use of land or structures in the Overlay District, provided that sufficient lot area, lot width, setbacks, yards and other spaces shall be provided to enable compliance with all of the requirements of this article.
- B. In any case where the requirements of this article conflict with any other provision of this chapter or other applicable regulation or requirement, whichever imposes the more stringent restrictions shall apply.

## § 175-22.7. Designation of Chesapeake Bay Preservation Area Overlay District.

- A. The Overlay District shall include all lands described in this section as lying within either the resource protection area (RPA) or the resource management area (RMA). The Overlay District and its RPA and RMA components are delineated on the map entitled "Mathews County Chesapeake Bay Preservation Area Map" dated September 7, 1993, and which is hereby adopted by reference and declared to be part of this article. As noted in § 175-22.8, the actual boundaries of a resource protection area shall be determined on a case-by-case basis.
- B. The resource protection area shall consist of the following components:
  - (1) Tidal shores;
  - (2) Tidal wetlands;
  - (3) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow; and
  - (4) A one-hundred-foot buffer area located adjacent to and landward of the components listed in Subsection **B(1)** through **(3)** above, and along both sides of any water body with perennial flow.
- C. The resource management area shown on the Chesapeake Bay Preservation Area Map includes the land types listed below and certain land areas entirely surrounded by such land types which, if improperly used or developed, have a potential for causing significant water quality degradation or for

diminishing the functional value of the resource protection area. The listed land types are included within the RMA to the extent they lie contiguous to the inland boundary of the resource protection area:

- (1) One-hundred-year floodplains;
  - (2) Highly erodible soils, including steep slopes;
  - (3) Highly permeable soils; and
  - (4) Nontidal wetlands not included in the RPA.
- D. For purposes of delineating the boundaries of the RMA, land areas consisting of less than five acres entirely surrounded by any of the land types identified in Subsection C above are shown on the Chesapeake Bay Preservation Area Map as lying within the RMA. In any case where it can be shown to the satisfaction of the Administrator in accordance with provisions of §§ 175-22.36 and 22.37 of this article that any such land area does not contain any of the land types identified in Subsection C above, the Administrator shall exempt such land area from the requirements of this article.
- E. On lands where none of the land types listed in Subsection C of this section lie contiguous to the inland boundary of the RPA, or where those land types are less than a total of 150 feet in width, the RMA shall consist of an area 150 feet in width located contiguous to and landward of the RPA. The RMA shall never be less than 150 feet in width landward of the inland boundary of the RPA.

## § 175-22.8. Interpretation of resource protection area boundaries.

- A. The boundaries of the RPA shown on the Mathews County Chesapeake Bay Preservation Area Map shall be construed as approximate due to the scale of such map and the nature of the information used in establishing such boundaries. The boundaries of the RPA shall be interpreted on a site-specific basis based on the submission of a water quality impact assessment as required under § 175-22.10K or through the review of an environmental site assessment as required in § 175-22.8D below.
- B. The Mathews County Chesapeake Bay Preservation Area Map should be consulted by persons contemplating development activity prior to seeking necessary permits for such activities or engaging in an activity regulated by the provisions of this article.
- C. The applicant shall be required to submit an environmental site assessment as provided in §§ 175-22.36 through 175-22.38 of this article. The environmental site assessment shall, subject to review and approval by the Administrator and any adjustment deemed necessary by the Administrator, be the basis for interpreting the boundary of the RPA.
- D. When the applicant provides site-specific information identifying the boundary of the RPA, the Administrator shall review and verify the accuracy of such information, and shall render a final interpretation in accordance with the criteria set forth by the provisions of this article. In the event the final interpretation by the Administrator is contested by the applicant or by any other party who has a legal standing to do so, the decision of the Administrator may be appealed to the Board of Zoning Appeals pursuant to the applicable provisions of Article 19 of this chapter.

## DIVISION II. Land Use and Development Performance Criteria

### § 175-22.9. Purposes of performance criteria.

- A. The performance criteria set forth in §§ 115-22.10 through 115-22.17 of this article are intended to establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.
- B. The purposes of the performance criteria are to implement the following objectives: prevent a net increase in non-point source pollution from new development; achieve a ten-percent reduction in non-point source pollution from redevelopment; and achieve a forty-percent reduction in non-point source pollution from agricultural activities.

## § 175-22.10. General performance criteria.

Any use, development or redevelopment of land within the Overlay District shall meet the following performance criteria.

- A. No more land shall be disturbed than is necessary to provide for the proposed use or development.
  - (1) In accordance with an approved site plan, the limits of land disturbance, including clearing and grading, shall be strictly defined by the construction foot-print. These limits shall be clearly shown on the submitted site plan and shall be physically marked on the development site. The administrator shall review and approve the construction footprint through the plan of development process. The construction footprint shall not exceed the limits for such as designated by the zoning district of the lot or parcel.
  - (2) Ingress and egress during construction shall be limited to one access point, unless otherwise authorized by the Administrator in conjunction with the approved site plan.
- B. Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development proposed.
  - (1) Existing trees over six inches diameter at breast height (DBH) shall be preserved outside the construction footprint. Diseased trees or trees weakened by age, storm, fire or other injury may be removed.
  - (2) Clearing shall be permitted only to provide necessary access, positive drainage, water quality, best management practices and the installation of utilities, as approved by the Administrator.
  - (3) Prior to clearing or grading, suitable protective barriers, such as safety fencing, shall be erected at or outside the drip line of any tree or stand of trees to be preserved. These protective barriers shall remain in place throughout all phases of construction. The storage of equipment, materials, debris or fill shall not be allowed within the area protected by such barriers.
- C. Where the best management practices utilized require regular or periodic maintenance in order to continue their functions, such maintenance shall be ensured through a maintenance agreement with the owner or developer, or some other mechanism approved by the County Attorney that achieves an equivalent objective.
- D. All development exceeding 2,500 square feet of land disturbance shall be subject to the plan of development review process as set forth in Division IV of this article.
- E. Land development shall minimize impervious cover consistent with the proposed use or development in order to promote infiltration of stormwater into the ground.

- (1) Parking areas and driveways shall be designed and improved so as to minimize impervious cover and, wherever possible based on the nature and volume of vehicular traffic, grid and modular paving blocks which promote infiltration of stormwater shall be used in parking areas and driveways.
  - (2) In order to minimize impervious cover, the dimensions of parking spaces and width of driveways and access aisles shall be no greater than necessary to comply with the requirements of this chapter and to provide for safe and convenient vehicular movement.
- F. Any land-disturbing activity that exceeds an area of 2,500 square feet (including, but not limited to, construction of all single-family dwellings, septic tanks and drainfields) shall comply with the requirements of the Erosion and Sediment Control Ordinance for Mathews County.<sup>[1]</sup>
- [1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*
- G. All on-site sewage disposal systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall:
- (1) Have pump-out accomplished for all such systems at least once every five years.
  - (2) If deemed appropriate by the local health department and subject to conditions the local health department may set, as an alternative to the mandatory pumpout, the option of having a plastic filter installed and maintained in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter should satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610) administered by the Virginia Department of Health.
  - (3) In lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage treatment systems to submit documentation every five years, certified by sewage handler permitted by the Virginia Department of Health, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.
- H. For new construction, a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided and must meet the approval of the Sanitarian employed by the State Health Department assigned to Mathews County. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, nor shall it apply to any lot or parcel on which construction has been lawfully commenced and a sewage disposal permit has been issued prior to the effective date of Article 22 of this chapter, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Sanitarian. Building or construction of any impervious surface shall be prohibited on the area utilized by, or reserved for, sewage disposal sites until such time as the structure is served by public sewer or an onsite sewage treatment system which operates under a VPDES permit. All sewage disposal site records shall be administered to provide adequate notice and enforcement of this provision.
- I. For any use or development, stormwater runoff shall be controlled by the use of best management practices consistent with the water quality protection provisions of the Virginia Stormwater Management Regulations (4 VAC 3-20-10 et seq.). Stormwater management criteria which satisfy the following requirements shall apply.
- (1) For development, the post-development non-point source pollution runoff load shall not exceed the pre-development load based on the calculated average land cover condition for Virginia's Chesapeake Bay Watershed, which is 16%, and the calculated average total phosphorus loading for Virginia's Chesapeake Bay Watershed, which is 0.45 pounds per acre per year.
  - (2) Redevelopment of any site not served by water quality best management practices as of the effective date of this article shall achieve at least a ten-percent reduction of non-point source pollution in runoff compared to the existing runoff load from the site.

- (3) Post-development runoff from any site to be redeveloped that is served by water quality best management practices as of the date of proposed redevelopment, shall not exceed the existing load of non-point source pollution in surface runoff, provided that:
  - (a) Runoff pollutant loads must have been calculated and the best management practices employed for the expressed purpose of controlling non-point source pollution.
  - (b) If best management practices are structural, evidence shall be provided that such facilities are currently in good working order and performing at the design levels of service. The Administrator may require a review of both the original structural design and maintenance plans to verify compliance with these provisions, and a new maintenance agreement may be required to ensure compliance.
- (4) For any redevelopment, both the pre-development and post-development pollutant loads shall be calculated by similar procedures. Where the design data is available, the original post-development non-point source pollution loads may be substituted for the existing development loads.
- (5) Any maintenance, alteration, use, or improvement to an existing structure, which does not degrade the quality of surface water discharge, as determined by the Administrator in accordance with applicable procedures and requirements of this article, may be exempted from the requirements of this Subsection I.
- J. Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feed lot operations, or lands otherwise defined as agricultural land by the local government, shall have a soil and water quality assessment. Such assessments shall evaluate the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management and management of pesticides, and where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is accomplished consistent with this article.
- K. A water quality impact assessment shall be required in accordance with the provisions of §§ 175-22.18 through 175-22.21 of this article for any proposed land disturbance, development or redevelopment within the RPA, and for any proposed development within the RMA when required by the Administrator after determination by the Administrator that the development warrants such assessment due to the unique characteristics of the site or the intensity of the proposed development and that such assessment is necessary to determine consistency with the goals and objectives of the Act, the regulations promulgated thereunder and this chapter.
- L. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations or ordinances shall be obtained and evidence of such submitted to the Administrator.

## § 175-22.11. Performance criteria for RPA.

- A. The following criteria shall be applicable to all development within the resource protection area and shall supplement the general performance criteria set forth in § 175-22.10 of this article.
- B. Development within the RPA shall be permitted only if it is water-dependent, constitutes redevelopment; or is a road or driveway crossing satisfying the conditions set forth below in Subsection **B(2)**; or is flood control and stormwater management facility satisfying the conditions set forth in Subsection **B(3)**.
  - (1) A new water dependent facility or expansion of an existing water dependent facility shall be permitted within the RPA only when the following conditions are met:

- (a) It does not conflict with the comprehensive plan;
  - (b) Such facility complies with the performance criteria set forth in § 175-22.10 of this article and the buffer area criteria set forth in §§ 175-22.12 through 175-22.15 of this article, provided that any proposed encroachment into the one-hundred-foot buffer area shall be the minimum necessary to accommodate the use and shall be authorized only pursuant to and in accordance with the findings of a water quality impact assessment as required by the provisions of Division III of this article;
  - (c) Any non-water-dependent component of such facility is located outside the RPA; and
  - (d) Access to such facility shall be provided with the minimum land disturbance necessary and, where practicable, a single point of access shall be provided.
- (2) Roads and driveways not exempt under § 175-22.47 and which, therefore, must comply with the provisions of this article, may be constructed in or across RPAs if each of the following conditions are met:
- (a) The Administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
  - (b) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
  - (c) The design and construction of the road or driveway satisfy all applicable criteria of this article, including submission of a water quality impact assessment; and
  - (d) The Administrator reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under Division IV or subdivision plan.
- (3) Redevelopment within the RPA shall be permitted only if there is no increase in the amount of impervious cover and no further encroachment within the RPA and it shall conform to applicable stormwater management and erosion and sediment control criteria set forth in this article and the Erosion and Sediment Control Ordinance of Mathews County.<sup>[1]</sup>
- [1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*
- (4) A water quality impact assessment shall be required for any land disturbance, development or redevelopment as set forth in §§ 175-22.18 through 175-22.21, inclusive, of this article.

## § 175-22.12. Buffer area requirements: purpose.

To minimize the adverse effects of human activities on the other components of the RPA, state waters and aquatic life, a one-hundred-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff shall be retained if present and established where it does not exist.

## § 175-22.13. Buffer area delineation.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water bodies with perennial flow. The full buffer area shall be designated as the landward component of the RPA.

## § 175-22.14. Buffer area width and performance standards.

The one-hundred-foot buffer area shall be deemed to achieve a seventy-five-percent reduction of sediments and a forty-percent reduction of nutrients.

## § 175-22.15. Buffer area supplemental performance standards.

In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to approval by the Administrator, only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater as follows:

- A. Trees may be pruned or removed as necessary to provide site lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff.
- B. Any path shall be constructed and surfaced so as to effectively control erosion.
- C. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practice incorporated into locally-adopted standards.
- D. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

## § 175-22.16. Buffer area modification.

When the application of the buffer area on a lot or parcel would result in the loss of a buildable area to the landowner regarding a lot or parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed through an administrative process, subject to provision of a water quality impact assessment as required by this article and in accordance with the following criteria:

- A. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable area for a principal structure and necessary utilities;
- B. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area encroaching the buffer area shall be established elsewhere on the lot or parcel;
- C. The encroachment may not extend into the seaward 50 feet of the buffer area; and
- D. Reasonable and appropriate conditions necessary to mitigate impacts identified in the water quality impact assessment required by this section.

## § 175-22.17. Buffer area modifications on agricultural lands.

On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and noxious weeds from invading the buffer area. The agricultural

activities may encroach into the buffer area as follows:

- A. Agricultural activities may encroach into the landward 50 feet of the one-hundred-foot wide buffer area when at least one agricultural best management practice, which, in the opinion of the Tidewater Soil and Water Conservation District, addresses the more predominant water quality issue on the adjacent land - erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the one-hundred-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation.
- B. Agricultural activities may encroach within the landward 75 feet of the one-hundred-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the National Soil Survey Handbook of November 1996 in the Field Office Technical Guide of the U.S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil test, must be developed consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the one-hundred-foot wide buffer area.
- C. The buffer area is not required for agricultural drainage ditches if the adjacent agricultural land has in place best management practices in accordance with a conservation plan approved by the Tidewater Soil and Water Conservation District.
- D. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full one-hundred-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide vegetation that assures the buffer functions are maintained or established.

## **DIVISION III. Water Quality Impact Assessments**

### **§ 175-22.18. Purposes of water quality impact assessment.**

The purposes of the water quality impact assessment are to:

- A. Identify the impacts of proposed land disturbance, development, or redevelopment on water quality and lands within the RPA and other environmentally sensitive lands;
- B. Ensure that where land disturbance, development, or redevelopment does take place within the RPA and other sensitive lands, it will occur on those portions of a site and in a manner that will be least disruptive to the natural functions of the RPA and other sensitive lands;
- C. To protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage;
- D. Specify mitigation which will address water quality protection.

### **§ 175-22.19. Water quality impact assessment required.**

- A. A water quality impact assessment shall be required for:
- (1) Any proposed land disturbance, development or redevelopment activity within the RPA, including any buffer area encroachment as provided for in this article; and
  - (2) Any proposed development in the RMA when required by the Administrator after determination by the Administrator that the development warrants such assessment because of the unique characteristics of the site or intensity of the proposed development, and that such assessment is necessary to determine consistency of the development with the goals and objectives of the Act, the regulations promulgated thereunder and this chapter.
- B. There shall be two levels of water quality impact assessments: minor assessment and a major assessment. The situations in which each level of water quality impact assessment is applicable and the requirements for each are set forth in §§ 175-22.20 and 175-22.21.

## § 175-22.20. Minor water quality impact assessment.

- A. When required. A minor water quality impact assessment shall be required for any proposed land disturbance, development, or redevelopment within the Overlay District which causes no more than 5,000 square feet of land disturbance and requires any encroachment into the landward 50 feet of the one-hundred-foot buffer area component of the RPA.
- B. General criteria. A minor water quality impact assessment must demonstrate through acceptable calculations that the undisturbed buffer area, enhanced vegetative plantings and any required best management practices will result in removal of no less than 75% of sediments and 40% of nutrients from post-development stormwater runoff, and that will retard runoff, prevent erosion, and filter non-point source pollution the equivalent of the full undisturbed one-hundred-foot buffer area.
- C. Submission requirements. A minor water quality impact assessment shall be performed and certified as complete and accurate by individuals qualified to perform such assessment. Such assessment shall be submitted to and reviewed by the Administrator in conjunction with the plan of development review process as required by this article, and shall be made a part of any application for a rezoning, conditional use permit or variance pertaining to the subject land. The Administrator may require the assessment to be modified, resubmitted and certified as complete and accurate by a professional engineer or a certified land surveyor, licensed by the Commonwealth of Virginia if the Administrator is unable to complete his review due to the quality of information originally submitted.
- D. Required information. Submission of a minor water quality impact assessment shall include six copies of all information required by this section and site drawings to scale, which show the following:
- (1) Location of the components of the RPA, including the one-hundred-foot buffer area and any water body with perennial flow;
  - (2) Location of any structures, drives or other impervious cover, sewage disposal systems including reserve drainfield sites, and all areas of clearing or grading;
  - (3) Location and nature of the proposed effects of the encroachment into the buffer area;
  - (4) Types and location of proposed best management practices to mitigate the proposed encroachment into the buffer area;
  - (5) Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment or modification; and
  - (6) Revegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

- E. Evaluation criteria. Upon completion of review of the minor water quality impact assessment, the Administrator shall determine if any proposed encroachment into the buffer area is consistent with the provisions of this article and shall make a finding based upon the following criteria:
- (1) The proposed encroachment into the buffer area shall be necessary to enable reasonable development of the site, and proposed improvements cannot reasonably be located elsewhere on the site to avoid disturbance of the buffer area;
  - (2) Impervious surface shall be minimized to the greatest extent possible;
  - (3) Proposed best management practices, where required, shall achieve the requisite reductions and pollutant loadings;
  - (4) The cumulative impact of the proposed development, when considered in relation to other existing or proposed development on the site, shall not result in significant degradation of water quality.
- F. Mitigation. The Administrator shall require additional mitigation where potential impact has not been adequately addressed. Evaluation of the impact shall be made by the Administrator based on the criteria set forth in this section.
- G. Absence of mitigation is inconsistent. The Administrator shall find the proposal to be inconsistent with the purposes and intent of this article when the impact created by the proposal cannot be mitigated. Evaluation of the impact shall be made by the Administrator based on the criteria set forth in this section.

## § 175-22.21. Major water quality impact assessment.

- A. When required. A major water quality impact assessment shall be required for any proposed development which:
- (1) Exceeds 5,000 square feet of land disturbance within the Overlay District and proposes any encroachment into the landward 50 feet of the one-hundred-foot buffer area component of the RPA;
  - (2) Proposes to disturb any portion of any other component of the RPA or buffer area within 50 feet of any other component of the RPA; or
  - (3) Is located within the RMA and exceeds 5,000 square feet of land disturbance, when such assessment is required by the Administrator after determination by the Administrator that the development warrants such assessment because of the unique characteristics of the site or the intensity of the proposed development, and that such assessment is necessary to determine consistency with the goals and objectives of the Act, the regulations promulgated thereunder and this chapter.
- B. General criteria. A major water quality impact assessment must demonstrate through acceptable calculations that the remaining buffer area and the necessary best management practices will result in removal of no less than 75% of sediments and 40% of nutrients from post development stormwater runoff.
- C. Submission requirements. A major water quality impact assessment and the information required relative thereto shall be certified as complete and accurate by a professional engineer or a certified land surveyor licensed by the Commonwealth of Virginia. The Administrator may accept such assessment performed by an individual qualified to perform such assessment who is not a licensed professional engineer or certified land surveyor licensed in the Commonwealth of Virginia if, in the sole discretion of the Administrator, the Administrator determines that such assessment contains

sufficient information to allow the Administrator to complete his review and such assessment is certified by such qualified individual as complete and accurate. Such assessment shall be submitted to and reviewed by the Administrator in conjunction with the plan of development review process as required by this article, and shall be made a part of any application for a rezoning, conditional use permit or variance pertaining to the subject land.

- D. Review by CBLAD. As part of any major water quality impact assessment submittal, the Administrator may request review by the Chesapeake Bay Local Assistance Department (CBLAD). Upon receipt of the major water quality impact assessment, the Administrator shall determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD shall be incorporated into the final review by the Administrator, provided such comments are provided by CBLAD within 90 days of the request.
- E. Required information. The following elements shall be included in the submission of a major water quality impact assessment. The information required herein and elsewhere in this section shall be considered the minimum for submission, unless the Administrator determines that certain elements are unnecessary due to the limited scope and nature of the proposed development. Submission shall include six copies of all information required by this section.
- (1) All of the information required for a minor water quality impact assessment as set forth in § 175-22.20 of this article;
  - (2) A hydro geological element that:
    - (a) Describes the existing topography, soils, and hydrology of the site and adjacent lands;
    - (b) Describes the impacts of the proposed development on topography, soils, hydrology, and geology on the site and adjacent lands;
    - (c) Indicates the following:
      - [1] Disturbance or destruction of wetlands and justification for such action;
      - [2] Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers, or other water bodies;
      - [3] Disruptions to existing hydrology including wetlands and stream circulation patterns;
      - [4] Source location and description of proposed fill material;
      - [5] Location of dredge material and location of dumping area for such material;
      - [6] Estimation of pre- and post-development pollutant loads in runoff;
      - [7] Estimation of percent increase in impervious surface on site and type(s) of surfacing materials used;
      - [8] Percent of site to be cleared for project;
      - [9] Anticipated duration and phasing schedule of construction project; and
      - [10] Listing of all requisite permits from all applicable agencies necessary to develop project.
    - (d) Describes the proposed mitigation measures for the potential hydro geological impacts. Potential mitigation measures include:
      - [1] Additional proposed erosion and sediment control concepts beyond those normally required under § 175-22.10D; these additional concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures

to stabilize disturbed areas, schedule and personnel for site inspection;

- [2] Proposed stormwater management system for non-point source quality and quantity control;

(3) A landscape element that:

- (a) Identifies and delineates the location of all woody plant material on site, including all trees six inches or greater diameter at breast height. Where there are groups of trees, stands may be outlined.
- (b) Describes the impacts the development will have on the existing vegetation. Information should include:
  - [1] General limits of clearing, based on all anticipated improvements, including buildings, drives, and utilities;
  - [2] Clear delineation of all trees and other woody vegetation which will be removed; and
  - [3] Description of all plant species to be disturbed or removed.
- (c) Describes the proposed measures for mitigation. Possible mitigation measures include:
  - [1] Proposed design plan and replanting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used;
  - [2] Demonstration that the design of the plan will preserve to the greatest extent possible any woody trees and vegetation on the site and supplement the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control; and
  - [3] Demonstration that indigenous plants are to be used to the greatest extent possible.

F. Evaluation criteria. Upon completion of review of a major water quality impact assessment, the Administrator shall determine if the proposed development and any proposed encroachment into the buffer area are consistent with the provisions of this article and shall make a finding based upon the following criteria:

- (1) Any proposed development within the RPA shall be water-dependent or redevelopment;
- (2) Disturbance of wetlands shall be minimized;
- (3) The development shall not result in significant disruption of the hydrology of the site;
- (4) The development shall not result in significant degradation to aquatic vegetation or life;
- (5) The development shall not result in unnecessary destruction of plant materials on the site;
- (6) Proposed erosion and sediment control concepts shall be adequate to achieve the reductions in runoff and to prevent off-site sedimentation;
- (7) Stormwater management proposals shall be adequate to control stormwater runoff to achieve the required performance criteria for pollutant control set forth in this article;
- (8) Proposed revegetation of disturbed areas shall provide optimum erosion and sediment control benefits;
- (9) The design and location of any proposed drainfield shall be in accordance with the requirements of §175-22.10 of this article;

- (10) The proposed development shall be consistent with the purpose and intent of the Overlay District; and
  - (11) The cumulative impact of the proposed development, when considered in relation to other existing or proposed development on the site, shall not result in a significant degradation of water quality.
- G. Mitigation. The Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Administrator based on the criteria set forth in this section.
- H. Absence of mitigation is inconsistent. The Administrator shall find the proposal to be inconsistent with the purpose and intent of this article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Administrator based on the criteria set forth in this section.

## **DIVISION IV. Plan of Development Process**

### **§ 175-22.22. Purpose of plan of development process.**

The purpose of the plan of development process is to provide a means to review development proposals within the Overlay District to evaluate their potential impact on the quality of the waters of the Chesapeake Bay and to ensure compliance with the provisions of this article and the goals and objectives of the Act, the regulations promulgated thereunder and this chapter.

### **§ 175-22.23. Applicability of plan of development.**

Any development or redevelopment exceeding 2,500 square feet of land disturbance within the Overlay District shall be subject to the plan of development review and approval process set forth in this Division prior to any clearing or grading of the site or the issuance of any building permit.

### **§ 175-22.24. Pre-submission conference.**

Prior to submitting the required elements of the plan of development process, the applicant or the agent of the applicant shall schedule a pre-submission conference with the Administrator and shall discuss proposed plans with the Administrator. Preliminary sketch plans should be provided to the Administrator prior to the conference. The purpose of such conference is to advise the applicant as to the applicable requirements of this article, or other applicable formal submissions required for the plan of development process.

### **§ 175-22.25. Required plans and studies.**

- A. In addition to the site development plan requirements set forth in Article 17 of this chapter, the plat requirements of the Mathews County Subdivision Ordinance, and such other plan review and approval processes as may be applicable, the plan of development shall include the plans and studies identified in this section. Such plans and studies may be coordinated or combined with other required plans and studies as deemed appropriate by the Administrator to fulfill the requirements of this article. The Administrator may waive certain information required herein upon determination that the information is not necessary to ensure compliance with the provisions of this article due to the scope and nature of the proposed development. Submission of required plans and studies shall be accompanied by such

fees as established by the Board of Supervisors.

B. The following plans or studies shall be submitted, unless otherwise provided for:

- (1) A site plan in accordance with § 175-22.26 of this article;
- (2) A landscape plan in accordance with §§ 175-22.27 through 175-22.30 of this article;
- (3) A stormwater management plan in accordance with §§ 175-22.31 through 175-22.35 of this article;
- (4) An environmental site assessment in accordance with §§ 175-22.36 through 175-22.38 of this article; and
- (5) An erosion and sediment control plan that satisfies the requirements of this article and applicable provisions of the Erosion and Sediment Control Ordinance of Mathews County.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*

## § 175-22.26. Site plan.

Six copies of a site plan drawn to scale and showing the following information shall be submitted to the Administrator:

- A. Name, address, and telephone number of the owner of the property and the preparer of the plan;
- B. Location of the property including name of the subdivision, tax map number, and name or route number where the property is located;
- C. A boundary survey of the tract showing North arrow and property line measurements;
- D. Location of all covenant building lines, setbacks, easements, and rights-of-way;
- E. Existing zoning classification;
- F. Date, scale, and number of sheets;
- G. The location and dimensions of all existing and proposed structures, including but not limited to marine and temporary structures;
- H. The location and extent of all wooded areas before development and the proposed area of clearing and limits of land disturbance. Percentages of pre- and post-development cover shall be shown and shall include the total site area in acres, the amount and percentage of the site to be devoted to open space and the amount and percentage of the site to be covered by impervious surface after development;
- I. The locations of all existing and proposed septic tanks and drainfield sites, including reserve sites, as well as the location of all existing and proposed wells;
- J. The location of all existing and proposed easements for roads, overhead and underground utilities, drainage, or other easements which may exist or are proposed on the property;
- K. The location of all points of access as approved by the Virginia Department of Transportation;
- L. The proposed location, layout, dimensions and treatment of all driveways, parking areas and other areas of impervious cover;
- M. The shortest distances from all property lines to all existing and proposed structures;
- N. The specific limits of all RPA components described in § 175-22.7 of this article, including the location

of any water body with perennial flow, in every case where an environmental site assessment is required under the provisions of this article. ' .

- O. The approximate limit of the one-hundred-year floodplain.
- P. Included with the site plan submission shall be documentation of all existing permits and pending applications pertaining to the parcel of land, including, but not limited to, Health Department permits for wells, septic tanks and drainfields; pending building permit applications; other pending site plan approvals; and any pending applications for rezoning, conditional use permit or variance. No grading or other on site activities shall commence prior to submittal to the Administrator of all wetlands permits required by law.

## § 175-22.27. Landscape plan.

A landscape plan shall be submitted with the required site plan to determine the extent of proposed clearing and grading and the types and extent of existing and proposed vegetation on the site. No clearing or grading of the site shall be permitted prior to approval of a landscape plan.

## § 175-22.28. Contents of landscape plan.

Landscape plans shall be prepared or certified by design professionals practicing within their areas of competence as described by the Code of Virginia and shall contain the following:

- A. The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site six inches or greater diameter at breast height (DBH) shall be shown on the landscape plan. Where there are groups of trees, stands may be outlined instead. The specific number of trees six inches or greater DBH to be preserved outside of the construction footprint shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create a desired construction footprint shall be clearly delineated on the landscape plan.
- B. Any required RPA buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this article, shall be shown on the landscape plan.
- C. Within the buffer area, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and best management practices, as provided for in § 175-22.15A through D of this article, shall be shown on the plan. Vegetation required by this article to replace any existing trees within the buffer area shall also be shown on the landscape plan.
- D. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this article shall be shown on the landscape plan.
- E. The landscape plan shall depict grade changes or other work adjacent to trees, which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees and other vegetation to be preserved.
- F. The landscape plan shall include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.
- G. If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate the re-establishment of vegetation in the buffer area.

## § 175-22.29. Landscape plan plant specifications.

- A. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- B. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- C. Where areas to be preserved, as designated on an approved landscape plan, are encroached, replacement of existing trees and other vegetation shall be achieved at a ratio of two planted trees to one removed. Replacement trees shall be a minimum 1.5 inches DBH at the time of planting.
- D. Use of native or indigenous species.

### **§ 175-22.30. Maintenance of plant materials.**

- A. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this article.
- B. In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season.

### **§ 175-22.31. Stormwater management plan.**

A stormwater management plan shall be submitted as an element of the plan of development process for purposes of determining the amount of stormwater runoff and the required locations and sizes of stormwater structures and/or management practices necessary to control run-off in accordance with the requirements of this article.

### **§ 175-22.32. Contents of stormwater management plan.**

The stormwater management plan shall contain the following:

- A. Location and design of all planned stormwater control devices;
- B. Procedures for implementing nonstructural stormwater control practices and techniques;
- C. Pre- and post-development non-point source pollutant loadings and supporting documentation of all utilized coefficients and calculations;
- D. For facilities, verification of structural soundness, including a professional engineer or Class IIIB surveyor certification;
- E. Any other information, including maps, charts, graphs, tables, photographs, narrative descriptions or references as appropriate to communicate the information required by this section.

### **§ 175-22.33. Coordination with future plans.**

Site-specific facilities shall be designed to accommodate all phases of development proposed on the site.

### **§ 175-22.34. Stormwater calculations.**

All engineering calculations shall be performed in accordance with applicable procedures outlined in the current edition of the Handbook.

## § 175-22.35. Inspection and maintenance.

The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than Mathews County, then a maintenance agreement shall be executed between the responsible party and the governing body.

## § 175-22.36. Environmental site assessment.

- A. An environmental site assessment shall be submitted when necessary for purposes of delineating the components of the resource protection area including water bodies with perennial flow on the site and providing the basis for site-specific delineation of the RPA boundary as required under § 175-22.8 of this article. An environmental site assessment shall also be submitted when necessary for purposes of delineating any land type comprising the resource management area on the site and providing the basis for determining the applicability of the provisions of this article to the site or any portions of the site.
- B. Applicants shall submit an environmental site assessment prior to or in conjunction with preparation of preliminary site plans and other plans in order that accurate delineation of the RPA components and RMA land types can be established before development decisions are made and more detailed plans are prepared.
  - (1) The environmental site assessment shall be drawn at the same scale as the site plan, or the same scale as the subdivision plat, in the case of submission in conjunction with a proposed subdivision, and shall be certified as complete and accurate by a professional engineer, a certified land surveyor, a certified landscape architect or other qualified individual who is determined by the Administrator to provide accurate and detailed information sufficient to allow the Administrator to perform his or her review. In the case of a site devoted to single-family dwelling purposes, or other use or development resulting in less than 5,000 square feet of land disturbance, the requirements of this subsection may be waived by the Administrator, provided the Administrator is satisfied that the information is complete and accurate.

## § 175-22.37. Content of environmental site assessment.

- A. An environmental site assessment, when required for purposes of delineating the components of the RPA, shall clearly delineate the following environmental features:
  - (1) Tidal shores;
  - (2) Tidal wetlands;
  - (3) Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or bodies with perennial flow;
  - (4) A one-hundred-foot buffer area located adjacent to and landward of the components listed in Subsection A(1) through (3) above, and along both sides of any water body with perennial flow.
- B. An environmental site assessment, when required for purposes of delineating the boundary of the RMA, shall clearly delineate the following land types, provided the Administrator may waive delineation

of any land type which clearly does not affect the boundary of the RMA on the site in question:

- (1) One-hundred-year floodplains;
- (2) Highly erodible soils, including steep slopes;
- (3) Highly permeable soils; and
- (4) Nontidal wetlands not included in the RPA.

## **§ 175-22.38. Wetlands delineation.**

Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1989, or other similar manual or guideline utilized by the Corps of Engineers of the United States Army at the time that the wetlands delineation is reviewed by the Administrator in accordance with this article.

## **§ 175-22.39. Approval of plan of development elements.**

The Administrator shall take final action to approve or disapprove all plans and studies required as elements of the plan of development process within 60 days after receipt of all required plans and related information, including revisions or additions to materials initially submitted. The 60 days shall commence on the next day after the Administrator determines in his sole discretion that the information submitted as required by this chapter is full and complete.

## **§ 175-22.40. Zoning permits.**

No zoning permit shall be approved until the Administrator has granted final approval of all plans and studies required by the provisions of this article. All applications for zoning permits for use or development within the Overlay District shall be accompanied by or shall make specific reference to all plans approved pursuant to the provisions of this article.

## **§ 175-22.41. Certificates of occupancy.**

No certificate of use and occupancy shall be issued until the Administrator has certified to the Building Official that all requirements of this article have been satisfied and that all buffer areas, landscaping, stormwater management facilities and other requirements of approved plans have been installed or completed in accordance with such plans, except as provided in this section.

- A. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the governing body a form of surety satisfactory to the Administrator in an amount equal to the remaining plant materials, related materials, and installation costs of the required landscaping or facilities and/or maintenance costs for required stormwater management facilities during the construction period.
- B. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of use and occupancy or the surety may be forfeited to the governing body after 15 days' written notice to the owner of the County's intent to forfeit said surety.
- C. All required stormwater management facilities or other specifications shall be installed and approved

within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the governing body. The governing body may collect from the applicant the amount of the surety held.

- D. After all actions required by the approved site plan have been completed, the applicant shall submit a written request for inspection. If the requirements of the approved plan have been completed to the satisfaction of the Administrator, such unexpended and unobligated portion of the surety shall be refunded within 60 days following the receipt of the applicant's request for inspection. The Administrator may require a certificate of substantial completion from a professional engineer or Class IIIB surveyor before making the final inspection.

## § 175-22.42. Expiration of final approvals.

- A. Final approval of a site plan submitted under the terms of this article shall expire five years after the date of such approval. During that period all building permits shall be obtained and the development shall be put into use.
- B. For so long as the final site plan remains valid in accordance with the provisions of this section, no change or amendment to any County ordinance, map, resolution, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the developer or successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.
- C. Application for minor modifications to approved site plans made during the five-year term of validity shall not constitute a waiver of provisions of this section nor shall the approval of such minor modifications extend the period of validity.

## § 175-22.43. Modifications to approved plans.

Adjustments and modifications to approved plans of development may be authorized by the Administrator when requested in writing by the applicant and accompanied by such revised plans, information, further studies or justification as deemed necessary by the Administrator to constitute an adequate record and to ensure such adjustment or modification will conform with all requirements of this article.

## DIVISION V. Appeals, Nonconforming Use, Exemptions and Variances

### § 175-22.44. Appeals.

Pursuant to § 15.2-2301 et seq. of the Code of Virginia and the provisions of Articles 18 and 19 of this chapter, an appeal to the Board of Zoning Appeals ("BZA") may be taken by any person aggrieved or by any officer, department, board or bureau of the County 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 any provision of this article.

### § 175-22.45. Nonconforming buildings and structures.

Any building or structure which was lawfully existing on the effective date of this article or any subsequent amendment thereto, and which does not conform with the requirements established by this article or by such amendment thereto, may be continued in accordance with the provisions of Article 16 of this chapter.

## § 175-22.46. Waiver for nonconforming structure.

- A. The Administrator may grant a waiver from the requirements of this article to permit an addition to a structure existing at the effective date of this article which becomes nonconforming as a result of enactment of this article, provided that:
- (1) There shall be no net increase in non-point source pollution load;
  - (2) Any development or land disturbance exceeding 2,500 square feet shall comply with all erosion and sediment control requirements of this article;
  - (3) All other requirements of this chapter applicable in the underlying district shall be met, including the approval of a zoning permit as set forth in Article 20.
  - (4) The request for the waiver is the minimum necessary to afford relief;
  - (5) Granting the waiver will not confer upon the applicant any specific privileges that are denied by this article to other property owners in similar situations;
  - (6) The waiver is in harmony with the purpose and intent of this article and does not result in water quality degradation;
  - (7) The waiver is not based on conditions or circumstances that are self-created or self-imposed;
  - (8) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing degradation of water quality;
  - (9) Other findings, as appropriate and required by Mathews County are met.
- B. This provision shall not apply to accessory structures.

## § 175-22.47. Exemptions for utilities, railroads and facilities.

The following exemptions are permitted:

- A. Construction, installation, operation and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines; railroads; and public roads constructed by the Virginia Department of Transportation and their appurtenant structures in compliance with the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (10.1-6301 et seq. of the Code of Virginia) and the Erosion and Sediment Control Ordinance of Mathews County shall be deemed to constitute compliance with the relevant requirements of this article. The exemption of public roads is further conditioned on the following:
- (1) Optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize:
    - (a) Encroachment in the resource protection area; and
    - (b) Adverse effects on water quality.
- B. Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both by Mathews County or a

regional service authority shall be exempt from the requirements of this article, provided that:

- (1) To the degree possible the location of such utilities and facilities shall be outside the RPA;
- (2) No more land shall be disturbed than is necessary for the proposed utility installation;
- (3) All such construction, installation and maintenance of such utilities and facilities shall be in compliance with all applicable federal, state and County permits and designed and constructed in a manner that protects water quality; and
- (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with the Erosion and Sediment Control Ordinance of Mathews County.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*

## § 175-22.48. Exemptions for silviculture activities.

Silviculture activities are exempt from the requirements of this article provided they adhere to water quality protection procedures and/or best management practices prescribed by the Virginia Department of Forestry in Virginia's Forestry Best Management Practices for Water Quality. The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

## § 175-22.49. Exemptions in RPA.

Land disturbances within the RPA associated with water wells, passive recreation facilities such as boardwalks, trails and pathways, and historic preservation involving archeological activities, shall be exempt from the requirements of this article provided it is demonstrated to the satisfaction of the Administrator that:

- A. Any required permits, except those to which this exemption applies, shall have been issued;
- B. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
- C. The intended use does not conflict with nearby planned or approved uses; and
- D. Any land disturbance exceeding an area of 2,500 square feet shall comply with the requirements of the Erosion and Sediment Control Ordinance of Mathews County.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 50, Erosion and Sediment Control.*

## § 175-22.50. Variances.

Pursuant to the provisions of §§ 15.2-2309 and 15.2-2310 of the Code of Virginia and the applicable provisions of Article 19 of this chapter, the Board of Zoning Appeals shall have the power to hear and decide applications for variances from the provisions of this article. Mathews County shall notify the affected public of any such variance requests and shall consider these requests in a public hearing in accordance with Section 15.2-2204 of the Code of Virginia, except that only one hearing shall be required. In addition to the requirements set forth in the Code of Virginia and elsewhere in this chapter relative to the granting of variances, the following shall apply:

- A. The applicant for a variance from the provisions of §§ 175-22.11 through 175-22.17 of this article shall submit to the Board of Zoning Appeals a written request and a water quality impact assessment as required by this article for purposes of identifying the potential impacts of the requested variance on

water quality and on lands within the RPA.

- B. The Administrator shall submit a report to the Board describing the Administrator's evaluation of the water quality impact assessment provided by the applicant;
- C. The Board shall consider the water quality impact assessment, along with all other appropriate factors, in determining if the requested variance will be in harmony with the intended spirit and purpose of this article and this chapter and must make the following findings:
  - (1) Granting the variance will not confer upon the applicant any special privileges denied by this article to other property owners in the Overlay District;
  - (2) The variance request is not based on conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
  - (3) The variance request is the minimum necessary to afford relief;
  - (4) The variance request will be in harmony with the purpose and intent of the Overlay District, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
  - (5) Reasonable and appropriate conditions are imposed which will prevent the variance request from causing a degradation of water quality.
- D. If the Board cannot make the required findings or refuses to grant the variance, the Board shall return the request for a variance together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
- E. A request for a variance to the requirements of provisions of this article other than §§ 175-22.11 through 175-22.17 shall be made in writing to the Administrator. The Administrator may grant these variances provided that:
  - (1) Variances to the requirements are the minimum necessary to afford relief; and,
  - (2) Reasonable and appropriate conditions are placed upon any variance that is granted, as necessary, so that the purpose and intent of this article is preserved.
- F. Variances to § 175-22.10 may be made provided that the findings noted in § 175-22.50C(1) through (3) are made.

## § 175-22.51. Enforcement of this article.

If the Administrator shall find that any provisions of this article, including violations of the terms and conditions of any plans, permits or approvals granted pursuant to this article, the Administrator shall have all of the enforcement powers delegated pursuant to Article 20 of this chapter and relevant provisions of Titles 15.2 and 10.1 of the Code of Virginia, including but not limited to the right to seek criminal enforcement, an award of civil penalties and injunctive relief in accordance with law.

## ARTICLE 23. Telecommunications Facilities

### § 175-23.1. Purpose.

- A. The purpose of this article is to provide an opportunity for citizens of Mathews County to access

affordable broadband service and to create a set of standards to permit various types of telecommunications structures without these structures having potential adverse impacts on the County's rural character and environmentally sensitive areas.

- B. It is intended that Mathews County shall apply these regulations to accomplish the following:
- (1) Minimize adverse visual effects of telecommunications towers, antennas and facilities through design and siting standards.
  - (2) Maintain and ensure that a nondiscriminatory, competitive and broad range of telecommunications services and high quality telecommunications infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community, as well as serve as an important and effective part of the Mathews County law enforcement, fire and emergency response network.
  - (3) Provide a process for obtaining necessary permits for telecommunications facilities while at the same time protecting the interests of Mathews County citizens.
  - (4) Protect environmentally sensitive areas of Mathews County by regulating the location, design and operation of telecommunications towers, antennas and facilities.
  - (5) Encourage the use of alternative support structures, co-location of new antennas on existing telecommunications towers and construction of towers with the ability to locate multiple providers.

## § 175-23.2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

### **ALTERNATIVE SUPPORT STRUCTURE**

Structures including but not limited to clock towers, steeples, silos, water towers, fire towers, freestanding chimneys, utility poles and towers, towers, buildings or similar structures that may support telecommunications antennas or similar devices.

### **ANTENNA**

Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of radio frequency signals when such system is either external to or attached to the exterior of a structure.

### **CO-LOCATION**

A telecommunications facility comprised of a single telecommunications tower or structure supporting multiple antennas, dishes, or similar devices owned or used by more than one public or private entity.

### **DATA POLE**

An existing, replacement or erected electrical transmission or distribution pole, telephone pole, street light or other approved similar structure with an attached antenna.

### **MONOPOLE STRUCTURE**

A single, self-supporting pole-type structure, tapering from base to top and supporting a fixture designed to accommodate one or more antennas.

### **TELECOMMUNICATIONS FACILITY**

A facility, site, or location that consists of one or more antennas, telecommunications towers, other similar communication devices and support equipment which is used for transmitting, receiving, or

relaying telecommunications signals, excluding facilities exempted under § 175-23.3.

### **TELECOMMUNICATIONS FACILITY STRUCTURE**

A telecommunications tower or alternative support structure upon which telecommunications antenna(s) may be mounted.

### **TELECOMMUNICATIONS TOWER**

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including lattice towers, guyed towers or monopole towers. This includes radio and television transmission towers, microwave towers, and common-carrier towers. It shall exclude alternative support structures and those structures exempted under § 175-23.3.

## **§ 175-23.3. General regulations.**

The following regulations apply generally to all telecommunications facility structures and are in addition to the regulations contained elsewhere in this chapter.

- A. Zoning permit required. No telecommunications facility structure, unless herein exempted, shall be erected, constructed, altered, or relocated except as provided in this article and in these regulations, until a zoning permit has been approved and issued by the Mathews County Department of Planning and Zoning. All telecommunications facilities and structures which transmit, distribute or relay electronic signals shall apply for a separate electrical permit to be approved and issued by the building official.
- (1) Prior to granting a zoning permit for the erection of a telecommunications facility structure, scaled drawings and specifications shall be filed with the Department of Planning and Zoning showing the location, dimensions, height, type of materials and the details of construction/erection of the structure including anchorage.
  - (2) When seeking approval of a telecommunications facility, the applicant shall furnish written documentation that:
    - (a) The proposed facility/structure is reasonably necessary to serve an adjacent residential property or district.
    - (b) The location of the facility/structure in relation to existing structures, trees and other buffers shall minimize, to the greatest extent practicable, any impact on affected residentially zoned property.
    - (c) Any other factors that the applicant/owner deems to be relevant to the County's consideration of a structure/facility siting.
- B. Telecommunications facility structures prohibited. Telecommunication facilities/structures shall not be allowed in the following areas:
- (1) Historic sites, structures and districts.
  - (2) Tidal and non-tidal wetlands.
  - (3) Zoning districts:
    - (a) Conservation District (C).
    - (b) Residential-2 District (R2).
    - (c) The Resource Protection Area (RPA) of the Chesapeake Bay Preservation Area Overlay District, unless approved by the Zoning Administrator through an administrative process.

- C. Exempt facilities/structures. The following telecommunications facility structures are exempted from review under Article 23:
- (1) Personal television antennas, radio antennas, satellite dishes, receive only antennas and amateur radio facilities.
  - (2) Mobile services providing public information coverage of news events or of a temporary or emergency nature.
- D. Determining structure height. The structure height shall be measured as the vertical distance from the normal grade at the base of the structure to the highest point of the structure. The maximum height of a permitted data pole, including the antenna, shall not exceed 120 feet in height from grade. The maximum height of a telecommunications tower shall be established through approval of a conditional use permit by the Board of Supervisors.
- E. Setback regulations. Telecommunications facility structures, with the exception of telecommunications towers, shall be set back a minimum of 50 feet from the edge of public rights-of-way in all zoning districts.
- F. Yard regulations.
- (1) Side: The minimum side yard for each telecommunications facility structure, with the exception of telecommunications towers, shall be five feet in all zoning districts.
  - (2) Rear: The minimum rear yard for each telecommunications facility structure, with the exception of telecommunication towers, shall be five feet in all zoning districts.
- G. Removal of structures. The Zoning Administrator may order the removal of any telecommunications structure/facility when use of the facility has been discontinued or the facility has not been used for its permitted purpose for 12 consecutive months. Mere intent to continue use of the facility shall not constitute use. The applicant/owner shall demonstrate through facility lease(s) or other similar instruments that the use will be continued without a lapse of more than 12 consecutive months to constitute actual use. If the applicant/owner cannot demonstrate actual use of the facility, it shall be considered abandoned and shall be removed. Nothing in this section prevents the removal of the facility prior to expiration of the twelve-month period.
- H. Structural requirements. All facilities/structures shall meet the structural requirements for same as set forth in the Uniform State-wide Building Code.

## § 175-23.4. Telecommunications facility structures permitted by zoning district.

- A. The following telecommunications facility structure(s) shall be permitted in the Rural District (RU), Residential-1 District (R-1), Business Districts (B-1 and B-2) and Industrial District (I):
- (1) Alternative support structure.
  - (2) Data pole.
- B. The following telecommunications facility structure(s) shall be permitted in the Rural District (RU), Residential-1 District (R-1), Business Districts (B-1 and B-2) and Industrial District (I) subject to all other requirements of this chapter, only upon obtaining a conditional use permit from the Board of Supervisors:
- (1) Telecommunications tower (including lattice towers, guyed towers and monopole towers).

## § 175-23.5. Preexisting telecommunications towers and facilities.

Existing, permitted, nonconforming telecommunications towers and facilities may have antenna(s) added, moved or replaced on said structures upon review and approval of the Department of Planning and Zoning.

## ARTICLE 24. Village Mixed Use (VMU) District

### § 175-24.1. Intent.

This district is designed to accommodate a mixture of commercial activities (particularly those that are pedestrian-oriented), institutional/public uses and residential housing types that will complement existing village development and result in the most efficient and attractive use of the County's Court House Area Business District.

### § 175-24.2. Uses permitted by right.

The following uses shall be permitted subject to all other requirements of this chapter as a matter of right in the Village Mixed Use (VMU) District:

- A. Accessory uses as defined in § 175-2.2.
- B. Alternative support structures as defined in § 175-23.2.
- C. Apartment houses, subject to § 175-24.4.
- D. Art galleries and studios.
- E. Bakeries.
- F. Barber and beauty shops.
- G. Bed-and-breakfast establishments and inns.
- H. Churches and other places of worship.
- I. Cottage and craft industries as defined in § 175-2.2.
- J. Coffee shops.
- K. Condominiums, residential, subject to § 175-24.4.
- L. Day-care centers.
- M. Dance studios.
- N. Drainage, erosion and flood-control facilities.
- O. Drug and variety stores.
- P. Dry cleaners and laundries.
- Q. Duplex, triplex, quadruplex, subject to § 175-24.4.
- R. Dwelling, multifamily, including senior (age-restricted) housing, subject to § 175-24.4.

- S. Financial institutions without drive-through windows.
- T. Flexible residential/business use with professional offices.
- U. Florist shops.
- V. Funeral homes.
- W. Hardware stores.
- X. Home appliance sales and service.
- Y. Home occupations as defined in § 175-2.2.
- Z. Medical and other professional offices.
- AA. Libraries.
- BB. Office buildings and business and governmental offices, including schools, post offices and fire, rescue squad and police stations.
- CC. Public park.
- DD. Public parking lot.
- EE. Radio and television broadcast studios excluding transmission towers.
- FF. Recycling location (dropoff) with a total capacity of 10 cubic yards or less.
- GG. Residential apartments above ground floor commercial uses.
- HH. Restaurants, dine-in or carry-out, which have no drive-through service. Service or consumption outside a fully enclosed structure is allowed.
- II. Retail food stores.
- JJ. Retail stores and shops.
- KK. Social, fraternal clubs and lodges.
- LL. Signs, subject to Article 13.
- MM. Theaters, indoor.
- NN. Therapeutic massage facilities in accordance with § 175-15.23.
- OO. Townhouses, subject to § 175-24.4.
- PP. Utility (public) generating, booster, or relay stations, transformer substations, transmission lines and towers, pipes, meters, and other facilities for the provision and maintenance of public utilities, including water and sewerage facilities; excluding major power plant generating facilities.
- QQ. Veterinary hospital without kennels.
- RR. Wayside stand, roadside stand, wayside market.

### § 175-24.3. Conditional use permits.

The following uses shall be permitted in the Village Mixed Use District (VMU), subject to all the other requirements of this chapter, only upon obtaining a conditional use permit from the Board of Supervisors.

- A. Adult bookstore in accordance with § 175-15.24.
- B. Adult theater in accordance with § 175-15.24.
- C. Assisted living facility.
- D. Auto sales and repair.
- E. Cabaret in accordance with § 175-15.24.
- F. Convalescent, nursing or rest homes.
- G. Farmer’s market.
- H. Financial institutions, with drive-through windows.
- I. Flexible residential/business use with a business use other than professional offices, subject to § 175-24.4.
- J. Hotels and motels.
- K. Local shopping centers.
- L. Museums.
- M. Recreation and amusement enterprise.
- N. Recycling location (dropoff) with a total capacity in excess of 10 cubic yards.
- O. Self-storage facilities and offices.
- P. Sewage treatment systems (private) where the subject lot or parcel shall be located outside the area identified by the Floodplain Management Ordinance of Mathews County<sup>[1]</sup> as being subject to inundation by waters of the one-hundred-year flood event.  
 [1] *Editor’s Note: See Ch. 63, Floodplain Management.*
- Q. Telecommunication towers as defined in § 175-23.2.

## § 175-24.4. Density and dimensional requirements.

- A. General standards.

<b>Standard</b>	<b>Requirement</b>
<b>Residential Density:</b>	
All single-family attached and multifamily dwelling units as part of a mixed-use development	6 dwelling units per acre (additional dwelling units per acre may be permitted with an approved CUP)
Minimum lot area	None
Minimum lot width	None
Maximum lot coverage (See Note 1)	80% (lot coverage may exceed 80% up to 100% with an approved CUP)
Maximum setback from external right-of-way (See Note 2)	30 feet
Minimum setback from right-of-way for commercial/mixed-use buildings	0 feet, or the average of adjacent buildings not to exceed 30 feet.
Minimum setback from right-of-way for residential buildings	20 feet

**Minimum rear yard:**

Single-family attached dwellings (duplexes, triplexes, quadruplexes and townhouses)	20 feet (may include alley)
Multifamily buildings (apartments)	20 feet (may include alley)
Commercial/mixed-use buildings	0 feet, 10 feet when abutting a residential district (may include alley)

**Minimum side yard:**

Single-family attached dwellings	10 feet (end unit)
Multifamily buildings (apartments)	10 feet (end unit)
Commercial/mixed-use buildings	0 feet, 10 feet when abutting a residential district (may include alley)

**Maximum height: (See Note 3)**

Commercial and mixed-use	50 feet
All attached and multifamily residential	50 feet
Accessory structures	25 feet (may exceed 25 feet up to 50 feet with an approved CUP)

**NOTES:**

Note 1: Maximum lot coverage requirement of 80% shall not apply to lots of record of 10,000 square feet or less existing at the time of adoption of the VMU District ordinance.

Note 2: Maximum setback requirements shall not apply to commercial or mixed-use buildings existing at the time of adoption of the VMU District.

Note 3: Architectural features such as chimneys, towers, belfries, cupolas, monuments, mechanical equipment, vents, spires, flag poles and/or similar architectural or structural features may exceed the height limits. Parapet walls may be up to four feet above the height of the building on which the walls rest.

- B. Accessory structures. Accessory structures are permitted within the Village Mixed Use (VMU) District, provided such structures meet the following requirements:
- (1) Accessory structures shall meet the minimum setback requirements stipulated for principal buildings in this section. The minimum side and rear yard for accessory structures shall be five feet, except that when abutting a residential use or district the side and rear yard setbacks shall be 10 feet.
  - (2) Accessory structures shall not be constructed in front of the principal buildings on a site.
  - (3) Accessory structures shall not block or limit ingress to or egress from the site itself or any buildings on the site and such structures must comply with applicable building code, fire safety, ADA, and crime prevention standards.
  - (4) Temporary outdoor seating arrangements may be located within the front setback and utilize a portion of the required sidewalk, provided that five feet of unimpeded way remains at all times.
- C. Design requirements. The following design requirements shall apply in the Village Mixed Use (VMU) District.
- (1) Public utilities. All new development in the Village Mixed Use (VMU) District shall be connected to and utilize public sewer and/or public water, where available, within the Mathews County Courthouse Sanitary District. Where new utility lines/cables are required for internal service to a new development/redevelopment project, such lines/cables shall be placed underground.
  - (2) Internal circulation.
    - (a) The use of rear alleys is encouraged. When accessed by a rear alleyway, lots are not required to front on a public or private street, provided such lots have direct access to a pedestrian

way that provides no less than five feet of clear and unimpeded area and the distance between opposing buildings is at least 30 feet. Parking lot aisle and driveway widths shall be a minimum of 12 feet for one-way travel and 22 feet for two-way travel.

- (3) Main streets. Within each new development, the developer must designate an existing or planned roadway within or adjacent to the parcel as a main street, which would be subjected to the following conditions:
  - (a) On main streets, at least 15% of the total first floor area of new mixed-use buildings fronting the street on any parcel shall be devoted to nonresidential uses. Any existing use may continue and may be expanded.
  - (b) A primary pedestrian way providing no less than five feet of clear and unimpeded area shall be provided across the front of structures (on both sides of the street) that face the main street.
  - (c) The first floor of buildings along main streets shall maintain 40% or more of their facade fronting the main street.
  - (d) In infill situations, the main street(s) of adjacent parcels shall be continued across the infill parcel unless it is demonstrated to the satisfaction of the Zoning Administrator that it is unreasonable to do so and would not contribute to maintaining community continuity.
- (4) Pedestrian facilities.
  - (a) A primary pedestrian way providing no less than five feet of clear and unimpeded area shall be provided across the front of structures (on both sides of the street) that face the main street. A pedestrian way (sidewalk) of no less than five feet of clear and unimpeded area shall be provided across the front of all other streets (both sides of the street), inclusive of residential, public and commercial uses.
  - (b) All pedestrian ways shall be illuminated by outdoor lighting that is shielded or recessed and does not create intense glare or hinder night vision. Lighting shall not exceed 18 feet in height unless mounted on a building.
  - (c) All pedestrian ways along a given street must adjoin one another or connect.
  - (d) Street trees shall be provided along each sidewalk and road frontage with a goal of achieving tree canopy coverage of the sidewalk of between 30% and 70% at maturity. Street trees planted to meet this requirement shall be native species. Existing invasive species of trees shall be removed. Existing exotic species of trees shall also be removed unless an urban forester from the Virginia Department of Forestry shall determine that the exotic species poses no risk to native species and is suitable as a street tree.
- (5) Open space requirements. Open space, consisting of active or passive recreational/gathering space, shall be provided in accordance with the following:
  - (a) A minimum of 200 square feet of open space shall be provided for each single-family attached or multifamily dwelling unit;
  - (b) A minimum of 100 square feet of open space shall be provided for each 500 gross square feet of nonresidential space.
  - (c) Minimum open space requirements may be satisfied by including common open spaces designed and improved as a plaza, square, green or landscaped courtyard within 100 feet of commercial buildings, mixed-use buildings, single-family attached dwelling units or multifamily dwelling units.

- (6) Building sizes and standards. The following building sizes and standards are applicable to new buildings and additions exceeding 50% of the original building's floor area.
- (a) Commercial and residential buildings shall not exceed 7,500 square feet gross floor area for an individual use or 15,000 square feet gross floor area for a mixed-use or multi-tenant building. Buildings exceeding this size may be allowed with a conditional use permit. Schools, public buildings and places of worship may exceed these sizes.
  - (b) Building facades shall incorporate recesses, projections, porches/arcades, and/or windows along at least 20% of the length of the facade if located on designated main streets, the first floor of all buildings located on a main street must have 40% or more of their facade fronting the main street. Varying roof lines, projections/recesses, and other elements of architectural interest are encouraged to create an attractive streetscape.
  - (c) Primary entrances to commercial and mixed-use buildings shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and inclement weather. Multiple building entrances are encouraged.
  - (d) The use of architectural styles common in pre-1940 Tidewater Virginia and/or contemporary architectural design evocative of these periods is encouraged, contributing to Mathews County's unique sense-of-place. Unique architectural designs should avoid stylistically "modern" or "post-modern" architectural elements such as curtain-wall glass. Corporate trademark design should be avoided. Concrete masonry units, precast concrete panels, concrete block, vertical ribbed metal/sheet metal exteriors or highly reflective materials shall not be used as primary exterior finishes.
- (7) Preservation of historic structures and sites.
- (a) The preservation of historic structures and sites, including the adaptive reuse of historic structures, is encouraged. The setback and arrangement requirements of the mixed-use district that apply to new construction shall not apply to historic structures in their historic setting.
  - (b) Historic structures, to the extent that such structures are nonconforming by reason of size, shape arrangement or location may be expanded or enlarged as a part of the adaptive reuse of such structures provided that the expansion or enlargement substantially preserves the historic shapes, facades, context and setting of the historic structure when viewed from public streets.
- D. Process for approval of development within the Village Mixed Use (VMU) District.
- (1) A preliminary site plan or preliminary subdivision plat shall be submitted for all development in the Village Mixed Use (VMU) District. Such preliminary site plan or preliminary subdivision plat shall comply with all relevant requirements established by the zoning, subdivision and other development ordinances in the County Code. Architectural plans containing building views from existing and proposed streets rendered in color shall be part of the submission.
  - (2) In addition to showing the parcel or parcels proposed for development, the preliminary site plan or preliminary subdivision plat shall also show all existing development and utility infrastructure within 250 feet of the proposal for the purpose of documenting interconnections and designs of streets, driveways, pedestrian facilities, parking, and uses.
  - (3) In reviewing individual site or subdivision plans within the VMU district, the Zoning Administrator and Planning Commission shall consider the purposes and intent of the mixed-use district and the underlying designation contained in the comprehensive plan and shall make specific findings in support of the action taken. The flexibility inherent in this designation shall constitute a broad

grant to the Zoning Administrator and Planning Commission to consider and approve reasonable modifications that are consistent with the overall spirit and intent of the district and the underlying comprehensive plan. Any action taken by the Zoning Administrator and/or Planning Commission shall be based on the following guidelines:

- (a) The mixed-use district is intended to involve a mixture of land uses on a smaller, pedestrian scale. Residential uses that exceed 60% of the gross area of a parcel as part of a mixed-use development or redevelopment project shall require approval of a conditional use permit.
  - (b) The scale, design and attention to detail of structures within the mixed-use district are critical to carrying out the vision of the comprehensive plan.
  - (c) Structures are intended to be located close to the street with all parking located either on-street or to the side or rear of principal structures.
  - (d) Sidewalks and sitting areas are intended to be located between streets and buildings.
  - (e) The mixed-use district is intended to have provisions for public plazas, parks, and other gathering places.
  - (f) The mixed-use district provisions are not intended to create or cause development to have adverse impacts on the health, safety, or general welfare of the general public.
- (4) All development and/or redevelopment in the district requires approval of a site plan and/or plan of development in accordance with Articles 17 and 22 of this chapter, as applicable.
  - (5) Plats and plans, upon approval, may be executed in any reasonable phased approach that provides for a rational extension of public infrastructure to serve the phases.

## **§ 175-24.5. Sign regulations.**

Sign regulations shall conform to Article 13 of this chapter.

## **§ 175-24.6. Off-street parking and loading regulations.**

Off-street parking and loading shall conform to Article 12 of this chapter.