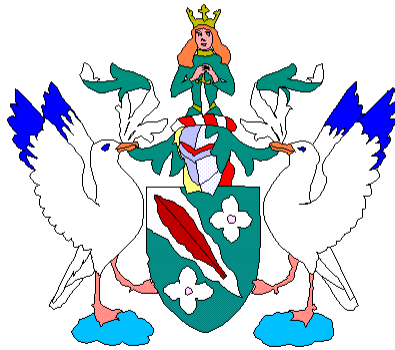


MIDDLESEX COUNTY VIRGINIA



ZONING ORDINANCE

Reprinted: June 4, 2015 to include revisions.

MIDDLESEX COUNTY

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AN ORDINANCE CLASSIFYING THE UNINCORPORATED TERRITORY OF MIDDLESEX COUNTY, VIRGINIA INTO DISTRICTS: IN EACH DISTRICT, REGULATING, RESTRICTING, PERMITTING, PROHIBITING, AND DETERMINING THE FOLLOWING:

- A. The use of land, buildings, structures, and other premises for agricultural, business, industrial, residential, flood plain and other specific uses;
- B. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;
- C. The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used;
- D. The excavation or mining of soil or other natural resources;
- E. Providing for variations in or exceptions to the general regulations in the various districts in cases of:
 - 1. unusual situations, or
 - 2. to ease the transition from one district to another, or
 - 3. for buildings, structures or uses having special requirements;
- F. Providing for the granting of special exceptions within the various districts
- G. Providing for the administration and enforcement of the ordinance;
- H. Imposing penalties for violation of the ordinance;
- I. Providing for the collection of fees to cover the costs incident to administration of the ordinance, and
- J. Filing or processing appeals and amendments; and
- K. Providing for amendment of the regulations and official zoning map, as authorized by [Title 15.2, Chapter 22, Article 7](#) of the Code of Virginia, as amended.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF MIDDLESEX COUNTY, VIRGINIA AS FOLLOWS:

ARTICLE 1: GENERAL PROVISIONS

1-1. Intent.

This ordinance is designed to:

1. Provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;
2. Reduce or prevent congestion in the public streets;
3. Facilitate the creation of a convenient, attractive and harmonious community;
4. Facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
5. Protect against destruction of or encroachment upon historic areas;
6. Protect against one or more of the following:
 - a. Overcrowding of land
 - b. Undue density or population in relation to the community facilities existing or available obstruction of light and air
 - c. Danger and congestion in travel and transportation, or
 - d. Loss of life, health, or property from fire, flood, panic or other dangers; and
7. Encourage economic development and enlarge the tax base, for the general purpose of promoting the health, safety, and general welfare of the public

1-2. Short Title.

This ordinance shall be known and may be cited as the “Middlesex County Zoning Ordinance.”

1-3. Provisions of Ordinance Declared to be Minimum Requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the more restrictive or that imposing the higher standards shall govern.

1-4. Repeal of Conflicting Ordinances.

All Middlesex County ordinances or parts of ordinances in conflict with, or inconsistent with, the provisions of this zoning ordinance are hereby repealed to the extent necessary to give this ordinance full force and effect.

1-5. Separability.

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

1-6. Effective Date.

This ordinance as amended shall be in full force and effect on and after 12:01 a.m. on March 24, 1989.

ARTICLE 2: OFFICIAL ZONING MAP

2-1. Official Zoning Map.

The location and boundaries of the zoning districts established by this ordinance are as indicated on a map entitled “Official Zoning Map, Middlesex County, Virginia,” identified by the signature of the Chairman of the Middlesex County Board of Supervisors, attested to by the County Administrator and bearing the seal of the County, together with the date of adoption of this ordinance. Said map shall be deemed to be a part of this ordinance as if it were fully set forth herein. Any area of Middlesex County not included within a zoning district on the Official Zoning Map and not identified by a zoning district name or symbol shall not be governed by this ordinance.

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 permanently located in the office of the Zoning Administrator, shall be the final authority as to the current zoning status of land, structures and uses in the County.

2-2. 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 Zoning 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.

2-3. 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 ordinance. 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 21](#).

2-4. Replacement of the Official Zoning Map.

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 ordinance 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.

The new Official Zoning Map shall be identified by the signature of the Chairman of the County Board of Supervisors, attested by the County Zoning Administrator and bear the seal of the County under the following words: “This is to certify that this Official Zoning Map was adopted on _____ as a part of the Zoning Ordinance of “Middlesex 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.

2-5. Interpretation of District Boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules apply:

1. Where district boundaries are indicated as approximately following the center lines of streets 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;
2. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines 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;
3. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries;
4. Where a district boundary is indicated to follow approximately the center line of a river, creek, branch, or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline such boundary shall be construed as moving with the actual shoreline;
5. Where a district boundary is indicated to approximately follow the shoreline of a river, creek, bay, or other body of water, said boundary shall be construed to follow such shoreline at the mean low water mark, and in the event of change in the shoreline such boundary shall be construed as moving with the actual shoreline; and
6. Where a district boundary is indicated to approximately follow the upper or inland limit of vegetated wetlands, said boundary shall be construed to follow the upper or inland limit of such wetlands as defined in Section 62.1-13.2 of the Code of Virginia, as amended.

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 a 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 3: ESTABLISHMENT OF DISTRICTS AND DISTRICT REGULATIONS

3-1. *Intent.*

For the purposes of this ordinance, the unincorporated territory of Middlesex County is hereby divided into the following districts.

Dragon Run Conservation	<u>DRC</u>
Conservation	<u>C</u>
Resource Husbandry	<u>RH</u>
Low Density Rural	<u>LDR</u>
Residential	<u>R</u>
Village Community	<u>VC</u>
Cluster Development	<u>CD</u>
General Business	<u>GB</u>
Waterfront Commercial	<u>WC</u>
Light Industrial	<u>LI</u>
Mobile Home	<u>MH</u>
Airport	<u>A</u>

The purpose of each zoning district and the regulations and restrictions applicable therein shall be as set forth in Articles 4 through 14.

3-2. *Compliance with District Regulations.*

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

1. 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;
2. No building or other structure shall be erected or altered to accommodate or house a greater number of families or to have narrower or smaller yards or other spaces than herein required, or in other manner be contrary to the provisions of this ordinance; and

3. No yard or lot existing at the time of adoption of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements set forth herein.

3-3. Lawful Uses.

Permitted uses which are listed as such in the district regulations and special exception uses which are listed as such in the district regulations and have been specifically approved by formal action of the Board of Supervisors under this ordinance shall be allowed in the respective districts provided they comply with all applicable provisions of this ordinance. All other uses which do not constitute non-conforming uses shall be prohibited.

ARTICLE 4: CONSERVATION (C) DISTRICT

(Effective: March 16, 2004)

4-1. Purpose.

The purpose of the “C” District is to protect and conserve fragile natural resource areas which perform valuable functions in their natural state and which are unsuitable for development and intense use. Areas to be designated as “C” District primarily include wetlands and swamps, but may include other areas deemed to be important for flood control, aquifer recharge, water storage, critical wildlife habitat, or similar functions.

4-2. Permitted Uses.

The following uses are permitted in the Conservation District:

1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters, and other similar structures, provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tide in tidal areas and to preserve the natural contour of marshes, swamps, and watercourse.
2. The cultivation and harvesting of shellfish, and worms for bait.
3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting preserves; provided that no structure shall be constructed except as permitted in subsection (1) of this section.
4. The cultivation and harvesting of agricultural or horticultural products; grazing and haying.
5. Conservation, repletion, and research activities of the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, Commission of Game and Inland Fisheries, and other related conservation agencies.
6. The construction or maintenance of aids to navigation which are authorized by governmental authority.
7. Uses required in order to comply with emergency decrees of the Health Official when acting to protect the public health.
8. The normal maintenance, repair, or addition to existing roads, highways, or the facilities of any person, firm, corporation, utility, or government abutting on or crossing wetlands or swamps, provided that no waterway is altered and no additional wetlands or swamps are covered.
9. Governmental activity on wetlands or swamps owned or leased by the Commonwealth of Virginia or by Middlesex County.

10. The normal maintenance of man-made drainage ditches, provided that no additional wetlands or swamps are covered; and provided further that this paragraph shall not be deemed to authorize construction of any new drainage ditch.
11. Forestry

4-3. Special Exception.

The following uses are permitted as special exceptions in the Conservation District:

1. Minor Subdivisions subject to the conditions of Section 4-7 of this ordinance.

4-4. Lot Coverage.

No use or structure shall occupy more than five (5) percent of the lot or parcel.

4-5. Minimum Lot Area and Width.

The minimum lot area for permitted uses shall be five (5) acres and the minimum lot width shall be two hundred (200) feet.

4-6. Minimum Yard Requirements.

The following yard requirements are considered to be a minimum and may be increased by the Zoning Administrator to avoid conflicts with surrounding uses:

1. Setback. Each primary or accessory use shall be located one hundred (100) feet or more from the road right-of-way.
2. Side Yard. Each primary or accessory use shall be located fifty (50) feet or more from the side boundary.
3. Rear Yard. The minimum rear yard setback for parcels that do not abut bodies of water shall be fifty (50) feet.

4-7. Limitation on Subdivision.

Major subdivisions, as defined in the Middlesex County Subdivision Ordinance, shall not be permitted in the Conservation District. Minor subdivisions and divisions of land defined as family exemptions in the Subdivision Ordinance shall be permitted in the Conservation District, except that minor subdivisions shall be limited to one (1) per tract of land fifty (50) or more acres in area. Minor subdivisions shall be permitted only upon approval of the Board of Supervisors, following procedures specified herein for approval of special exceptions. No minor subdivision shall be approved unless the subdivider demonstrates that the proposed subdivision shall not subvert the intent expressed in Section 4-1 herein.

The provision of Section 6-B-2 of the Middlesex County Subdivision Ordinance, concerning the time period within which the Subdivision Agent must act upon a minor subdivision plat, shall not apply in the case of a minor subdivision proposed to be located in an Conservation District until special exception has

been approved by the Board of Supervisors. The final plat shall contain appropriate restrictions to ensure that only the permitted uses of the Conservation District as stated in Section 4-2 of this ordinance shall continue in perpetuity on each subdivision lot.

ARTICLE 4A: CHESAPEAKE BAY PRESERVATION (CBP) DISTRICT

(Effective: December 31, 2003)

4A-1. Purpose.

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 Middlesex County and the Commonwealth of Virginia. The health of the Bay is vital to maintaining Middlesex County's economy and the welfare of its citizens.

The Chesapeake Bay waters have been degraded significantly by many sources of 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 as Chesapeake Bay Preservation Areas ("CBPAs"), 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 Middlesex County and the Commonwealth of Virginia.

It is the purpose of the Zoning Ordinance, adopted under the authority of Sections [10.1-2108](#), [10.1-2109](#), [10.1-2111](#) and [15.2-2283](#) of The Code of Virginia, the Chesapeake Bay Preservation Act, to support the goals and objectives of the Chesapeake Bay Preservation Act and the Middlesex County Comprehensive Plan by protecting and improving the water quality of the Chesapeake Bay, its tributaries, buffer areas and other sensitive environmental lands by minimizing the potential adverse effects of human activity upon these areas. The intent of the Article is to:

1. Protect existing high quality state waters;
2. Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
3. Safeguard the clean waters of the Commonwealth;
4. Reduce existing pollution;
5. Promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of Middlesex County.

The requirements contained herein establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration within the Chesapeake Bay Preservation Areas. 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.

Additionally, these regulations are intended to prevent a net increase in nonpoint source pollution from new development, achieve a ten percent (10%) reduction in nonpoint source pollution from redevelopment, and achieve a forty percent (40%) reduction in nonpoint source pollution from agricultural uses.

4A-2. Areas of Applicability.

- A. The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as Resource Protection Areas (RPAs) and qualifying as Resource Management Areas (RMAs) based upon the environmental data depicted on maps adopted by the Board of Supervisors that are on file in the office of the Planning Director.
 - 1. The Resource Protection Area (RPA) includes:
 - a. Tidal wetlands;
 - b. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - c. Tidal shores; and
 - d. A vegetated buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any water body with perennial flow.
 - 2. The Resource Management Area (RMA) includes:
 - a. The 100 year floodplain;
 - b. Non-tidal wetlands not connected by surface flow and contiguous to tidal wetlands, water bodies with perennial flow or other tidal waters;
 - c. Highly erodible and highly permeable soils;
 - d. Slopes in excess of fifteen (15) percent; and
 - e. Where none of the above features exist, the RMA will be one hundred fifty (150) foot linear distance from the landward side of the RPA.
- B. The maps adopted by the Board of Supervisors show only the general location of CBPAs and should be consulted by persons contemplating activities within Middlesex County prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under Section 4A-11 of the Zoning Ordinance through the review and approval of the plan of development process or as required under Section 4A-12 through the review and approval of a water quality impact assessment.

4A-3. Use Regulations.

Permitted uses and special exception uses shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.

4A-4. Development in Resource Protection Areas.

- A. Land development in Resource Protection Areas shall only be permitted if it:
 - 1. Is water-dependent subject to the provisions Section 4A-4.B of the Zoning Ordinance;
 - 2. Constitutes redevelopment subject to the provisions Section 4A-4.C of the Zoning Ordinance;
 - 3. Is a road or driveway crossing subject to the provisions of Section 4A-4.D of the Zoning Ordinance; and
 - 4. Constitutes a permitted encroachment subject to the provisions of Section 4A-9 of the Zoning Ordinance.
- B. A new or expanded water dependent facility shall be permitted provided that the following criteria are met:
 - 1. It does not conflict with the Middlesex County Comprehensive Plan;
 - 2. It complies with the performance criteria set forth in Section 4A-10 of the Zoning Ordinance;
 - 3. Any non-water-dependent component is located outside of the RPA; and
 - 4. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
- C. Redevelopment shall be permitted provided that the following criteria are met:
 - 1. It does not conflict with the Middlesex County Comprehensive Plan;
 - 2. There is not an increase in the amount of impervious cover;
 - 3. No further encroachment within the RPA is created; and
 - 4. It complies with the performance criteria set forth in Section 4A-10 of the Zoning Ordinance.
- D. Roads and driveways not exempt under Section 4A-14 and which, therefore, must comply with the provisions of the Zoning Ordinance, may be constructed in or across RPAs if each of the following conditions are met:

1. The Zoning Administrator makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
 2. 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;
 3. The design and construction of the road or driveway satisfy all applicable criteria of the Zoning Ordinance; and
 4. The Zoning 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 Section 4A-11 of the Zoning Ordinance.
- E. A water quality impact assessment as outlined in Section 4A-12 of this Zoning Ordinance shall be required for any proposed land disturbance, development or redevelopment within Resource Protection Areas and for any other development within Resource Management Areas when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development.

4A-5. Lot Size.

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any newly created lot shall have sufficient area outside the Resource Protection Area to accommodate an intended development, in accordance with the performance standards in Section 4A-10, when such development is not otherwise allowed in the Resource Protection Area.

4A-6. Interpretation of Resource Protection Area Boundaries.

- A. Delineation by the Applicant.

The site-specific boundaries of the Resource Protection Area shall be determined by the applicant through the performance of an environmental site assessment or water quality impact assessment in accordance with Section 4A-12 of the Zoning Ordinance, subject to approval by the Zoning Administrator and in accordance with Section 4A-11 of the Zoning Ordinance. The map approved by the Board of Supervisors may be used as a guide to the general location of Resource Protection Areas.

- B. Delineation by Zoning Administrator.

The Zoning Administrator, when requested by the applicant wishing to construct a single-family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use, hydrology, soils, plant species, and other data, and consult with other appropriate resources as needed to perform the delineation.

C. Where Conflict Arises Over Delineation.

Where the applicant has provided a determination of the Resource Protection Area, the Zoning Administrator shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with Section 4A-11 of the Zoning Ordinance. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section 4A-11.H.

4A-7. Resource Protection Area Buffer Requirements.

- A. To minimize the adverse effects of human activities on the other components of Resource Protection Areas (RPA), state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist.
- B. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The 100-foot full buffer area shall be designated as the landward component of the Resource Protection Area, in accordance with Sections 4A-2 of the Zoning Ordinance. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in Sections 4A-4, 4A-8 and 4A-9 and this Zoning Ordinance, the 100-foot buffer area shall not be reduced in width.
- C. The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

4A-8. Permitted Modifications to the Resource Protection Area Buffer.

- A. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the Zoning Administrator, 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:
 - 1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 - 2. Any path shall be constructed and surfaced so as to effectively control erosion.
 - 3. 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 allowed as permitted by the Zoning Administrator pursuant to sound horticultural practices.

4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
 5. All trees planted as replacement vegetation shall be mature, well-branched and a minimum of four (4) feet in height (excluding root mass) at planting.
 6. All trees removed without approval of the Zoning Administrator shall be replaced on a basis of two (2) replacement trees for every one (1) removed.
- B. On agricultural lands, the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
1. Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when, in the opinion of the soil and water conservation district board, at least one agricultural best management practice, which 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 100-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.
 2. Agricultural activities may encroach within the landward 75 feet of the 100-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 100-foot wide buffer area.
 3. The buffer area is not required to be designated adjacent to agricultural drainage ditches if the adjacent agricultural land has in place at least one best management practices as considered by the local Soil and Water Conservation District to address the more predominant water quality issue on the adjacent land – either erosion control or nutrient management.

- C. When agricultural or silvicultural uses within the buffer area cease, and the lands are proposed to be converted to other uses, the full 100-foot wide buffer area shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions are maintained or established.

4A-9. Permitted Encroachments into the Resource Protection Area Buffer.

- A. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may permit encroachments into the buffer area in accordance with Section 4A-11 and the following criteria:
 - 1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 - 2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
 - 3. The encroachment may not extend into the seaward 50 feet of the buffer area.
- B. When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, the Zoning Administrator may permit encroachments into the buffer area in accordance with Section 4A-11 and the following criteria:
 - 1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 - 2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel;
 - 3. The encroachment may not extend into the seaward 50 feet of the buffer area;
 - 4. Conditions or mitigation measures imposed through a previously approved CBPA Exception or variance shall be met;
 - 5. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
 - 6. The lot or parcel was created as a result of a legal process conducted in conformity with Middlesex County's subdivision regulations.

4A-10. Performance Standards.

All development or redevelopment of land in the Resource Protection Area (RPA) and Resource Management Area (RMA) shall meet the following performance standards:

- A. All development and redevelopment that exceeds 2,500 square feet of land disturbance shall be subject to a plan of development in accordance with Section 4A-11 of the Zoning Ordinance.
- B. Notwithstanding any other provisions of the Zoning Ordinance or exceptions or exemptions thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, shall comply with the requirements of the Middlesex County Erosion and Sedimentation Control Ordinance.
- C. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, any Wetlands Permit required by the provisions of the Middlesex County Wetlands Ordinance shall be obtained and evidence of such submitted to the Zoning Administrator prior to the approval of a plan of development as required by Section 4A-11 of the Zoning Ordinance.
- D. Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
 - 1. The limits of clearing and grading shall be reviewed and approved by the Zoning Administrator through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked in the development site.
 - 2. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.
- E. Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.
 - 1. Existing trees over four (4) inches diameter at breast height (DBH) shall be preserved outside the approved construction footprint.
 - 2. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the Zoning Administrator. Other woody vegetation on site shall also be preserved outside the approved construction footprint.
- F. Land development shall minimize impervious cover consistent with the proposed use or development.
- G. On-site sewage treatment systems not requiring a Virginia Pollutant Discharge Elimination System (VPDES) permit shall:
 - 1. All on-site sewage disposal systems not requiring a NPDES permit shall be pumped out at least once every five years.

2. 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. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 and such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department. Building or the construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board, until the structure is served by public sewer. As an alternative, alternating drainfields may be installed in lieu of the 100 percent reserve drainfield provided that the following conditions are met:
 - a. Each of the two alternating drainfields shall have at a minimum, an area of not less than 50 percent of the area that would otherwise be required if a single primary drainfield were constructed.
 - b. An area equaling 50 percent of the area that would otherwise be required for the primary drainfield site must be reserved for subsurface absorption systems that use a flow diversion device, in order to provide for future replacement or repair to meet the requirements for a sewage disposal system and that expansion of the primary system will require an expansion of this reserve area.
 - c. The two alternating drainfields shall be connected by a diversion valve that has been approved by the Health Department, is located in the pipe between the septic tank and the distribution boxes and is used to alternate the direction of the effluent flow to one drainfield or the other at a time.
 - d. Such diversion valves shall not be used for sand mounds, low-pressure distribution systems, repair situations when the installation of a valve is not feasible or and other approved system for which the use of a valve would adversely affect the design of the system as determined by the Health Department.
 - e. The diversion valve shall be a three-port, two-way valve of approved materials.
 - f. There shall be a conduit from the top of the valve to the ground surface with an appropriate cover to be level with or above the ground surface.
 - g. The valve shall not be located in driveways, recreational courts, parking lots, or beneath sheds and other structures.
 - h. The property owner shall alternate the drainfields every 12 months to permit the yearly resting of half the absorption system.

- i. The property owner shall notify the Health Department that the drainfields have been alternated. The County shall ensure that the owner(s) are notified annually of the requirement to switch the valve to the opposite drainfield.
- H. 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.).
 - 1. For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load;
 - 2. For redevelopment, the nonpoint source pollution load shall be reduced by at least 10 percent. The Zoning Administrator may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided the following provisions are satisfied:
 - a. In no case may the post-development nonpoint source pollution runoff load exceed the pre-development load;
 - b. Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution; and
 - c. If best management practices are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service
- I. Land upon which agricultural activities are being conducted shall undergo a soil and water quality conservation 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.

4A-11. Plan of Development Process.

- A. Purpose and Intent.

The purpose of the plan of development process is to provide for a review process that ensures that development and redevelopment complies with the provisions of this Article and that protects the quality of state waters.

B. Applicability.

A plan of development shall be required for any development or redevelopment exceeding 2,500 square feet of land disturbance in the Resource Protection Area (RPA) or Resource Management Area (RMA). A plan of development shall be approved prior to any development preparation activities onsite, such as clearing and grading of the site and the issuance of a Zoning and Building Permit, to assure compliance of all applicable requirements of the Zoning Ordinance.

C. Submission and Review Requirements.

1. For all individual single-family dwellings in the RPA and all development in the RMA, the plan of development shall consist of the following plans and studies:
 - a. A water quality impact assessment in accordance with the provisions of Section 4A-12 of this Zoning Ordinance.
 - b. An erosion and sedimentation control plan in accordance with the provisions of the Middlesex County Erosion and Sedimentation Control Ordinance.
 - c. A valid Wetlands Permit for any activities specified as requiring a permit in the provisions of the Middlesex County Wetlands Ordinance.
2. For all development or redevelopment other than individual single-family dwellings in the RPA, the plan of development shall consist of the plans and studies:
 - a. A water quality impact assessment in accordance with the provisions of Section 4A-12 of this Zoning Ordinance;
 - b. An environmental site assessment in accordance with the provisions of Section 4A-11.D of this Zoning Ordinance;
 - c. A landscaping plan in accordance with the provisions of Section 4A-11.E of this Zoning Ordinance;
 - d. A stormwater management plan in accordance with the provisions of Section 4A-11.F of this Zoning Ordinance;
 - e. An erosion and sediment control plan in accordance with the provisions of the Middlesex County Erosion and Sedimentation Control Ordinance.
 - f. A valid Wetlands Permit for any activities specified as requiring a permit in the provisions of the Middlesex County Wetlands Ordinance.
3. Three (3) copies of all plans of development shall be submitted to the Zoning Administrator for review. All information required by Section 4A-11.C of this Zoning Ordinance must be submitted for an application to be considered complete.

D. Environmental Site Assessment.

1. The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
 - a. Tidal wetlands;
 - b. Tidal shores;
 - c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
 - d. A 100 foot buffer located adjacent to and landward of the components listed in subsections a. through c. above, and along both sides of any water body with perennial flow; and
 - e. Other sensitive environmental features as determined by Zoning Administrator.
2. Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1986.
3. The environmental site assessment shall delineate the geographic extent of the Resource Protection Area on the specific site or parcel as required under Section 4A-2 of the Zoning Ordinance.
4. The environmental site assessment shall be certified as complete and accurate by a professional engineer or a certified land surveyor. The Zoning Administrator may waive this requirement when the proposed use or development would result in less than 5,000 square feet of disturbed area.

E. Landscaping Plan.

1. The landscaping plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. The plan shall include the following information:
 - a. All existing trees on the site four (4) inches or greater diameter at breast height (DBH) shall be shown on the landscaping plan, or where there are groups of trees, said stands may be outlined instead. The specific number of trees four (4) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the landscaping 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 landscaping 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 Section 4A-10 of this Zoning Ordinance, shall be shown on the plan. Vegetation required by this ordinance to replace any existing trees within the buffer area shall also be depicted on the landscaping 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 landscaping plan.
- e. The 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 to be preserved.
- f. The landscaping plan will 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.

2. Plant Specifications.

- a. All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- c. Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a two (2) planted trees to one (1) removed. All trees planted as replacement vegetation shall be mature, well-branched and a minimum of four (4) feet in height (excluding root mass) at planting.

3. Maintenance.

- a. The applicant shall be responsible for the maintenance, repair and replacement of all vegetation as may be required by the provisions of the Zoning Ordinance.

- 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, as required by the provisions of the Zoning Ordinance.

F. Stormwater Management Plan.

- 1. The stormwater management plan shall be drawn to scale and clearly delineate following information:
 - a. Location and design of all planned stormwater control devices and BMPs;
 - b. Procedures for implementing non-structural stormwater control practices and techniques;
 - c. Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
 - d. For facilities, verification of structural soundness, including a Professional Engineer or Class IIIB Surveyor Certification;
- 2. All engineering calculations must be performed in accordance with the procedures outlined in the current edition of the Virginia Stormwater Management Handbook.
- 3. The plan shall establish a 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 Middlesex County then a maintenance agreement shall be executed between the responsible party and Middlesex County.

G. Installation and Bonding Requirements.

- 1. Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant material or facilities is completed in accordance with the approved site plan.
- 2. 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 Middlesex County a form of surety satisfactory to the Zoning Administrator in an amount equal to the remaining plant materials, related materials, or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities.

3. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the Middlesex County.
4. All required stormwater management facilities or other specifications shall be installed and approved within eighteen (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 Middlesex County. The Middlesex County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
5. After all required action of the approved site plan have been completed, the applicant must submit a written request for final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following receipt of the applicant's request for final inspection.

H. Plan of Development Approval.

The Zoning Administrator shall approve, approve subject to conditions or disapprove all plans of development. The Zoning Administrator shall return notification of plan review results to the applicant, including recommended conditions or modifications. In the event that the results and/or recommended conditions or modifications are acceptable to the applicant, the plan shall be so modified, if required, and approved.

I. Denial of Plan, Appeal of Conditions or Modifications.

In the event the final plan or any component of the plan of development process is disapproved or recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Board of Zoning Appeals. In granting or denying an appeal, the Board of Zoning Appeals must find such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this Article. If the Board of Zoning Appeals finds that the applicant's plan does not meet the above stated criteria, they shall deny approval of the plan.

4A-12. Water Quality Impact Assessment.

A. Purpose and Intent

The purpose of the water quality impact assessment is to:

1. Identify the impacts of proposed land disturbance, development or redevelopment on water quality and lands in RPAs and other environmentally sensitive lands;

2. Ensure that, where land disturbance, development or redevelopment does take place within RPAs 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 RPAs and other sensitive lands;
3. 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;
4. Provide for administrative relief from terms of the Zoning Ordinance when warranted and in accordance with the requirements contained herein; and
5. Specify mitigation that will address water quality protection.

B. Applicability

A water quality impact assessment shall be required for:

1. Any proposed land disturbance, development or redevelopment activity within a Resource Protection Area as permitted consistent with Section 4A-4 of the Zoning Ordinance;
2. Any buffer modification or encroachment as provided for in Section 4A-7 or 4A-8 of the Zoning Ordinance; or
3. Any other development in Resource Management Areas as deemed necessary by the Zoning Administrator due to the unique site characteristics or intensity of the proposed use or development.

C. Minor Water Quality Impact Assessment

A minor water quality impact assessment shall be required for any development or redevelopment activity within an RPA that causes no more than 10,000 square feet of land disturbance and/or which proposes to modify or encroach into the landward 50 feet of the 100 foot buffer area as permitted under Section 4A-7.B of the Zoning Ordinance. A minor water quality impact assessment shall be required for all individual single-family dwellings, regardless of size of land disturbance. A minor water quality impact assessment shall demonstrate through acceptable calculations that the undisturbed buffer area and necessary best management practices will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater run-off and will retard run-off, prevent erosion and filter non-point source pollution to the equivalent of the full undisturbed 100-foot buffer area.

A minor water quality impact assessment shall include a site drawing to scale that shows the following:

1. Location of the components of the RPA, including the 100 foot buffer area;

2. Location and nature of the proposed encroachment into the buffer area, including, type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
3. Type and location of proposed best management practices to mitigate the proposed encroachment;
4. 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
5. Re-vegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

D. Major Water Quality Impact Assessment

A major water quality impact assessment shall be required for any development or redevelopment activity within an RPA that causes more than 10,000 square feet of land disturbance and/or which proposes to modify or encroach into the landward 50 feet of the 100 foot buffer area as permitted under Section 4A-7.B of the Zoning Ordinance. A major water quality impact assessment shall be required for any other development in Resource Management Areas as deemed necessary by the Zoning Administrator due to the unique site characteristics or intensity of the proposed use or development. A major water quality impact assessment shall demonstrate through acceptable calculations that the remaining buffer area and necessary best management practices will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development post-development stormwater run-off and will retard run-off, prevent erosion and filter non-point source pollution to the equivalent of the full undisturbed 100-foot buffer area.

A major water quality impact assessment shall include a site drawing to scale showing the following:

1. All of the information required in a minor water quality impact assessment, as specified in Section 4A-12.C;
2. A hydrogeological study that describes the existing topography, soils, hydrology and geology on the site and adjacent lands, and indicates the impacts of the proposed development on these features as well as the following:
 - a. Any detrimental impact on wetlands, including (but not limited to) any disturbance or removal, and justification of such action;
 - b. Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other waterbodies;
 - c. Disruptions to existing hydrology including wetlands and stream circulation patterns;

- d. Source location of and description of proposed fill material;
 - e. Location of dredging and location of dumping area for such dredged material;
 - f. Estimation of pre- and post development pollutant loads in runoff;
 - g. Estimation of percent increase in impervious surface on site, type(s) of surfacing material used;
 - h. Percent of site to be cleared for project;
 - i. Anticipated duration and phasing schedule of construction project; and
 - j. Listing of all requisite permits from all applicable agencies necessary to develop project.
3. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigative measures include:
- a. Additional proposed erosion and sediment control concepts beyond those normally required under Section 4A-11.F of the Zoning Ordinance; these additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection; and
 - b. Proposed stormwater management system for nonpoint source quality and quantity control.

E. Submission Requirements

Three (3) copies of all water quality impact assessments shall be submitted to the Zoning Administrator for review. All information required by Section 4A-12.C or 4A-12.D of this Zoning Ordinance must be submitted for an application to be considered complete.

F. Evaluation Procedure

- 1. Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine that any proposed modification or encroachment into the buffer area is consistent with the provisions of the Zoning Ordinance and make a finding based upon the following criteria:
 - a. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
 - b. Impervious surface is minimized;

- c. Proposed mitigation measures, including the revegetation plan and site design, result in minimal disturbance to all components of the RPA, including the 100-foot buffer area;
 - d. Proposed mitigation measures will work to retain all buffer area functions: pollutant removal, erosion and runoff control;
 - e. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
 - f. The development, as proposed, is consistent with the spirit and intent of the Zoning Ordinance;
 - g. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
2. Upon the completed review of a major water quality impact assessment, the Zoning Administrator will determine whether or not the proposed development is consistent with the spirit and intent of the Zoning Ordinance and make a finding based upon the following criteria:
- a. Within any RPA, the proposed development is water-dependent or redevelopment;
 - b. The percentage of existing wetlands disturbed by the development. The number of square feet or acres to be disturbed.
 - c. The development will not result in significant disruption of the hydrology of the site;
 - d. The development will not result in unnecessary destruction of plant materials on site;
 - e. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation;
 - f. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve “no net increase” in pollutant loadings;
 - g. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as runoff control and pollutant removal equivalent of the full 100-foot undisturbed buffer area;
 - h. The design and location of any proposed drainfield will be in accordance with the requirements of Section 4A-10.F;
 - i. The development is consistent with the spirit and intent of the Overlay District.

3. The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed in Section 4A-12.F of the Zoning Ordinance.
4. The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of the Zoning Ordinance when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria listed in Section 4A-12.F of the Zoning Ordinance.

4A-13. Nonconforming Uses and Structures.

The lawful use of a building or structure which existed on March 1, 2003 and which is not in conformity with the provisions of this District may be continued in accordance with Section 18-5 of the Middlesex County Zoning Ordinance.

No change or expansion of use shall be allowed with the exception that:

- A. The Zoning Administrator may grant a nonconforming use waiver for structures on legal nonconforming lots or parcels to provide for remodeling or alterations to such nonconforming structures provided that:
 1. There will be no increase in nonpoint source pollutant load; and
 2. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of the Middlesex County Erosion and Sedimentation Control Ordinance.
- B. The Zoning Administrator may grant a nonconforming use waiver for reconstruction of pre-existing structures occurring as a result of casualty loss.
- C. An application for a nonconforming use waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include for the purpose of proper enforcement of the Zoning Ordinance, the following information:
 1. Name and address of applicant and property owner;
 2. Legal description of the property and type of proposed use and development;
 3. A sketch of the dimensions of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area;
 4. Location and description of any existing private water supply or sewage system.

- D. An application for the expansion of a legal principal nonconforming structure shall be approved by the Zoning Administrator through an administrative review process provided that the following findings are made:
1. The request for the waiver is the minimum necessary to afford relief;
 2. 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;
 3. The waiver is in harmony with the purpose and intent of the Zoning Ordinance and does not result in water quality degradation;
 4. The waiver is not based on conditions or circumstances that are self-created or self-imposed;
 5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
 6. Other findings, as appropriate and required by the Zoning Administrator are met; and
 7. In no case shall this provision apply to accessory structures.
- E. A nonconforming use waiver shall become null and void twelve (12) months from the date issued if a Zoning and Building Permit has not been obtained for the project.
- F. A nonconforming use waiver shall be issued only on the basis of plans and applications approved by the Zoning Administrator and authorizes 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 ordinance and punishable under Section 21-10 of the Zoning Ordinance.

4A-14. Exemptions.

- A. Exemptions for Public Utilities, Railroads, Public Roads, and Facilities

Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this Article. The exemption of public roads is further conditioned on the following:

1. The road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

B. Exemptions for Local Utilities and Other Service Lines.

Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted or both, by a local government or regional service authority shall be exempt from the Overlay District provided that:

1. To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas;
2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
3. All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
4. Any land disturbance exceeding an area of 2,500 square feet complies with the Middlesex County Erosion and Sedimentation Control Ordinance.

C. Exemptions for Silvicultural Activities.

Silvicultural activities are exempt from the requirements of the Zoning Ordinance provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the most recent edition of “Virginia’s Forestry Best Management Practices for Water Quality.”

D. Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempt from the Overlay District provided that they comply with the requirements listed below in subdivisions 1 through 4 below: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails, and pathways; and (iii) historic preservation and archaeological activities.

1. Any required permits, except those to which this exemption specifically applies, shall have been issued; and
2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and
3. The intended use does not conflict with nearby planned or approved uses.
4. Any land disturbance exceeding an area of 2,500 square feet shall comply with the Middlesex County Erosion and Sedimentation Control Ordinance.

4A-15. Exceptions.

- A. A request for an exception to the requirements of Sections 4A-4, 4A-8 and 4A-9 of the Zoning Ordinance shall be made in writing to the Board of Zoning Appeals. It shall identify the impacts of the proposed exception on water quality and on lands within the Resource Protection Area through the performance of a water quality impact assessment that complies with the provisions of Section 4A-12 of the Zoning Ordinance.
- B. The Board of Zoning Appeals shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with §15.2-2204 of the Code of Virginia.
- C. The Board of Zoning Appeals shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the Zoning Ordinance if the Board of Zoning Appeals finds:
 - 1. Granting the exception will not confer upon the applicant any special privileges denied by this Article to other property owners in the Overlay District;
 - 2. The exception 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 non-conforming that are related to adjacent parcels;
 - 3. The exception request is the minimum necessary to afford relief;
 - 4. The exception 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 exception request from causing a degradation of water quality.
- D. If the Board of Zoning Appeals cannot make the required findings or refuses to grant the exception, the Board of Zoning Appeals shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.
- E. A request for an exception to the requirements of provisions of this Article other than Sections 4A-4, 4A-7, 4A-8 and 4A-9 shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:
 - 1. Exceptions to the requirements are the minimum necessary to afford relief;
 - 2. Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purposed and intent of the Zoning Ordinance is preserved; and

- 3. Exceptions under Section 4A-10 may only be provided that findings noted in Section 4A-15.C made.
- F. An exception shall become null and void twelve (12) months from the date issued if a Zoning and Building Permit has not been obtained for the project.
- G. An exception shall be issued only on the basis of plans and applications approved by the Zoning Administrator and authorizes 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 ordinance and punishable under Section 21-10 of the Zoning Ordinance.
- H. Subject to §15.2-2309.2 of the Code of Virginia, the exception process shall not preclude the right of any property owner to obtain a variance to the provisions of the Zoning Ordinance, when, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. The procedures set forth in Sections 20-2 shall be followed for obtaining a variance.

ARTICLE 5: DRAGON RUN CONSERVATION (DRC) DISTRICT

5-1. Purpose.

The purpose of the Dragon Run Conservation “DRC” District is to protect and conserve fragile resource areas which perform valuable functions in their natural state and which are unsuitable for development and intense use. Areas to be designated as the DRC primarily include wetlands and swamps, but may include other areas deemed to be important for flood plain management, aquifer recharge, water storage, critical wildlife habitat, or similar functions.

The boundary between the DRC and other zoning districts shown on the Official Zoning Map shall consist, for the purpose of this ordinance, of those areas of Kinston-Bibb Complex and Pocaty soils adjacent to the boundary line between Middlesex County and the county or counties of Gloucester, King and Queen, and Essex, plus an additional 100 foot buffer strip measured horizontally from the inland most boundary of these soil types. However, when there is a rise in elevation of 10 feet or greater within 50 feet (horizontally measured) from the edge of Kinston-Bibb Complex and Pocaty soils, then the 100 foot buffer strip shall be measured from the highest point of elevation within said 50 feet.

5-2. Permitted Uses.

The following are permitted within the DRC. Note that whenever these permitted uses are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive or one imposing the higher standards shall govern.

1. The construction and maintenance of non-commercial catwalks, piers, fences, and duckblinds, provided that such structures are so constructed on pilings as to permit the reasonably unobstructed flow of the tidal areas, or natural flow in non-tidal areas, and to preserve the natural contour of marshes, swamps and water courses.
2. The cultivation and harvesting of shellfish and worms for bait.
3. Non-commercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shellfishing, horseback riding, swimming, and skeet and trap shooting; provided that no structure shall be constructed except as permitted in subscription (1) of this section.
4. Conservation, repletion, education, and research activities of the Virginia Marine Resources Commission, the Virginia Institute of Marine Science, the Commission of Game and Inland Fisheries, and other related conservation agencies.
5. The normal maintenance, repair, or addition to existing roads, highways, or the facilities of any person, firm, corporation, utility, or government abutting on or crossing wetlands or swamps, provided that no waterway is altered and no additional wetlands or swamps are covered or drained.
6. Governmental activity on wetlands or swamps owned or leased by the Commonwealth of Virginia or by Middlesex County.

7. The normal maintenance of existing man-made drainage ditches, provided that no additional wetlands or swamps are covered or drained and provided further that this paragraph shall not be deemed to authorize construction of any new drainage ditch.
8. Agricultural management activities must incorporate the application of Best Management Practices (BMPs) in a plan approved by the local Soil and Water Conservation District.
9. Forestry management activities must incorporate the application of Best Management Practices in a plan approved by the Virginia Department of Forestry.

ARTICLE 6: RESOURCE HUSBANDRY (RH) DISTRICT

6-1. Purpose.

The purpose of the Resource Husbandry “RH” District is to conserve and protect from competing or incompatible uses, traditional agricultural and forestry uses of large tracts which are particularly well suited for such uses by virtue of soil, topographic, and other natural conditions. The protection of large agricultural and forestry tracts is necessary to promote the general health and welfare of the County by insuring that valuable natural resources such as timber and fertile farmlands are properly managed and preserved for present beneficial environmental effects and for use of future generations. To this end, the “RH” District is intended to be occupied and used almost exclusively by large-scale agricultural and forestry uses and to provide areas in which these uses may be freely and intensively conducted with minimum potential for conflict with or competition from incompatible uses. In addition to agricultural and forestry, permitted uses in the “RH” District will be limited to those which support the two primary uses or which offer no potential for competition or conflict.

Residential uses are permitted, but the “RH” District is not intended to be a general residential district. The residential use is included primarily to accommodate farm families and farm laborers, and secondarily to enable retired farmers to sell a limited number of home sites for income purposes, thereby reducing the risk that farms will be sold to reduce the financial burden of taxes and maintenance expenses. To this end, subdivision of land is severely restricted in the “RH” District. Residential uses will be encouraged to locate considerable distances from highways and to avoid strip development along highways.

6-2. Minimum District Size.

No Resource Husbandry District shall be less than one hundred (100) acres in area.

6-3. Permitted Uses.

The following uses are permitted in the Resource Husbandry District:

1. Agriculture
2. Forestry
3. Noncommercial recreation
4. Conservation areas and wildlife management preserves
5. Electric power transmission facilities, including substations
6. Telephone transmission and relay facilities
7. Rural Home Occupations
8. Accessory uses,
9. Bed and Breakfast Inns,

10. Greenhouses,
11. Detached single family dwellings (See Section 6-9)
12. Wayside Stand.
13. Manufactured homes. (Amended 12/15/98)
14. Home Occupation, Residential (*Amended 11-6-13*)

6-4. Special Exception.

The following uses are permitted as special exceptions in the Resource Husbandry “RH” District:

1. Surface Mining
2. Minor Subdivisions
3. Sanitary Landfills
4. The locating of a second principle residential structure on a single parcel of land exceeding fifty (50) acres in size. (*Amended 7-2-13*)

6-5. Special Exception Criteria.

Special exception uses shall satisfy all of the following criteria:

1. All structures, storage areas, and activities shall be located at least fifty (50) feet from all property lines.
2. No structures, storage, area, or activity shall be located closer than five hundred (500) feet to any residential district.
3. All permitted structures and uses shall be kept and maintained in a neat and orderly manner.
4. Any use shall not generate noise, smoke, fumes, glare, traffic, or fire hazards which would constitute a nuisance or danger to adjoining properties.
5. Mined lands shall be restored to a condition acceptable to the Zoning Administrator in consultation with the Soil and Water Conservation District, USDA. Reclamation of mined lands shall be scheduled on a basis that is reasonable for the size and physical feature of the surface mining operation. The Zoning Administrator shall have the authority to require a reasonable bond, as appropriate, to ensure proper surface restoration.
6. The following criteria shall be met for Special Exception use 6-4.4:

- a. The use shall be located greater than five hundred (500) feet to any residential district.
- b. The property shall have access to an existing state maintained highway via a public or private right-of-way.

(Amended 7-2-13)

6-6. Minimum Lot Size.

The minimum lot area for single family dwellings shall be two and one-half (2.5) acres and the minimum lot width shall be two hundred (200) feet at the building setback line. Each lot shall have a minimum road frontage requirement of sixty (60) feet. *(Amended 12/15/98)*

1. The area for a lot or parcel subdivided for sale or gift to an immediate family member of the property owner, pursuant to the provisions of Section 15.2-2244 of the Code of Virginia, may be reduced to a minimum of no less than one (1) acre with a minimum lot width of no less than one-hundred fifty (150) feet at the building setback line. *(Amended 12/15/98)*

6-7. Setback.

The minimum setback for primary structures shall be sixty (60) feet from rights of way and private street lines.

6-8. Location of Buildings.

No principal or accessory building shall be erected, constructed, or placed closer than fifty (50) feet to any boundary of the property on which it is located.

6-9. Limitation on Subdivision.

Major subdivisions, as defined in the Middlesex County Subdivision ordinance, shall not be permitted in the "RH" District. Minor subdivisions and divisions of land defined as family exemptions in the Subdivision Ordinance shall be permitted in the "RH" District, except that minor subdivisions shall be limited to one (1) per tract of land fifty (50) or more acres in area. Minor subdivisions shall be permitted only upon approval of the Board of Supervisors, following procedures specified herein for approval of special exceptions. No minor subdivision shall be approved unless the subdivider demonstrates that the proposed subdivision meets all of the following criteria:

1. The property to be subdivided must be unsuitable for agricultural or forestry use due to location, size, shape, topography, or other factors.
2. The subdivision shall not subvert the intent expressed in [Section 6-1](#) herein.
3. Creation of the subdivision shall not render adjacent land unsuitable for agricultural or forestry use.

The provision of Section 6-B-2 of the Middlesex County Subdivision Ordinance, concerning the time period within which the Subdivision Agent must act upon a minor subdivision plat, shall not apply in the

case of a minor subdivision proposed to be located in an “RH” District until special exception has been approved by the Board of Supervisors.

ARTICLE 7: LOW DENSITY RURAL (LDR) DISTRICT

7-1. Purpose.

Middlesex County is predominantly rural in character and should remain so according to the Comprehensive Plan. The rural character of the County promotes the general health, welfare and safety of the citizens of the County by insuring them with a quiet, peaceful, uncluttered and safe living environment. The “LDR” District is intended to aid in the achievement of this goal by providing for a low density mixture of the primary uses of agriculture and forestry and secondary residential, recreational, and selected non-intensive commercial and public or quasi-public uses, throughout a major portion of the County. In order to protect agricultural and forestry uses, the range of other permitted uses is limited, but not to the same degrees as in the “[RH](#)” District. Strip development will be discouraged in favor of cluster development in order to avert undue pressures on land values and to prevent landlocking of parcels which do not abut highways.

7-2. Permitted Uses.

The following uses are permitted in the Low Density Rural District:

1. Agriculture
2. Forestry
3. Single-family dwellings
4. Manufactured Homes (*Amended-Redefined, 4/4/95*)
5. Horticulture
6. Hunting and fishing clubs
7. Natural wildlife preserves and similar conservation uses
8. Golf courses
9. Country clubs and riding stables
10. Churches and other places of worship
11. Schools
12. Parks and playgrounds
13. Cemeteries
14. Uses required for the maintenance and provision of public facilities and utilities
15. Veterinary hospitals and animal kennels

16. Accessory uses
17. Rural home occupations
18. Publicly owned airports
19. Auction houses
20. Bed and Breakfast Inns
21. Greenhouses/Nursery (*Amended 1/23/96*)
22. Homes for the Aged
23. Wayside Stand
24. Aquaculture (*Amended 3/17/92*)
25. Group residential facility pursuant to Code of Virginia, § 15.2-2291 (*Amended 5/16/06*)
26. Family day home pursuant to Code of Virginia, § 15.2-2292 (*Amended 5/16/06*)
27. Home Occupation, Residential (*Amended 11-6-13*)
28. The locating of more than one (1) principle residential structure on an individual parcel of land for an immediate family member subject to the requirements of Article 15-20. (*Amended 12/3/13*)
29. Family Day Home, Six (6) to Twelve (12) Children, subject to the requirements of Section 15-28 and pursuant to Code of Virginia, § 15.2-2292, as amended. (*Added by Amendment 6-2-15*)

7-3. Special Exceptions.

The following uses are permitted as special exceptions in the Low Density Rural District:

1. Country general stores
2. Camps and campgrounds
3. Marinas and boat yards
4. Sawmills and planing mills
5. Seafood processing plants
6. Farm implement sales
7. Feed, seed, and fertilizer sales

8. Professional occupations
9. Service businesses
10. Convenience stores
11. Surface mining
12. The locating of more than one (1) principle residential structure on a single parcel of land exceeding twenty-five (25) acres in size (NOTE: The allowance for more than one structure per individual parcel of land shall not exceed one principle residential structure per twenty-five (25) acres) *(Amended 4/4/95)*
13. Junkyards
14. Private landing strips for exclusive use of owners, clients and guests
15. Contractors
16. Yacht Clubs
17. Public and Private Communications Facilities *(Amended 7/15/97)*
18. Self-Storage Center *(Amended 9/16/97)*
19. Repair Garages *(Amended 11/19/97)*
21. Automobile Racetrack *(Amended 5/16/00)*
22. Sport Shooting Facilities subject to the requirements of Article 7-4.9 *(Amended 10/20/04)*
23. Assembly and Retreat Facilities *(Amended 2/19/02)*
24. Accessory Dwelling Units subject to the provisions of Section 15-22 of this Ordinance *(Amended 2/21/06)*
25. Child Care Center *(Amended 5/16/06)*
26. School for Firearms Training subject to the requirements of Article 7-4.10 *(Amended 9/20/11)*
27. Restaurant and/or Catering subject to the requirements of Article 7-4-11 *(Amended 8/21/12)*

7-4. Special Exception Criteria.

Special exception uses shall satisfy all of the following criteria:

1. Shall not be located closer than five hundred (500) feet to any residential district. This requirement shall not apply to Special Exception uses 7-3.12 and 7-3.24. *(Amended 1-15-13)*
2. The property shall abut an existing highway maintained by the Virginia Department of Highways and Transportation. This requirement shall not apply to Special Exception uses 7-3.12 and 7-3.24. *(Amended 1-15-13)*
3. Loudspeakers which constitute a nuisance to adjoining properties shall not be permitted.
4. Lighting shall not shine directly on adjacent properties.
5. All permitted structures and uses shall be kept and maintained in neat and orderly manner.
6. The use shall not generate noise, smoke, fumes, glare, traffic, or fire hazards which would constitute a nuisance or danger to adjoining properties.
7. Mined lands shall be restored to a condition acceptable to the Zoning Administrator in consultation with the Soil and Water Conservation District, USDA. Reclamation of mined lands shall be scheduled on a basis that is reasonable for the size and physical feature of the surface mining operation. The Zoning Administrator shall have the authority to require a reasonable bond, as appropriate, to ensure proper surface restoration.
8. The term “immediate family member” as it applies to Section 7-3.12 shall refer to the grandparent, brother, sister, son, daughter, or grandchild of the property owner *(Amended 4/4/95)*.
9. In addition to the above referenced special exception criteria, all sport shooting facilities shall meet the following requirements:
 - a. The following property requirements shall be maintained for all sport shooting facilities:
 - i. The minimum size of any property with a sport shooting facility shall be 150 acres;
 - ii. No firing point shall be located within one thousand (1000) feet of any adjoining property line;
 - iii. No firing point shall be located within one thousand (1000) feet of the mean high water (MHW) mark of any water body, including – but not limited to – ponds, streams, creeks and rivers;
 - iv. No property containing a sport shooting facility shall be located within one thousand (1000) feet of a property in the Residential, Village Community or Cluster Development zoning districts; and
 - v. A minimum of three hundred (300) feet of mature forested buffer shall be provided on the perimeter of the property for noise reduction.

- b. All outdoor pistol and rifle ranges shall incorporate the following minimum safety equipment:
 - i. A backstop with a minimum height of 20 feet or 8 degrees vertical above the firing point, whichever is greater;
 - ii. Baffles designed to protect misdirected shots;
 - iii. Side berms along the entire length of the firing range with a minimum height of 10 feet;
 - iv. All other safety equipment necessary to keep all projectiles within property boundaries; and
 - v. Trained and qualified personnel must operate the facility.
- c. All indoor ranges shall be designed so that all projectiles fired from all firing points are retaining inside the building. For indoor ranges, the requirements of Section 7-4.9.a of this ordinance may be reduced at the discretion of the Board of Supervisors if suitable noise reduction methods are utilized.
- d. The area used as a sport shooting facility shall be fenced and posted (at least every 50 feet) so that access to the site is controlled to insure the safety of patrons, spectators and the public at large.
- e. All sport shooting facilities shall be designed by an engineer, architect, land surveyor or landscape architect licensed to practice in the State of Virginia. The following materials must be submitted along with the special exception application for the sport shooting facility:
 - i. A diagram of the layout of the sport shooting facility which shows:
 - 1. The general design of the facility;
 - 2. The location of all proposed firing points;
 - 3. The proposed types of shooting being conducted at each firing point;
 - 4. The distances from all firing points to all target areas;
 - 5. The location of all proposed backstops, berms, baffles and other safety design elements; and
 - 6. Existing and proposed contours at two (2) foot intervals.
 - ii. A plan for noise abatement, safety and lead containment/removal.

- f. The addition of new firing points in a previously approved sport shooting facility must be approved by the Middlesex County Board of Supervisors by the same procedures as a new special exception application.
 - g. In addition to the requirements of Section 15.2-2204 of the Code of Virginia, all property owners within 1,000 feet of the property proposed for a sport shooting facility shall receive notification of the public hearing.
- 10. *(Amended 9/20/11)* In addition to the above referenced special exception criteria set forth in paragraphs 1 through 8 of this Section 7.4, all schools for firearms training shall meet the following requirements:
 - a. All schools for firearms training shall be designed by an engineer licensed to practice in the State of Virginia. The following materials must be submitted along with the special exception application for the school for firearms training:
 - i. A plan of the layout of the schools for firearms training which shows:
 - 1. The boundaries and size of the tax parcel on which the school for firearms training is located and the general design of the facility;
 - 2. The location and dimensions of all proposed ranges;
 - 3. The proposed types of small arms being used and the type of shooting being conducted;
 - 4. All target areas;
 - 5. The location and dimensions of all proposed buffers, surface safety zones, backstops, berms, baffles and other safety design elements and equipment necessary to keep projectiles within the tax parcel boundaries; and
 - 6. Existing and proposed contours at two (2) foot intervals.
 - ii. A plan for noise abatement, safety and lead containment/removal.
 - iii. The plans shall be stamped and certified by a licensed engineer as meeting applicable design and safety standards for the type of firearms training conducted at the school for firearms training.
 - b. The following requirements shall be maintained for schools for firearms training:
 - i. No tax parcel containing a school for firearms training shall be located within one thousand (1000) feet of a tax parcel in the Residential, Village Community or Cluster Development zoning districts; and
 - ii. A minimum of three hundred (300) feet of mature forested buffer shall be provided on the perimeter of the tax parcel for noise reduction.

- c. Range safety officers certified by the applicable certifying agency must operate the facility.
- d. All indoor ranges shall be designed so that all projectiles fired from all firing points are retained inside the building.
- e. The area used as a school for firearms training shall be posted (at least every 100 feet) so that access to the site is controlled to insure the safety of patrons, spectators and the public at large.
- f. The addition of new firing points in a previously approved school for firearms training must be approved by the Middlesex County Board of Supervisors by the same procedures as a new special exception application.
- g. The property used for a school for firearms training shall abut or have access by a deeded easement at least 45 feet in width to an existing highway maintained by the Virginia Department of Highways and Transportation.
- h. In addition to the requirements of Section 15.2-2204 of the Code of Virginia, all property owners within 1,000 feet of the tax parcel proposed for a school for firearms training shall receive notification of the public hearing.

(Items a. through h. added by Amendment 9/20/11)

11. A restaurant and/or catering use shall be subject to the following:

- a. Permitted only in those instances in which the building proposed for restaurant and/or catering use is currently being utilized as a legally existing commercial use and where the proposed restaurant and/or catering use is not inconsistent with existing uses in the area.
- b. The restaurant and/or catering use:
 - 1. Does not require or propose new buildings and
 - 2. Does not require any increase in the square footage of the existing building, or any structures attached thereto, that will contain the restaurant and/or catering use or of any accessory buildings or structures to be used in conjunction with such business.
- c. Be located on a lot having direct access to a Primary Highway.
- d. No goods or items offered for sale shall be displayed or stored outdoors.

(Items 11.a through 11.d added by Amendment 8/21/12)

7-5.1 Minimum Lot Area, Width and Frontage Regulations.

The minimum lot area for permitted uses shall be two and one-half (2.5) acres and the minimum lot width shall be two hundred (200) feet at the building setback line. Each lot shall have a minimum road frontage requirement of sixty (60) feet. *(Amended 11/19/97)*

7-5.2 Minimum Lot Area and Width – Immediate Family Member

The area for a lot or parcel subdivided for sale or gift to an immediate family member of the property owner, pursuant to the provisions of [Section 15.2-2244](#) of the Code of Virginia, may be reduced to a

minimum of no less than one (1) acre with a minimum lot width of no less than one-hundred fifty (150) feet at the building setback line. *(Amended 11/19/97)*

7-6. Setback Regulations.

Structures shall be located one-hundred (100) feet or more from primary street rights-of-way, seventy-five (75) feet or more from secondary street rights-of-way, and fifty (50) feet or more from all other street rights-of-way or easements. These setbacks shall be exclusive of any street rights-of-way created by donation or transfer, and shall be collectively known and defined as the “front setback line.”
(Amended 3/16/10)

7-7. Setback Regulation - Corner Lots.

1. Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets and the longer of the two (2) sides fronting on streets shall be subject to setback requirements as a side yard.
2. The minimum side yard setback on the side facing the street on a corner lot shall be fifty (50) feet from the street right-of way for all structures. *(Amended 11/19/97)*

7-8. Yard Regulations.

1. Side: The minimum side yard for main structures shall be thirty-five (35) feet and the total width of the two (2) required side yards shall be seventy (70) feet or more.
2. The minimum rear yard for main structures shall be fifty (50) feet or more.
3. Accessory buildings and structures may not be located any closer than twenty (20) feet to any side or rear boundary line of the property on which it is located. *(Amended 11/19/97)*

7-9. Setback and Yard Regulations – Nonconforming Lots.

The following building setback and yard regulations shall apply to legal nonconforming lots of record recorded prior to November 19, 1997. *(Amended 7/21/98)*

1. Setback Regulations.

The minimum setback distance for all structures located on a legal nonconforming lot of record shall be eighty (80) feet from Virginia primary and U.S. Highway road right-of-ways; sixty (60) feet from Virginia secondary road right-of-ways; and thirty-five (35) feet from interior subdivision and private street right-of-ways.

2. Corner Lot Setback Regulation – Nonconforming Lots.

On a legal nonconforming lot of record, the minimum side yard setback distance on the side facing the street on a corner lot shall be thirty-five (35) feet from the street right-of-way for all structures.

3. Yard Regulations – Nonconforming Lots.

On a legal nonconforming lot of record, principal and accessory buildings shall be located no closer than ten (10) feet to any side or rear boundary line of the property on which it is located.

7-10. Maximum Height of Building.

No principal or accessory buildings shall exceed three (3) stories or thirty-five (35) feet to the top floor level (see definition of [BUILDING HEIGHT](#)). This height limitation shall not apply to farm buildings or structures.

7-11. Manufactured Home Requirements.

Manufactured homes shall be placed on and anchored to permanent foundations and footings. Such foundations shall be constructed in accordance with the Virginia Uniform Statewide Building Code, as amended.

7-12. Rural Home Occupations.

Rural home occupations, when conducted in a major subdivision as defined by the Middlesex County Subdivision Ordinance, shall be conducted within the principal residence or in an accessory building thereto which is normally associated with a residential use, with no outside display or storage of materials.

ARTICLE 7A: AGRICULTURAL DISTRICT (A)

(Added 9/18/12)

7A-1. Purpose and Intent.

This district is intended to preserve and protect areas of Middlesex County that are predominantly in agricultural or forestal use, and to maintain the land base and support facilities necessary to support agricultural activity. This district is designed to protect the agricultural and forestry industry and related uses from encroachment by rural residential development that fragments agricultural land. The district permits rural uses compatible with and supportive of agriculture, including agriculturally related and small rural businesses appropriate to a rural, farm and forest setting and residential uses that preserve significant amounts of open land. Residential development that occurs in these areas is intended to locate in woodland areas and on the least productive agricultural land, where conflicts between residential uses and agricultural activities can be minimized. Land in this district is not intended to be served with public water or wastewater systems or located in proximity to other public services. All areas specified by the Middlesex Comprehensive Plan to be within the Agricultural Conservation Future Land Use and currently zoned Low Density Rural or Resource Husbandry may apply for rezoning to the Agricultural District.

7A-2. Permitted Uses (by-right).

1. Accessory Uses
2. Accessory Structures
3. Agriculture
4. Bed and Breakfast
5. Cemeteries
6. Churches
7. Conservation Areas and Natural Wildlife Preserves
8. Dwellings, Single Family detached
9. Dwellings, Manufactured housing
10. Family Day Home pursuant to Code of Virginia, § 15.2-2292 (*Amended 5/16/06*)
11. Feed, Seed and Fertilizer Sales
12. Florists
13. Forestry
14. Home Occupation, Rural
15. Nurseries
16. Parks and Playgrounds,
17. Hunting and Game Preserves
18. Sawmills, temporary or portable
19. Aquaculture
20. Wayside Stands
21. Wineries
22. Veterinary Hospital
23. Family Subdivisions
24. Farmette Subdivisions
25. Home Occupation, Residential (*Amended 11-6-13*)

7A-3. Permissible Uses (By Special Exception Approval by the Board of Supervisors).

1. Dwellings, Accessory subject to the provisions of Section 15-22 of this Ordinance (*Amended 2/21/06*)
2. Private landing strips for exclusive use of owners, clients and guests
3. Fire or rescue stations
4. Houses, Boarding
5. Kennels
6. Surface Mining – No Processing
7. Wood, Brush and Mulch Recycling / Disposal Facilities

7A-4. Special Exception Criteria.

Special exception uses shall satisfy all of the following criteria:

1. Shall not be located closer than five hundred (500) feet to any residential district.
2. The property shall abut an existing highway maintained by the Virginia Department of Highways and Transportation.
3. Loudspeakers which constitute a nuisance to adjoining properties shall not be permitted.
4. Lighting shall not shine directly on adjacent properties.
5. All permitted structures and uses shall be kept and maintained in neat and orderly manner.
6. The use shall not generate noise, smoke, fumes, glare, traffic, or fire hazards which would constitute a nuisance or danger to adjoining properties.
7. Special Exception use Number 5 shall meet the following additional requirement:
 - a. There shall be set by the Board of Supervisors one or more methods of adequate noise suppression, including but not limited to: adequate buffer zones, in-house pounds or runs, and any other condition deemed necessary by the Board to provide noise protection to surrounding property owners.
8. Special Exception use Number 6 shall meet the following requirements:
 - a. No activity shall take place within a required minimum setback;
 - b. There shall be no processing or manufacturing on the premises other than such activity as may be necessary to facilitate the hauling of materials;
 - c. A plan shall be submitted showing the original and proposed final grades of areas to be disturbed and the means to be taken to facilitate drainage and to avoid erosion and sedimentation;
 - d. The area of such use shall have direct access to roads suitably paved and improved to accommodate truck traffic generated by the use; and
 - e. Mined lands shall be restored to a condition acceptable to the Zoning Administrator in consultation with the Soil and Water Conservation District, USDA. Reclamation of mined lands shall be scheduled on a basis that is reasonable for the size and physical feature of the surface mining operation. The Zoning Administrator shall have the authority to require a reasonable bond, as appropriate, to ensure proper surface restoration.

7A-5. Minimum Lot Area, Width and Frontage Regulations.

The minimum lot area for permitted uses shall be twenty five (25) acres and the minimum lot width shall be five hundred (500) feet at the building setback line. Each lot shall have a minimum road frontage requirement of fifty (50) feet. The deed for all lots shall prohibit further subdivision with the exception of family exemptions in accord with the provisions of the Middlesex County Subdivision Ordinance.

7A-6. Minimum Lot Area and Width – Immediate Family Member.

The area for a lot or parcel subdivided for sale or gift to an immediate family member of the property owner, pursuant to the provisions of Section 15.2-2244 of the Code of Virginia, may be reduced to a minimum of no less than two and one half (2.5) acres with a minimum lot width of no less than one-hundred fifty (150) feet at the building setback line.

7A-7. Front Setback Regulations.

Structures shall be located a minimum of one-hundred (100) feet from primary street rights-of-way, seventy-five (75) feet from secondary street rights-of-way, and fifty (50) feet from all other street rights-of-way or easements. These setbacks shall be collectively known and defined as the “front setback line.”

7A-8. Side and Rear Setback Regulations.

Side: The minimum side yard setback for structures shall be fifty (50) feet.

Rear: The minimum rear yard setback for structures shall be fifty (50) feet.

7A-9. Maximum Height of Building.

No principal or accessory buildings shall exceed three (3) stories or thirty-five (35) feet to the top floor level (see definition of BUILDING HEIGHT). This height limitation shall not apply to farm buildings or structures.

7A-10. Manufactured Home Requirements.

Manufactured homes shall be placed on and anchored to permanent foundations and footings. Such foundations shall be constructed in accordance with the Virginia Uniform Statewide Building Code, as amended.

7A-11. Access Requirements.

All lots must front a public road currently in the Virginia Department of Transportation (VDOT) system, or have access to a public road via a forty foot (40) right of way except for family exemptions in accord with the provisions of the Middlesex County Subdivision Ordinance.

ARTICLE 8: VILLAGE COMMUNITY (VC) DISTRICT

8-1. Purpose.

This district is designed to promote future development around existing communities with growth potential. The village community is envisioned to be a relatively small, well-defined area with low to moderate density mixture of residential, low-intensity commercial, and other community service uses such as churches and recreation areas. The intent is to encourage development of attractive and functional communities by minimal and flexible regulations. This type of district will also aid in the goal of clustering development at convenient locations in the County in order to prevent strip development.

8-2. Permitted Uses.

The following uses are permitted in the Village Community District:

1. Single-family dwellings
2. Two-family dwellings,
3. Parks and playgrounds
4. Professional offices
5. Retail stores and shops with five thousand (5,000) square feet or less and no outside display or storage of materials or merchandise.
6. Self-storage buildings with five thousand (5,000) square feet or less and no outside display or storage of materials or merchandise.
7. Churches
8. Schools
9. Nursing homes and child care centers
10. Medical clinics
11. Uses required for the maintenance and provision of public facilities and utilities
12. Residential home occupations
13. Accessory uses
14. Grocery stores
15. Homes for the aged
16. Volunteer fire departments and rescue squads

17. Restaurants
18. Garage, Service Station
19. Bed and Breakfast Inns
20. Animal hospitals
21. Wayside stands
22. Group residential facility pursuant to Code of Virginia, § 15.2-2291 (*Amended 5/16/06*).
23. Family day home pursuant to Code of Virginia, § 15.2-2292 (*Amended 5/16/06*).
24. The locating of more than one (1) principle residential structure on an individual parcel of land for an immediate family member subject to the requirements of Article 15-20. (*Amended 12/3/13*)

8-3. Special Exceptions.

The following uses are permitted as special exceptions in the Village Community District:

1. Family care homes and foster homes.
2. Convenience Stores.
3. Animal Kennels.
4. Garage, repair; garage, public; and body shop.
5. Contractors.
6. Car Wash (*Amended 3/5/91*)
7. Nursery. Greenhouses are to be classed as an Accessory Use to a nursery business and may be approved by the Zoning Administrator (*Amended 3/5/91*)
8. Lodge Halls (*Amended 9/1/92*)
9. Yacht Clubs (*Amended 9/1/92*)
10. The replacement of an existing manufactured home or single-family dwelling with a manufactured home in accordance with conditions listed in [Section 18-5](#), paragraph 10 of the Zoning Ordinance. (*Amended 4/4/95*)
11. Public and private communications facilities. (*Amended 6/20/00*)
12. Retail stores and shops with buildings greater than five thousand (5,000) square feet and no outside display or storage of materials or merchandise.

(Amended 10/17/00)

13. Retail Animal Feed Stores *(Amended 10/16/01)*
14. Multi-Family Dwelling for Supportive Housing for the Elderly
15. Multi-family dwellings up to two (2) stories in height with no more than four (4) dwelling units per building and no more than four (4) dwelling units per acre.
16. Accessory Dwelling Units subject to the provisions of Section 15-22 of this Ordinance *(Amended 2/21/06)*
17. Congregate Living Facility *(Amended 5/16/06)*
18. Mortuaries
19. Laundromats *(Amended 5/20/08)*
20. Major Subdivisions, as defined by the Subdivision Ordinance of Middlesex County. *(Amended 10/21/08)*
21. Retail Stores and shops with outside display *(Amended (6/21/11)*
22. Aquaculture, Indoor, with all appropriate permits required by federal, state, and local agencies. Includes packing of whole organisms on ice for transport to market shall be permitted. *(Amended 7-1-14)*
23. Keeping of horses for noncommercial purposes pursuant to requirements of Article 8-4.7. *(Amended 2-3-15)*
24. Leasing of portable storage units, which may include a business office, pursuant to requirements of Article 8-4.8. *(Added by Amendment April 14,2015)*

8-4. Special Exception Criteria.

Special exception uses in the “VC” District shall satisfy all of the following criteria:

1. Minimum lot size or a lease of abutting property(ies) shall be one (1) acre and shall front one hundred (100’) feet on a public street or highway. Special exception 21 shall be excluded from this size and frontage requirement. *(Amended (6/21/11)*
2. Special exception use Number 1 shall be limited to fifteen (15) clients living on premises, and shall be licensed and regulated by an appropriate agency of the Commonwealth of Virginia.
3. Special exception use Number 3 shall meet the following additional requirements:
 - a. Minimum acreage required for the placement of animal kennels or expansion of existing kennels shall be three (3) acres or more.

- b. All acreage to be included in the three (3) acre requirement shall be adjoining.
 - c. No structure shall be erected, constructed or placed closer than fifty (50) feet to any street or road right-of-way line nor closer than thirty (30) feet to any side or rear property line.
 - d. There shall be set by the Board of Supervisors one or more methods of adequate noise suppression, including but not limited to: adequate buffer zones, in-house pounds or runs, and any other condition deemed necessary by the Board to provide noise protection to surrounding property owners.
4. Special exception Number 14 shall satisfy all of the following additional requirements:
- a. No structure shall be erected, constructed or placed closer than fifty (50) feet to any street or road right-of-way line nor closer than fifty (50) feet to any side or rear property line.
 - b. All units shall be served by central water and sewer.
 - c. All roads and parking areas serving the site shall be paved.
 - d. There shall be a minimum of 1.75 parking spaces provided per individual dwelling unit. (*Amended 6/15/04*)
5. Special exception Number 20 shall satisfy all of the following additional requirements: (*Amended 10/21/08*)
- a. All requirements listed for Major Subdivisions in the Subdivision Ordinance of Middlesex County.
 - b. All major subdivisions of 15 units or greater, shall propose or reserve a minimum of twenty percent (20%) of the parcel/project area for commercial and/or community service uses.
 - c. All lots must be served by a Central Water System as defined by this ordinance and provide the necessary utility easements for maintenance and potential expansion of the system.
 - d. All lots of less than twenty thousand (20,000) square feet in area shall be served by a Central Sewer System as defined by this ordinance and provide the necessary utility easements for maintenance and potential expansion of the system.
 - e. All lots shall be within 400 feet of fire hydrants, the location and type to be approved by the County Emergency Services Committee of Middlesex County.
 - f. The subdivision must have complete curb and gutter roads.
 - g. The subdivision shall provide sidewalks along both sides of all proposed streets to the entrance of the development and to adjacent properties along road frontage. Subdivision sidewalks shall connect to existing sidewalks on

adjacent properties where connection can be made at the property line. Subdivision sidewalks shall serve every lot within the subdivision.

- h. The subdivision shall have sidewalk lighting for all sidewalks.
- i. The subdivision shall have more than one entrance for ingress and egress or provide an entrance divided by a median of not less than 10 feet in width, if it creates, or has the potential to create through future subdivision, more than 50 lots. All entrance and street improvements shall meet Virginia Department of Transportation (VDOT) requirements
- j. The subdivision shall provide for landscaped buffers to screen the residential development from public rights of way, adjacent properties, and existing or proposed commercial uses.
- k. The subdivision shall have onsite storm water management.
- l. Should Low Impact Design (LID) techniques and practices be employed, item f may be waived.

(Items a-l Amended 10/21/08)

6. Special exception use Number 21 shall meet the following additional requirements: (Amended 6/21/11)

- a. The total square footage of outside display shall not exceed the square footage of the building in which the business is conducted, but in no event shall the outside display exceed five thousand (5,000) square feet.
- b. Setback requirements for display shall be the same as the setback requirements for structures in the Village Community (VC) Zoning District.

(Items a-b Amended 6/21/11)

7. *(Added by Amendment 2-3-15)* Special exception use Number 22 shall meet the following additional requirements:

- a. The primary use of the property must be strictly residential.
- b. The minimum lot size for keeping of horses for noncommercial purposes allowed by special exception shall be one and one half (1-1/2) acres per animal unit, or fraction thereof, in addition to a lot area of 30,000 square feet.

8. *(Added by Amendment April 14, 2015)* Special Exception Number 24 shall meet the following additional requirements:

- a. The use must be located on property abutting a Primary Highway.
- b. The property must be located in an area designated for Commercial Use in the Middlesex County Comprehensive Plan.
- c. Setback requirements for display shall be the same as the setback requirements for structures in the Village Community (VC) Zoning District.

8-5. Lot Coverage.

No use or structure shall occupy more than sixty (60) percent of the lot or parcel.

8-6. Density.

Dwelling unit densities shall not exceed two (2) units per gross acre for single-family dwellings and four (4) units per gross acre for two-family and multi-family dwellings.

8-7. Setbacks.

No structure shall be erected, constructed, or placed closer than thirty (30) feet to the street right-of-way line, nor closer than ten (10) feet to any side or rear property line.

8-8. Maximum Height of Buildings.

No building or structure shall exceed three (3) stories or thirty-five (35) feet to the top floor level (see Definition of [BUILDING HEIGHT](#)).

ARTICLE 9: RESIDENTIAL (R) DISTRICT

9-1. *Purpose.*

The purpose of the Residential District is to provide areas within the County for the development of quiet residential neighborhoods wherein a variety of compatible housing types are permitted. It is the County's intent to encourage residential uses to locate in the R District, thereby preserving agriculture and forest land in the [RH](#) and [LDR](#) Districts, and minimizing strip residential development. Regulations in the R District are intended to be flexible enough to accommodate the needs of diverse groups, such as retirees and families with children, as well as to permit adaptation to diverse areas of the County, such as isolated waterfront areas and areas adjacent to built-up communities.

9-2. *Permitted Uses.*

The following uses are permitted in the Residential District:

1. Single-family dwellings
2. Two-family dwellings
3. Parks and playgrounds
4. Churches
5. Schools
6. Uses required for the maintenance and provision of public facilities and utilities.
7. Residential home occupations
8. Accessory uses.
9. Bed and Breakfast Inns
10. Group residential facility pursuant to Code of Virginia, § 15.2-2291 (*Amended 5/16/06*).
11. Family day home pursuant to Code of Virginia, § 15.2-2292 (*Amended 5/16/06*).

9-3. *Special Exceptions.*

The following uses shall be permitted as a special exception in the "R" District:

1. Keeping of horses for noncommercial purposes pursuant to requirements of Article 9-4.5.
2. Yacht Clubs
3. Replacement manufactured homes pursuant to requirements of [Article 9-8](#). (*Amended 7/21/98*)

4. Museums that meet the following criteria:
 - a. Restaurants shall not be permitted as an accessory use of a museum.
 - b. Gift shops up to 1,000 square feet in space shall be permitted as an accessory use of a museum. *(Amended 9/17/02)*
5. Accessory Dwelling Units subject to the provisions of Section 15-22 of this Ordinance *(Amended 2/21/06)*
8. Communication Facilities, Private *(Amended 8/17/10)*
9. Keeping of Laying Hens for noncommercial purposes pursuant to lot size requirement of Article 9-4.6. and subject to the provisions of Section 15-27 of this Ordinance. *(Amended 1/7/14)*

9.3a. Special Exception Criteria.

1. Communication Facilities, Private shall maintain an antenna less than 100 feet in height and a setback from all property lines in excess of one and one half (1.5) times the height of the antenna. *(Amended 8/17/10)*

9-4. Minimum Lot Size.

The minimum lot size for permitted uses, except yacht clubs, shall be:

1. Where both central water and sewage disposal are to be utilized, ten thousand (10,000) square feet and a minimum lot width of eighty (80) feet;
2. Where either central water or sewage disposal is to be utilized, twenty thousand (20,000) square feet and a minimum lot width of one hundred (100) feet; and
3. Where on-site water and sewage disposal are to be utilized, thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet.
4. The minimum lot size for yacht clubs shall be two (2) acres and a minimum lot width of one hundred fifty (150) feet.
5. The minimum lot size for keeping of horses for noncommercial purposes allowed by special exception shall be one and one half (1-1/2) acres per animal unit, or fraction thereof, in addition to the minimum lot area requirement of the residential district. *(Amended 7-17-12)*
6. The minimum lot size for keeping of laying hens for noncommercial purposes allowed by special exception shall be 2 acres. *(Amended 1/7/14)*

9-5.1 Setback Regulation.

The minimum setback for permitted uses shall be thirty-five (35) feet.

9-5.2 Setback Regulation – Corner Lots.

Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets and the longer of the two (2) sides fronting on streets shall be subject to setback requirements as a side yard.

The minimum side yard setback on the side facing on the street on a corner lot shall be twenty-five (25) feet from the street right-of-way for all structures. *(Amended 4/21/98)*

9-6. Location of Buildings.

No principal or accessory building shall be erected, constructed, or placed closer than ten (10) feet to any boundary of the property on which it is located.

9-7. Maximum Height Restrictions.

No building or structure shall exceed three stories or thirty-five (35) feet in height to the top floor level (see Definition of [BUILDING HEIGHT](#)).

9-8. Replacement Manufactured Homes

The application and permitting of replacement manufactured homes by special exception in the Residential (R) District shall be subject to the following requirements. *(Amended 8/16/05)*

1. Applications shall be limited to the replacement of legally nonconforming mobile or manufactured homes only and shall not be for the purpose of replacing legally conforming single-family dwellings and modular homes.
2. The mobile or manufactured home being replaced shall have been occupied as a residence for a period within six (6) months from the date of application.
3. The replacement must arise from the accidental destruction of the mobile or manufactured home on the property by fire or other natural cause.
4. A surety of five-hundred dollars (\$500) shall be posted to secure the removal of the destroyed home on the property prior to the occupancy of the new permitted structure.

ARTICLE 9A: CLUSTER DEVELOPMENT (CD) DISTRICT

9A-1. Purpose.

In order to conserve land, reduce building costs, and provide for more attractive and functional communities, Middlesex County encourages the practice of cluster development. The requirements of this district are designed to provide greater open space and other amenities, while relaxing or foregoing the minimum lot size, setback, side yard, rear yard and other regulations which apply to the traditional residential zoning district.

9A-2. Permitted Uses.

The following uses are permitted in the Cluster Development District:

- 1 Single-family dwellings, and multi-family dwellings including townhouses and condominiums
- 2 Parks, playgrounds and recreational areas
- 3 Athletic and recreational facilities
- 4 Community facilities
- 5 Schools
- 6 Churches
- 7 Facilities associated with the provision of central water and sewerage
- 8 Accessory uses
9. Group residential facility pursuant to Code of Virginia, § 15.2-2291 (*Amended 5/16/06*).
10. Family day home pursuant to Code of Virginia, § 15.2-2292 (*Amended 5/16/06*).
11. Home Occupation, Residential (*Amended 11-6-13*)

9A-3. District Development Standards.

The following standards shall apply in the Cluster Development District:

- 1 The density of any cluster development shall not exceed eight (8) units per acre.
- 2 Ingress and egress to a cluster development shall meet the following requirements:
 - a. Minimum forty (40) 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 homeowner's association charter.
- 3 The setback requirement for each dwelling unit shall be a minimum of thirty-five (35) feet from a road or street.
- 4 The minimum width of each dwelling unit at the setback line shall be twenty (20) feet.
- 5 The height of any building in this district shall not exceed thirty-five (35) feet to the top floor level (see Definition of [BUILDING HEIGHT](#)).
- 6 The minimum area for each dwelling unit shall be 800 square feet of living area enclosed in each unit exclusive of porches, decks and other exterior spaces.
- 7 The minimum distance from the exterior property line of the project shall be thirty (30) feet or a distance equal to one and one-half (1-1/2) times the height of the tallest building in the cluster development.
- 8 No more than eight (8) dwelling units may be connected in any cluster development project.
- 9 The minimum distance between buildings containing dwelling units in any cluster development shall be sixty (60) feet plus an additional five (5) feet for each story of each building above one (1) story.
- 10 A minimum of two (2) parking spaces shall be provided for each dwelling unit.
- 11 An accessory building shall not exceed twenty-five (25) percent of the area of the lot on which it is located.
- 12 Every cluster development must provide central water and sewer systems to serve each dwelling unit contained therein.
- 13 Every internal road or street and all parking areas shall be paved and have provisions deemed adequate by the Zoning Administrator for perpetual maintenance thereof.
- 14 At least one area, not including private yards, roads, streets, maintenance areas and parking, shall be maintained as open space, said area to be not less than thirty (30) percent of the total land area of the cluster development.
- 15 Every cluster development shall contain such reasonable buffering as the Planning Commission may require as a part of its site plan review to protect and maintain the character of adjacent uses, which buffering shall include a decorative fence or dense evergreen growth at least six (6) feet in height or the equivalent of such fence or evergreen buffering.
- 16 The provisions of [Section 15-8](#) do not apply to Cluster Developments.

9A-4. Supplemental Requirements for Obtaining a Zoning Permit for a Cluster Development.

In addition to the information which the developer is required to submit to the Zoning Administrator under [Section 21-2](#) of this Ordinance, the following shall be submitted as a part of the site plan review required under [Section 17A](#) of this Ordinance.

- 1 A site plan showing all recreation areas, open space, utilities, roads and streets, and other improvements;
- 2 A brief description of the surrounding area and the use or uses thereon;
- 3 A brief description of the proposed development, including the type of units proposed, the type of residents expected, the anticipated price range of the housing, the number of residents expected, landscaping plans; and architectural controls; and
- 4 The timetable for development.

ARTICLE 10: WATERFRONT COMMERCIAL (WC) DISTRICT

10-1. 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 “WC” 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 locations, are not permitted in the “WC” District. District regulations are designed to afford adequate protection to the natural environment.

10-2. Permitted Uses.

The following uses are permitted in the Waterfront Commercial District:

- 1 Marinas
- 2 Marine railways
- 3 Grain storage and/or transport facilities
- 4 Boatyards, boatbuilding
- 5 Shellfish and finfish processing
- 6 Seafood sales
- 7 Docks, commercial and private
- 8 Wood landings
- 9 Restaurants
- 10 Boat ramps
- 11 Cruise ship dockage
- 12 Boats-for-hire
- 13 Retail sales catering to marine trade
- 14 Retail fuel sales
- 15 Fishing piers
- 16 Hotels, motels
- 17 Campgrounds

- 18 Marine salvage
- 19 Single-family dwellings
- 20 Accessory uses
- 21 Shops offering such services as welding, sheet metal fabrication, small engine repair, and sail mending
- 22 Bed and Breakfast Inns
- 23 Contractors
- 24 Wayside stands
- 25 Yacht Clubs
- 26 Auditorium/Fieldhouse
- 27 Group residential facility pursuant to Code of Virginia, § 15.2-2291 (*Amended 5/16/06*).
- 28 Family day home pursuant to Code of Virginia, § 15.2-2292 (*Amended 5/16/06*).
- 29 Home Occupation, Residential (*Amended 11-6-13*)
- 30 Museums (*Amended 1-7-14*)

10-3. Application Procedure.

For all permitted uses in the “WC” District a site plan shall be submitted to the Zoning Administrator containing the following information:

- 1 Name, address, and telephone number of applicant;
- 2 Legal description of property;
- 3 Description of existing use;
- 4 An explanation of the character of the proposed use;
- 5 Names and addresses of all property owners adjoining the property;
- 6 A small map indicating the relation of the proposed use to the surrounding area;
- 7 A preliminary development plan at a scale approved by the Zoning Administrator showing layout, dimensions, easements, setback line, utilities, drainage, and such other characteristics as the Zoning Administrator deems necessary.

10-4. Minimum Yard Requirements.

The following yard requirements are considered to be a minimum and may be increased by the Zoning Administrator to avoid conflicts with surrounding uses:

- 1 Side yard. Each primary or accessory use shall be located ten (10) feet or more from the side boundary.
- 2 Setback. Each primary or accessory use shall be located thirty (30) feet or more from the road right-of-way.
- 3 Rear yard. The minimum rear yard setback for parcels which do not abut bodies of water shall be ten (10) feet. (*Amended 3/17/92*)

10-5. Maximum Height Restrictions, Single Family Dwellings.

The height of any single family dwelling in this district shall not exceed three (3) stories or thirty-five (35) feet to the top floor level (see Definition of [BUILDING HEIGHT](#)).

10-6. Limitations on Development.

In order to ensure that permitted uses will not harm the natural environment, no zoning permit shall be issued therefore unless and until all other required permits are first obtained from environmental protection agencies, including the Middlesex 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.

ARTICLE 11: GENERAL BUSINESS (GB) DISTRICT

11-1. Purpose.

The “GB” District is intended to provide, at convenient locations throughout the County, areas in which commercial and compatible uses may concentrate at medium to high density without adversely affecting residential, agriculture, and other compatible uses. Areas designated as “GB” District are to be located so as to provide convenient access to shopping facilities by the motoring public. This district is also intended to prevent the spread of strip commercial development along highways by encouraging concentration of businesses in selected areas.

11-2. Location and Size.

Any General Business District must be located at or near the intersection of two existing public highways, at least one of which is a U. S. or Virginia primary highway, and preferably in or near an existing community. Minimum district size shall be five (5) acres.

11-3. Permitted Uses.

The following uses are permitted in the General Business District:

1. Retail stores and shops
2. General business
3. Highway business
4. Office type business
5. Service business
6. Wholesale business
7. Music and dance studios
8. Indoor theaters, auditoriums, lodge halls and social clubs.
9. Newspaper and commercial printing shops
10. Mortuaries
11. Public utility offices and governmental offices
12. Banks and other financial institutions
13. Churches
14. Post offices

15. Medical clinics
16. Uses required for the provision and maintenance of public facilities and utilities
17. Hospitals
18. Building supplies and services
19. Automobile and farm implement sales and service
20. Mobile home and manufactured home sales
21. Accessory uses
22. Volunteer fire departments and rescue squads
23. Convenience stores
24. Garage, repair; garage, public; and body shop
25. Warehouses
26. Contractors
27. Wayside stands
28. Car Wash (*Amended 4/15/97*)
29. Animal hospital (*Amended 12/16/97*)
30. Cabinet, Furniture, and Upholstery Fabrication with building size five-thousand (5,000) square feet or less and no outside operations or storage (*Amended 8/17/99*)
31. Food Processing with building size five-thousand (5,000) square feet or less and no outside operations or storage (*Amended 8/17/99*)
32. Light Manufacturing Uses with building size five-thousand (5,000) square feet or Less and no outside operations or storage (*Amended 8/17/99*)
33. Child Care Center (*Amended 5/16/06*)
34. Garage, watercraft repair; and body shop, watercraft, subject to the requirements of Section 15-26. (*Added by Amendment 3-5-13*)
35. Aquaculture, Indoor, with all appropriate permits required by federal, state, and local agencies. Includes packing of whole organisms on ice for transport to market shall be permitted. (*Amended 7-1-14*)

11-4. Special Exceptions.

The following uses are permitted as special exceptions in the General Business District:

1. Museums. (*Amended 8/20/96*)
2. Public and Private Communications Facilities (*Amended 6/20/00*)
3. Multi-Family Dwelling for Supportive Housing for the Elderly subject to the provisions of Section 8-4.4 of this Ordinance. (*Amended 5/21/02*)
4. Self-storage buildings with no outside display or storage of materials or merchandise. (*Amended 6/18/02*).

11-5. Maximum Lot Coverage.

The percentage of the lot covered by any permitted primary use shall not exceed seventy-five (75) percent.

11-6. Setback.

The minimum setback for primary structures shall be thirty (30) feet. Any additional requirements may be set forth in the site plan review of specific projects.

11-7. Location of Buildings.

Any principal structure may be located on a lot so as to extend to the side boundary of the property, provided that:

1. Adequate access is available to the structure or use for all maintenance and delivery functions, without blocking driveways or parking areas and without impeding the flow of traffic on public streets and highways;
2. The abutting use is a business use which would not be adversely affected by such location; and
3. Adequate off-street parking, as delineated in [Article 17](#) of this ordinance is provided.

ARTICLE 12: LIGHT INDUSTRIAL (LI) DISTRICT

(Amended: March 4, 1995)

12-1. Purpose.

The economic vitality of Middlesex County depends on a viable and expanding local economy. Suitable non-polluting light industries and related activities which do not consume excessive quantities of groundwater or other scarce natural resources are needed to diversify the County's economic base and provide quality employment opportunities for Middlesex County residents. The Light Industrial (LI) District provides locations for a variety of compatible and complementary non-intrusive light industries; agricultural and animal husbandry and appurtenant uses and processes; office, business, professional and non-professional services situated within a planned, park-like setting; supporting educational and dependent care facilities; public and private utilities and facilities serving properties within the district and beyond; limited recreational, specialty and social services; and, limited residential uses which are accessory to the foregoing principal uses.

Reclassification of properties to the Light Industrial (LI) District is intended to provide suitable land within an appropriate regulatory environment to accommodate a wide range of anticipated future uses and provide land immediately available for development of light industrial and related uses. Applicants for reclassification to the LI District should consider the ability of a proposed site to accommodate expansions of existing business and industrial centers or creating new compact, integrated centers which are capable of accommodating a blend of compatible uses. District flexibility is designed to permit prompt responses to evolving market conditions and niches in order to stimulate local commerce and capitalize on the unique aspects of the environment and resource base of Middlesex County and vicinity. To this end, emphasis is placed on parcel and district planning, phased development and district regulations designed to ensure the protection of adjoining properties.

12-2. Location and Size.

A proposed "LI" District shall meet each and every one of the following location criteria:

1. District property shall not be located within nor abut any existing [Conservation](#), [Dragon Run Conservation](#), or [Residential District](#), nor shall it be located within any [Resource Husbandry District](#).
2. District property shall not be less than twenty-five (25) acres, and the property must be located in one or more of the following areas: *(Amended 10/15/02)*
 - a. Within an area designated by the Comprehensive Plan as an Industrial Development Opportunity Zone;
 - b. Within the future Saluda Service Area for central water and sanitary sewer utilities as designated by the Comprehensive Plan, the limits of which area may be amended and superceded by further detailed studies;
 - c. Within an area serviced by an existing central water distribution and sanitary sewer treatment system; or,

- d. Within an area which constitutes a logical extension of an existing Light Industrial district, in which case the minimum district size enumerated above shall not apply.
3. District property must be served by central water and sewer service if such facilities are or become available at the District boundaries or shall be suitable for installation of on-site water supply and sewage disposal systems.

12-3. Permitted Uses.

The following uses are permitted in the Light Industrial District:

1. Research institutions and laboratories
2. Extractive manufacturing
3. Cabinet, furniture and upholstery fabrication
4. Food processing plants
5. Sawmills
6. Lumber yards
7. Contractors
8. Wayside stands
9. Agriculture.
10. Commercial Entertainment Facilities.
11. Accessory General Business, Office-Type Business, Service-Type Business and Wholesale Business Uses, provided such uses are located on the same lot or within the same structure as a principal permitted use.
12. Highway Business Uses, except auto or truck sales.
13. Warehouse Uses
14. Light Manufacturing Uses, with limited outdoor operations and storage permitted only if adequate screening is provided.
15. Utilities.
16. Accessory Residential Uses limited to apartment-type units within and accessory to a principal use described above and to residential structures existing prior to reclassification, and intended for the use of a limited range of persons involved in the development or operation of a principal permitted use.

17. Educational (including technical, vocational or business schools and college campus extensions and adult education facilities) and dependent care uses (including pre-school, day care, convalescent care and related and similar uses).
18. Service Business. *(Amended 3/4/97)*
19. Wholesale Business. *(Amended 3/4/97)*
20. Aquaculture, Indoor, with all appropriate permits required by federal, state, and local agencies. Includes packing of whole organisms on ice for transport to market shall be permitted. *(Amended 7-1-14)*

12-4. Special Exceptions.

The following uses are permitted as special exceptions in the Light Industrial District:

1. General Business. *(Amended 3/4/97)*
2. Office Business. *(Amended 3/4/97)*
3. Public and private communication facilities. *(Amended 6/16/98)*
4. Crematoriums
5. Adult Uses subject to the provisions of Section 15-25 of this Ordinance *(Added by Amendment 6-19-12)*

12-5. Minimum Lot Size.

For parcels within a business or industrial park, with such parks being principally characterized by multiple parcels or lease areas sharing a common access to state-maintained roadways, there shall be no minimum lot area or minimum lot width, provided however that all required site improvements specific to a given use shall be contained within the individual lot. The minimum lot area for permitted uses within sites which do not or cannot share access with the larger district property to which they are appended shall be one (1) acre and the minimum lot width shall be two hundred (200) feet.

12-6. Setbacks.

1. Front Yard.

No principal structure shall be erected, constructed or placed within twenty-five (25) feet of the front lot or lease line of parcels within a business or industrial park. No structure shall be erected, constructed or placed within fifty (50) feet of the right-of-way line of any public street, except for those public streets which may be internal to a business or industrial park, in which case a twenty-five (25) foot front yard setback shall be observed.

2. Side Yard.

No structure shall be erected, constructed or placed within ten (10) feet of the side lot or lease line of parcels within a business or industrial park. For those District properties which are not a part of a business or industrial park, no structure shall be erected, constructed or placed within twenty (20) feet of a side lot or lease line.

3. Rear Yard.

No structure shall be erected, constructed or placed within ten (10) feet of the rear lot or lease line of parcels within a business or industrial park. For those District properties which are not a part of a business or industrial park, no structure shall be erected, constructed or placed within twenty (20) feet of a rear lot or lease line.

12-7. Requirements for Permitted Uses.

Permitted uses in a "LI" District shall comply with the following requirements:

1. The Site Plan Reviewing Authority may at its discretion require plans or narrative descriptions in sufficient detail to describe proposed operations and processes for a given use and may require a listing of all hazardous or toxic substances to be utilized and/or stored on-site.
2. Generally, and unless demonstrated otherwise to the satisfaction of the Site Plan Reviewing Authority, permitted uses shall be conducted and storage shall be confined to areas 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 circulations, unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision.
3. Landscaping may be required within any established or required front, side or rear yard area. The plans and execution must take into consideration traffic hazards.
4. Sufficient area shall be provided to adequately screen permitted uses from adjacent business and residential districts and for off-street parking of vehicles incidental to the industry, its employees and clients.

ARTICLE 13: MANUFACTURED HOME (MH) DISTRICT

13-1. Purpose.

The purpose of the “MH” District is to provide for the establishment of attractive and functional manufactured home park communities. Such parks will provide areas in which moderately priced housing may be accommodated, while maintaining compatibility with surrounding uses.

13-2. Location.

Manufactured Home Districts created after the effective date of this ordinance shall meet the following criteria for location in the County:

1. Within an existing [Low Density Rural District](#);
2. Not within one thousand (1,000) feet of any watercourse; and
3. With direct access to an existing Virginia secondary highway as defined by the Virginia Department of Transportation.
4. Not within 1,000 feet of an existing primary highway as defined by the Virginia Department of Transportation.

13-3. Permitted Uses.

The following uses shall be permitted in the “MH” District:

1. Manufactured homes
2. Parks, playgrounds, and recreation buildings for use of district residents
3. Uses required for the provision and maintenance of public utilities and facilities
4. Administration buildings
5. Services to district residents, including storage areas, laundry facilities, and convenience stores
6. Accessory uses

13-4. General Standards.

The Commission shall review the particular facts and circumstances of each proposed manufactured home park in terms of the following standards and shall find adequate evidence that the manufactured home park:

1. 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;
2. Will not be hazardous or detrimental to existing or future neighboring uses;
3. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage and refuse disposal, or that the persons or agencies responsible for the establishment of the proposed parks shall be able to provide such services adequately;
4. 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 community;
5. Will be consistent with the intent and purpose of this ordinance and the comprehensive plan;
6. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads; and
7. Will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.

13-5. District Size.

A manufactured home park shall contain a minimum of five (5) acres. The minimum width of the manufactured home park shall be not less than two hundred fifty (250) feet. The ratio of width to depth shall not exceed one to five (1:5).

13-6. Density, Lot Sizes, and Yards.

The maximum density of a manufactured home park shall not exceed a total of four (4) manufactured homes per gross acre. Each manufactured home shall be placed on an individual lot within a manufacture home park. Each manufactured home lot within a manufactured home park shall contain a minimum of ten thousand (10,000) square feet and shall have a minimum width of seventy-five (75) feet.

Each manufactured home shall be so placed on its lot that no part of said structure shall be closer than: forty (40) feet to any other manufactured home; forty (40) feet to any service building; twenty-five (25) feet to any interior lot line; one hundred (100) feet to any public street or highway right-of-way line; or thirty-five (35) feet to any property line of the manufactured home park.

13-7. Access.

Manufactured home parks shall have access to a Virginia secondary highway. The design and construction of the interior street system shall be sufficient to adequately serve the size and density of the development. All interior streets shall have a minimum right-of-way width of forty (40) feet and minimum roadway width of twenty (20) feet. Roadways shall be of “all weather construction”. Driving surfaces shall consist of soil containing a sand/clay mixture, covered with up to two (2) inches of crushed

stone if deemed necessary by the Zoning Administrator; or as an alternative, driving surfaces may be paved with tar and gravel or asphalt.

13-8. Building Height.

No manufactured home shall be greater than twenty (20) feet in height and every manufactured home must contain a minimum of three hundred twenty (320) square feet of gross floor area. No administration, recreation or service building shall exceed one and one-half (1-1/2) stories or twenty-five (25) feet in height.

13-9. Recreation and Open Space.

A minimum of ten (10) percent 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 a building, but must be for recreational purposes and is in addition to any other open space areas required by yard requirements or other sections of this ordinance. A clustering of units is encouraged.

13-10. Buffering and Screening.

Every manufactured home park shall be screened along its entire road frontage with an approved decorative fence or planted evergreen hedge not less than four (4) feet in height and with no openings, other than the required entrances and exits to streets or public spaces.

13-11. Off Street Parking Spaces.

Required off-street parking spaces shall be located on the lots of the dwelling units which they serve. Parking spaces shall be at least eight (8) feet wide and twenty (20) feet long, and shall be paved with concrete, asphalt, or loose stone or gravel maintained in good condition so as not to permit exposure of underlying soil.

13-12. Water and Sewage.

Every manufactured home park shall be provided with a central water system and an approved method of sewage disposal, and all manufactured homes within a manufactured home park shall be required to hook up to such systems.

13-13. Appurtenances.

The square footage of all combined appurtenances of a manufactured home in a manufactured home park shall not exceed one-half (1/2) the square footage of the manufactured home to which the appurtenances serves. (*Amended 4/4/95*)

ARTICLE 14: AIRPORT (A) DISTRICT

14-1. Purpose, Intent, and Policy.

The Airport District is intended to be an “overlay” district; i.e., one which is superimposed over one of the primary districts described in Articles 5 through 13 of this ordinance and which imposes regulations and restrictions in addition to those imposed by the primary district. The purpose of the Airport District is to regulate and restrict the height of structures and objects of natural growth, and otherwise regulate the use of property in the vicinity of Hummel Field by creating the appropriate zones and establishing the boundaries thereof.

It is hereby found that an obstruction has the potential for endangering the lives and property of uses of Hummel Field, and property or occupants of land in its vicinity; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Hummel Field and the public investment therein. Accordingly, it is hereby declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the area served by Hummel Field;
2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation.

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration, or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which Middlesex County may raise and expend public funds and acquire land or interests in land.

14-2. Airport Zones.

In order to carry out the provisions of this Article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces, as they apply to Hummel Field. Such zones are shown on the Official Zoning Map referred to in [Article 2](#) of this ordinance. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. *Utility runway visual approach zone.* The inner edge of this approach zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. *Transitional zones.* The transitional zones are the areas beneath the transitional surfaces.

3. *Horizontal zone.* The horizontal zone is established by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
4. *Conical zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of four thousand (4,000) feet.

14-3. Airport Zone Height Limitations.

Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by the Article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones as follows:

1. Utility Runway Visual Approach Zone.

Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.

2. Transitional Zones.

Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation which is thirty (30) feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

3. Horizontal Zone.

Established at one hundred fifty (150) feet above the airport elevation, or at a height of one hundred eighty (180) feet above mean sea level.

4. Conical Zone.

Slopes twenty (20) feet outward for each foot upward beginning at a periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.

14-4. Use Restrictions.

Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in

the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

14-5. Nonconforming Uses.

The following provisions shall govern nonconforming uses in the Airport District:

1. Regulations Not Retroactive.

The regulations prescribed by this Article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of nonconforming uses. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.

2. Marking and Lighting.

Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Governing Body to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of Middlesex County.

14-6. Permits.

The following provisions shall govern the issuance of permits for uses in the Airport District:

1. Future Uses.

Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone created by this Article unless a zoning permit therefore shall have been applied for and granted in accordance with the provisions of [Article 20](#) of this Ordinance.

- a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.
- b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground except when such tree or structure would extend above the height limit prescribed for each approach zone.

- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitted or intending to permit any construction or alteration of any structure, or growth of any tree, in excess of any of the height limits established by this ordinance, except as set forth in [Section 14-3](#).

2. Existing Uses.

No zoning permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Nonconforming Uses Abandoned or Destroyed.

Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned for a period of two (2) years or more, or more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

4. Variances.

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Article, may apply to the Board of Zoning Appeals for a variance from such regulations, using the procedures set forth in [Article 20](#) of this ordinance. The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Virginia Department of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulation will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Middlesex County Airport Committee for advice as to the aeronautical effects of the variance. If the Airport Committee does not respond to the application

within thirty (30) days after receipt, the Board of Zoning Appeals shall assume that the Airport Committee has no objection to the application.

5. Obstruction Marking and Lighting.

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, this condition may be modified to require the owner to permit Middlesex County at its own expense to install, operate, and maintain the necessary markings and lights.

ARTICLE 15: SUPPLEMENTARY DISTRICT REGULATIONS

15-1. General.

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

15-2. Conversion of Dwellings to More Units.

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

1. The number of dwelling units currently existing is less than the number permitted by the zoning regulations for new structures in that district;
2. The yard dimensions after conversion will meet the yard dimensions required by the zoning regulations for new structures in that district;
3. The lot area after conversion will meet the lot area requirements for new structures in that district; and
4. The conversion is in compliance with all other relevant codes and ordinances.

15-3. Temporary Buildings, Construction Trailers, and Manufactured Home Camps.

Temporary buildings, construction trailers, and manufactured home camps used only in conjunction with construction work may be permitted in any district during the period construction work is in progress, but such temporary facilities will be removed immediately upon completion of the construction work.

15-4. Architectural Projections.

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

15-5. Exceptions to Height Regulations.

The height regulations contained in the District Regulations shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, and other appurtenances not intended for human occupancy, except where the height of such structures will constitute a hazard to air navigation.

15-6. Nonresidential Uses Abutting Residential Uses.

Nonresidential uses or buildings shall not be conducted or located closer than fifty (50) feet to any lot in a residential district or any lot used for residential purposes in a [Resource Husbandry](#), [Low Density Rural](#), [Village Community](#), [Mobile Home](#) and [Cluster Development district](#).

15-7. Commercial and Industrial Uses.

No land or building used for commercial or industrial purposes shall be used or occupied in any manner creating dangerous, injurious, noxious, or otherwise objectionable conditions which could adversely affect the surrounding areas of adjoining premises, except that any use permitted by this ordinance may be established and maintained if acceptable measures and safeguards are taken to reduce dangerous and objectionable conditions to acceptable limits. The Zoning Administrator, prior to issuance of a zoning permit, shall require the submission of plans and statements indicating the manner in which dangerous and objectionable elements are to be eliminated or reduced to acceptable limits.

15-8.1 Multiple Commercial Structures – VC, GB, LI and WC Districts

In Village Community ([VC](#)), General Business ([GB](#)), Light Industrial ([LI](#)) and Waterfront Commercial ([WC](#)) zoning districts, more than one commercial structure may be constructed on a single lot provided yard, setback and other requirements are met as if it were an individual lot (*Amended 4/4/95*).

15-8-2 Multiple Principal Residential Structures – RH, R, VC and LDR Districts

In Resource Husbandry ([RH](#)), Residential ([R](#)) and Village Community ([VC](#)) zoning districts, no more than one principle residential structure shall be allowed per parcel. In the Low Density Rural ([LDR](#)) zoning district more than one principle residential structure may be allowed in accordance with Article 7 (special exception). (*Amended 4/4/95*)

15-9. Accessory Uses.

No accessory use may be erected or placed in any required front yard.

15-10. Keeping of Animals Restricted.

The keeping of farm animals, including but not limited to horses, cattle, sheep, pigs, goats, and fowl, shall be permitted only in the [C](#), [RH](#), and [LDR](#) Districts (and the [R](#) District and VC Districts by special exception). Such animals located in other districts at the time of adoption of this ordinance may remain provided they are kept within fenced areas, buildings, cages, or other enclosures which prevent them from wandering onto adjacent properties. (*Amended 2-3-15*)

15-11. Waterfront Lots.

The following regulations shall apply to all waterfront lots in Middlesex County:

1. Special Protection Required.

Waterfront lots are singled out for special area and dimension requirements due to the diversity of waterfront conditions throughout Middlesex County, the necessity to guard against pollution of tidal waters in order to protect fish and shellfish resources and recreational benefits, and the desirability of promoting attractive shoreline development. The requirements of this section are intended to ensure the availability of adequate areas for installation of septic systems at a safe distance from waterways, whether the shoreline is composed of beach, mudflat, vegetated wetlands, bluff, or a combination

thereof. They are also intended to provide uniform and identifiable points of reference for lot boundaries and measurements, regardless of the type of shoreline present.

2. Minimum Frontage and Area.

Every waterfront lot, irrespective of the zoning district in which it is located, shall have a minimum water frontage of one hundred fifty (150) feet (measured in a straight line between points of intersection of side lot lines with the mean low water mark or pool elevation as applicable), and a minimum depth of two hundred fifty (250) feet (measured from the line of measurement of waterfrontage). If any such waterfront lot is not bounded by tidal waters or impounded waters, the waterfrontage shall be so measured between side lot lines at the boundary/intersections closest to tidal waters or impounded waters as applicable. Because of the variety of shapes of waterfront lots the Zoning Administrator is empowered to determine the measurement points for water frontage and depth measurements in those circumstances where, the strict application of the measurement rules is not possible. Minimum lot area for every waterfront lot shall be thirty-seven thousand five hundred (37,500) square feet, the area required to satisfy the foregoing provisions of this section, or the minimum area required for other lots in the district in which the waterfront lot is located, whichever is greater.

3. Special Waterfront Setback Requirements.

Special Waterfront Setback Requirements shall conform to the Chesapeake Bay Preservation District. No structure, building or accessory use shall be located within a Resource Protection Area or Resource Management Area except in accordance with and as authorized by [Article 4A](#) - Chesapeake Bay Preservation District: (*Amended 3/17/92*)

- a. Qualified waterfront use structures within a Resource Protection Area shall be piers, wharves, docks, boatramps, boathouses and water dependent facilities as allowed by [Article 4A](#) of this Ordinance.
- b. Qualified waterfront use structures within forty (40) feet of the mean low water line and within ten (10) feet of any side lot line:
 1. Structures which are defined as marine use structures such as seawalls, bulkheads, groins, jetties, and the like which require approval of the Army Corps of Engineers and/or the Virginia Marine Resources Commission and which have obtained such approvals, and any natural or required landward extension, portion or adjunct of such structures;
 2. Fences, and natural vegetation located on the waterfront lot;

4. Prohibited Uses.

No waterfront lot or pier, boat slip, dock or wharf attached to a waterfront lot or boat tied up or attached thereto, shall be used as a residence or for dwelling purposes except for temporary use associated with a permitted use of a waterfront lot which contains sewage disposal facilities and water facilities approved by, as appropriate, the Middlesex County Health Department or the Virginia Department of Health.

15-12. Manufactured Home Requirements.

The following regulations shall apply to all manufactured homes in Middlesex County:

1. Industrialized Building Unit Regulations.

The Virginia Industrialized Building Safety Law, and regulations adopted by the State Board of Housing and Community Development, including any amendments heretofore or hereafter adopted, are hereby incorporated into this ordinance by reference. All references to the local building official contained in said regulations shall mean the Building Official of Middlesex County.

2. National Electrical Code.

All manufactured homes located in Middlesex County after the effective date of this ordinance shall comply with the requirements of Article 550 of the National Electrical Code, including any amendments heretofore or hereafter adopted, published by the National Fire Protection Association.

3. Mechanical Code.

All manufactured homes located in Middlesex County after the effective date of this ordinance shall comply with requirements pertaining to one- and two- family dwellings of the BOCA Basic Mechanical Code, including any amendments heretofore or hereafter adopted, published by the Building Officials and Code Administrators International, Incorporated.

4. Plumbing Code.

All manufactured homes located in Middlesex County after the effective date of this ordinance shall comply with the requirements pertaining to one- and two- family dwellings of the BOCA Basic Plumbing Code, including any amendments heretofore or hereafter adopted, published by the Building Officials and Code Administrators International, Incorporated.

5. Entry Into County.

No manufactured home shall be brought into Middlesex County or placed on the site on which it will be used for residential, commercial, or other uses unless and until the owner thereof has obtained a valid water supply and sewage disposal permit from the Health Official. This provision shall not apply to manufactured homes intended to be located in manufactured home parks as defined herein.

6. Notification.

The owner of a manufactured home shall, within ten (10) days after bringing such manufactured home into Middlesex County, notify the Commissioner of Revenue of such fact. The Commissioner shall also be notified within ten (10) days of the removal of a manufactured home from Middlesex County.

7. Skirting.

All manufactured homes shall be skirted in order to reduce the chances of overturning by wind. Skirting shall be of rigid weatherproof material approved by the Building Official, shall cover all four sides, and shall be securely fastened in place. This requirement shall be met within thirty (30) days after the Building Official authorizes electric service to a manufactured home. Failure to comply with the provision shall constitute a violation of this ordinance.

8. Appurtenances.

Any appurtenance (such as a room or screened porch) to a manufactured home shall require a building permit issued by the Building Official. Any such appurtenance shall comply with applicable requirements of the Virginia Uniform Statewide Building Code, including amendments thereto.

Any reference on permits, interpretations or any other correspondence of mobile and/or manufactured homes that existed prior to April 5, 1995 shall be referenced as either manufactured home, mobile home or trailer in accordance with definitions established in [Section 22-2](#). (Amended 4/4/95)

15-13. Campgrounds.

The following regulations shall apply to all campgrounds in Middlesex County:

1. No more than one (1) manufactured home shall be permitted in campgrounds. Manufactured homes in campgrounds may only be used as a residence of a campground manager or other campground related facilities such as a store, laundry or office. Manufactured homes in campgrounds shall not be used for storage or rental to nonemployees of the campground. (Amended 4/4/95)
2. No camping unit shall be used for permanent year-round habitation.
3. Detached screen rooms and awning, canopies, and collapsible appurtenances designed for use with camping units are permitted in campgrounds, provided they are of the type

manufactured and sold by the recreational vehicle industry, provided such are designed for quick removal and further provided they are detached and removed upon each cessation of temporary use by a user. All other accessory structures and appurtenances are expressly prohibited.

15-14. Temporary Habitation on Sites Outside of Approved Campgrounds.

Except on sites in approved campgrounds as defined herein, camping units may not be occupied for periods in excess of forty-eight (48) hours unless adequate provisions are made for sanitation, nor may they be occupied in excess of thirty (30) days within any twelve (12) month period unless an extension is granted by written permission of the Building Official. No electrical hookups are permitted for temporary habitation of camping units on sites outside of campgrounds. No camping unit shall be used for temporary habitation without written permission from the owner of the site on which such use will be made. No person shall park or place a camping unit on property owned by Middlesex County, including public school grounds and boat landings, and use the same for overnight habitation.

15-15. Screening Requirements.

Commercial uses which are located in a [VC](#) or [GB](#) District and which abut a Residential District shall screen the entire length of each side of the lot which abuts the [R](#) District, using a solid decorative wooden fence at least six (6) feet in height approved by the Zoning Administrator.

15-16. Domestic Waste Requirements.

No domestic waste shall be discharged other than in septic systems approved by the Health Official or in a system with a valid NPDES permit.

15-17. Flood Plain Requirements.

No structure shall be erected in any district, and no property shall be used in violation of the Middlesex County Flood Plain Ordinance in effect at the time of such use or erection.

15-18. Temporary Business Facilities.

In any zoning district, in the event of a natural disaster resulting in damage to existing business facilities, a temporary office trailer or mobile home designed as an office and connected to existing sanitation facilities may be placed on any active construction site for the duration of the construction project. Any such temporary office shall require a zoning permit prior to installation, and be removed from the site within ten (10) days after completion of construction. (Amended 8/6/91)

15-19. Use of a Manufactured Home in LDR and RH Districts while a Single-Family Residence is under Construction. (Amended 4/4/95)

A manufactured home may be located on the same property on which a single-family residence is being constructed on a temporary basis subject to the following conditions;

1. The zoning and building permits for single-family residence and manufactured home and secured simultaneously.

2. The manufactured home shall be located on the same parcel on which the single-family residence is being constructed for a period not to exceed more than three (3) years.
3. Surety is secured to ensure the removal of the manufactured home upon completion of the single-family dwelling in an amount determined by the Zoning Administrator. the amount determined by the Zoning Administrator shall be no less than five hundred dollars (\$500).

15-20. Use of Manufactured Home in LDR or VC District for Immediate Family Member

A manufactured home may be placed on the same lot upon which the residence of the property owner is located in the Low Density Rural ([LDR](#)) or Village Community (VC) District for use as a principal residential dwelling by an immediate family member of such property owner by-right and in accord with the following requirements:: *(Amended 12/3/13)*

1. Occupancy.

The manufactured home must be occupied by an immediate family member, which is defined as a grandparent, brother, sister, son, daughter, or grandchild of the property owner for purposes of this Section. Such dwelling shall be the primary residence of the immediate family member and shall not serve as an occasional, seasonal or otherwise part-time residence. The Zoning Administrator shall be immediately informed by the property owner of any change in approved occupancy. Such change shall be subject to re-approval. *(Amended 12/3/13)*

2. Placement on Lot.

The property owner is not required to officially plat and record an individual lot for each manufactured home site. A sketch of the lot use will be required showing the placement of the dwelling on the owners property and its relation to existing structures, property lines, roads and other significant features of the property. All setback and yard regulations of the [LDR](#) or VC District shall be observed. No manufactured home shall be located, stored or placed on the lot until such use is approved by the issuance of zoning and building permits by the Middlesex County Planning and Building Departments. *(Amended 12/3/13)*

3. Health.

Each manufactured home shall be connected to a water supply and sewage disposal system approved by the Health Department.

4. Number of Units.

A maximum of one (1) manufactured home shall be allowed per parcel under the provisions of this section.

5 Discontinuance of Use.

The Zoning Administrator shall be immediately notified as to the discontinuance of the manufactured home's use as a residential dwelling occupied by an immediate family member. Beginning upon the date of the discontinuance of the approved use the property owner shall have ninety (90) days in which to either seek a new occupancy approval, remove the manufactured home from the property, or by other means comply with the standard permitting and use requirements of the [LDR](#) or VC District.

15-21. Temporary Permit for Replacement of Manufactured Home

In any zoning district, the Zoning Administrator may issue a temporary permit for the replacement of a manufactured home for residential use upon the premises of an existing single family dwelling or manufactured home when such dwelling or home becomes uninhabitable or destroyed due to natural disaster, fire or other sudden accidental damage. Uninhabitable shall be a condition determined by the Zoning Administrator after consultation with the County Building Official and Health Official. The issuance of such permit shall be subject to the following conditions:

1. *Duration:* A temporary permit, as authorized under this section, shall be issued for a period of twelve (12) months and may be renewed two (2) times for a period of twelve (12) months each for a maximum duration of thirty-six (36) months. Permit renewals will be dependent upon the applicant demonstrating that substantial progress is being made toward the reconstruction, repair or replacement of the existing residence.
2. Zoning and building permits for the repair/replacement of the existing damaged and uninhabitable residence must be secured during the first twelve (12) month period of the approved temporary permit.
3. *Health and Sanitation:* The temporary manufactured home shall be connected to an approved water supply and sewage disposal system.
4. *Location:* The temporary manufactured home shall be located on the same property on which the existing residence being repaired or replaced is located. All minimum setback and yard regulations of the district in which the temporary manufactured home is located shall be observed.
5. *Surety:* A surety in the amount of no less than five hundred dollars (\$500) shall be required to ensure the removal of the temporary manufactured home within thirty (30) days after the completion of repair to, or replacement of, the existing damaged residence.
(Amended 6/17/97)

15-22. Accessory Dwelling Units

Accessory dwelling units shall be permitted in the Low Density Rural (LDR), Village Community (VC) and Residential (R) zoning districts. All detached accessory dwelling units shall be established in accordance with the following criteria:

1. Only one (1) accessory dwelling unit shall be permitted per lot. An accessory dwelling unit shall only be permitted in association with a single-family detached dwelling unit and shall not be permitted in association with a manufactured home.
2. The accessory dwelling unit shall not contain a gross floor area greater than fifty (50) percent of the total living area of the principal dwelling unit or eight hundred (800) square feet, whichever is less.
3. One (1) additional parking space shall be required in addition to that required for the principal dwelling unit.
4. A manufactured home shall not be used as an accessory dwelling unit.

15-23. Shipping Containers used as Accessory Structures (Amended 10-19-10)

The use of any form of shipping container as an accessory structure (storage building) shall require a zoning permit prior to placement on property and shall be subject to the following: Shipping containers used as accessory structures shall require special exception approval prior to placement in the Residential (R) and Village Community (VC) Zoning District and shall meet the following criteria:

1. Structures shall be painted and not display signage.
2. Structures shall be kept and maintained in neat and orderly manner.
3. Screened from view of adjoining properties and rights-of way.
4. Maintain a minimum setback of fifty feet (50') from all lot lines and right-of-ways.

A special exception shall not be required for the temporary use of shipping, storage containers approved by the Zoning Administrator or Building Official.

The Shipping containers as accessory structures shall be permitted in all other zoning districts as accessory structures provided they are painted, kept in a neat and orderly manner and screened from view of adjoining properties and rights-of way. These structures shall not display signage. Placement shall comply with all setback requirements.

(Amended 10-19-10, 15-23 added to ordinance)

15-24. Accessory Structures on Adjoining Lots (Amended 10-19-10)

Accessory structures shall be permitted by special exception on an adjoining lot or lot immediately across a right-of-way from a lot containing a principal building in all zoning districts. All accessory structures shall be established in accordance with the following criteria:

1. Only one (1) accessory structure shall be permitted per lot. An accessory structure shall only be allowed in association with a permitted use.

2. The accessory structure shall not contain a gross floor area greater than fifty (50) percent of the total living area of the principal structure.
3. The lot containing the accessory structure shall be subject to either of the following:
 - a. Required by deed covenant to be sold or otherwise transferred with the lot containing the principal structure in order to not create a nonconforming use or structure should one lot be sold separately, or
 - b. The recording of a Memorandum of Understanding or other document suitable to the Board of Supervisors stipulating that the accessory structure shall be removed from the adjoining lot or lot immediately across a right-of-way from the lot containing a principal building in order to not create a nonconforming use or structure if only one of the lots is sold.If both lots are sold so as to be held in common ownership, the accessory structure may remain.

(Amended 2-3-15)

4. The placement of the accessory structure shall maintain the required setbacks of the zoning district and the Chesapeake Bay Preservation Resource Protection Area.
 5. Affected property must be held in common ownership.
 6. Affected property shall not be separated by a primary state highway.
- (Amended 10-19-10, 15-24 added to ordinance)*

15-25. Adult Uses. *(Added by Amendment 6-19-12)*

1. Within the county, it is recognized that there are some uses that because of their nature are recognized as having serious objectionable operational characteristics particularly when several of them are located in a concentrated manner in near proximity to each other or located in direct proximity to residential neighborhoods and/or certain other types of uses thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse effects.
2. Uses subject to regulation by this article are as follows, as defined in Article 22 herein:
 - a. Adult Bookstore/Adult Video Store,
 - b. Adult Entertainment Establishment,
 - c. Adult Merchandise Sales,
 - d. Adult Motion Picture Theater,
 - e. Adult Model Studio,
 - f. Adult Nightclub,
 - g. Adult Use.
3. Distance requirements and standards.

- a. No adult use shall be established within 500 feet of any other such adult use.
 - b. No adult use may be established within 500 feet of the following zoned districts:
 - 1. Residential (R) District,
 - 2. Village Community (VC) District,
 - 3. Cluster Development (CD) District,
 - 4. Manufactured Home (MH) District,
 - c. No adult use may be established within 500 feet of any:
 - 1. Occupied Residence,
 - 2. Church or other place of worship,
 - 3. Public library, museum, or cultural center,
 - 4. Public or private school, college, university, or any other educational institution,
 - 5. Public park, playground, playfield,
 - 6. Public airport,
 - 7. Adult day care center,
 - 8. Child day care center,
 - 9. Nursing home, assisted living facility, or similar institution.
 - 10. Tourist home, hotel, or motel, bed and breakfast, boarding house.
 - d. The establishment of any adult use as referred to herein shall include the opening of such business as a new business, the relocation of such business, the enlargement of such business in either scope or area, or the conversion, in whole or in part, of an existing business to any adult use.
4. Setback Requirements.
- a. All aboveground structures and activity areas shall be located at least fifty feet from the front lot line and at least thirty-five (35) feet from all side and rear property lines.
5. Screening.
- a. Any existing wooded front yard shall be maintained. If no wooded front yard exists, a landscaped and seeded front yard shall be established for the full frontage of the lot incorporating visitor parking.
 - b. All parking and loading areas shall be screened from any adjacent residential use.
5. Parking and Loading.
- a. All employee parking lots and loading areas must be to the rear or side of buildings.
6. Visibility/Signage.
- a. Adult merchandise shall not be visible from any point outside the establishment.
 - b. No outside storage shall be permitted.

- c. Signs or attention-getting devices for the use shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas.

7. Hours of Operation.

- a. Such uses shall not begin service to the public or any outside activity before 9:00 a.m. Hours of operation for any adult business shall not extend after 9 pm.

15-26. Screening Requirements for Watercraft Repair Garages and Body Shops for Watercraft. (Added by Amendment 3-5-13)

In addition to applicable requirements of Article 17B, the screening requirements for temporary storage areas for watercraft shall include:

- 1. Location of such areas out of all required setback and landscaping areas.
- 2. Screening and landscaping as follows; subject to the approval of the Zoning Administrator:
 - a. Solid, sight-obscuring decorative wooden or vinyl fencing at least eight (8) feet in height placed around temporary storage areas, save for the entranceway gate, which shall also be composed of solid, sight-obscuring decorative wooden or vinyl fencing material, and/or
 - b. Evergreens trees planted around temporary storage areas at sufficient densities to create a visual buffer from adjoining properties, or
 - c. A combination of a. and b. above.

Existing conditions, such as existing trees, fences, the lot size, and the location of structures onsite, shall be taken into account in determining the extent of such fencing and/or landscape plantings.

15-27. Requirements for the Keeping of Laying Hens for Noncommercial Uses in the Residential (R) Zoning District. (Added by Amendment 1/7/14)

1. All structures and runs associated with the keeping of hens shall be located in the rear yard of the lot upon which they are located.
2. All structures and runs shall be located at least 50' from side and rear property lines.
3. The maximum number of hens shall not exceed four (4), with hens raised on-site from eggs or chicks not counted toward the maximum until they mature to become laying hens,
4. No roosters shall be allowed,
5. Minimum space per hen shall be as follows: Structure: 4 sq. ft.; Run: 16 sq. ft., pens may be portable "tractor" style pens,
6. All structures and runs shall be enclosed with fencing at least 4' in height and covered with a netting top. Such fencing shall be designed to protect against predators,
7. All structures and runs shall be completely screened from adjoining properties by means to be determined by the Zoning Administrator,
8. Feed shall be kept in a secure container,
9. Pen Condition shall be dry, well-ventilated, and well maintained,
10. Waste shall be properly managed to prevent off-site migration of odors, waste or waste by-products.

Section 15-28. Zoning Provisions for Family Day Homes of Six (6) to Twelve (12) Children.

The following requirements shall govern the process of reviewing and rendering a decision on Family Day Homes of Six (6) to Twelve (12) Children as defined in Article 22 of this Zoning Ordinance and allowed by-right through an administrative process in accord with this Section:

1. The use shall be for the purpose of providing care, protection and guidance to children separated from their parents or guardians during a part of the twenty-four hour day only between the hours of 6:00 a.m. and 7:00 p.m.
2. Family Day Homes for 6 to 12 children as defined in Article 22 of this Ordinance and subject to the requirements of this Section may be approved by the Zoning Administrator via an administrative process to issue zoning permits for the use. Prior to approval by the Zoning Administrator, notification shall be sent by registered or certified letter to the last known address of each adjacent property owner. If the zoning administrator receives no written objection from a person so notified within thirty days of the date of sending the letter and determines that the family day home otherwise complies with the provisions of the Middlesex County Zoning Ordinance, the zoning administrator may issue the permit sought.
3. If any adjoining property owner objects to said request in writing within the time period specified above, the Applicant may request that the application be considered after a hearing following public notice as provided in § [15.2-2204](#). Upon such hearing, the Board of Supervisors may, in its discretion, approve the permit, subject to such conditions as agreed upon by the applicant and the locality, or deny the permit.

(Section 15-28 Added by Amendment 6-2-15)

ARTICLE 15A

(Repealed: July 19, 2005)

ARTICLE 15B: INCENTIVE ZONING

(Effective: June 15, 2004)

15B-1. Applicability

For the purposes of this section, a “density bonus” refers to additional dwelling units permitted on a property by applying the criteria established in this subsection.

15B-2. Density Bonus Criteria

An applicant may be granted a density bonus by establishing any of the incentive items as described in Column (A) in Table A herein consistent with the standards described in Column (B) of Table A.

15B-3. Major Subdivision Approval

No density bonus pursuant to this subsection shall be established unless and until the Planning Commission has granted major subdivision approval in accordance with the Middlesex County Subdivision Ordinance and Section 17A of the Zoning Ordinance. To approve a density bonus, the Planning Commission shall find, as a part of major subdivision approval, that the character of the development and the amenities incorporated in the development are consistent with the standards described in Column (B) of Table A. Minor subdivisions and developments other than major subdivisions shall not be eligible for a density bonus.

15B-4. Calculation

The maximum number of dwelling units permitted may be increased as described in Column (C) of Table A. The total maximum increase in density shall not exceed 125% of the number permitted by the underlying zoning district. The percentage of increase shall be applied individually and treated as additive, not compounded.

TABLE A

COLUMN (A): Incentive Item	COLUMN (B): Criteria	COLUMN (C): Density Bonus
Central Sewer*	The provision of central sewer systems within major subdivisions.	5% Increase in Overall Density
Central Water*	The provision of central water systems within major subdivisions.	5% Increase in Overall Density
Open Space Dedication Exceeding Minimum Requirements	The establishment of open space exceeding the minimum acreage requirements of the Zoning and Subdivision Ordinances.	1% Increase in Overall Density per Additional 10 Acres of Open Space Dedicated
Retirement Housing	The development of residential, mixed-use communities that provide special facilities for retired persons and for which occupancy is restricted to persons 55 years of age and older.	5% Increase in Overall Density

* - Not applicable to major subdivisions within the R zoning district.

ARTICLE 16: SIGNS

(Effective: February 17, 2004)

16-1. Intent.

The purpose of this article is to promote and protect the public health, safety, and welfare by regulating signs of all types. It is intended to protect property values as well as create a more attractive and equitable economic and business climate while preserving the scenic and natural distinctiveness and rural nature of the County. It is further intended to reduce signage or advertising distraction and obstructions that may contribute to traffic accidents and hazards. Further it is also intended to reduce unnecessary signage and confusion while enhancing the community as a whole as an attractive place to live, work, and visit.

16-2. Governmental Sign Excluded. (Amended 11-20-12)

For the purpose of this ordinance, “sign” does not include signs erected and maintained pursuant to and in discharge of any governmental function, including volunteer fire department and rescue squad services, or required by any law, ordinance, or governmental regulations.

Signs identifying places identified in the most recent U.S. Census as being Census Designated Places shall be considered Governmental Signs provided that such signs shall:

1. Not be electronically controlled illuminated signs as defined herein,
2. Not exceed a maximum of 12’ in height,
3. Not exceed 32 square feet in sign area,
4. Be located along a Primary Highway,
5. Not exceed one such sign per primary highway entrance to a Census Designated Place.

(Amended 11-20-12)

16-3. General Requirements.

In order to protect the health and safety of all pedestrians and/or citizens of the County, the regulations contained in this section shall apply to all signs and all districts.

1. Illumination. (Amended 2-21-12)

- 1) Any illuminated sign or lighting device shall employ only light of constant intensity as defined in Article 22 herein and, except for electronically controlled illuminated signs as specified in this Section, no sign shall contain intermittent messages. No flashing or animated signs shall be allowed.

For purposes of this Ordinance, electronically controlled illuminated signs permitted in accord with the requirements herein shall not be considered flashing or animated signs provided that message alterations on such signs shall not contain rotating/revolving, scrolling text, or animated light or lights.

- 2) Sign illumination shall be of an enclosed lamp design, indirect lighting from a shielded source, or an electronically controlled illuminated sign which is characterized by changing messages.

- 3) Electronically controlled illuminated signs shall be limited to the following:
 - a. 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, or
 - b. An on-premise electronically controlled illuminated sign advertising only the business located on the property which changes alteration on not less than a ten (10) second cycle when such on-premise illuminated sign does not constitute a public hazard, in the judgment of the zoning administrator.
 - 4) No more than one electronically controlled illuminated sign shall be allowed per use. Such sign shall be a monument type low-profile sign of not more than eight (8) feet in height, measured from the existing ground elevation.
 - 5) Electronically controlled illuminated signs shall only be allowed in the General Business (GB), and Light Industrial (LI) Zoning Districts.
 - 6) In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination there from to be directed or beamed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance. (*Note: See Section 16-10, Signs Permitted, for information regarding an additional size bonus for non-illuminated or externally illuminated signs.*)
2. Projections.

No projecting sign shall be erected or maintained from a building more than four (4) feet, measured perpendicularly from the building. This shall include but not be limited to any signs projecting from the façade(s) of any theater, hotel, or motel marquee.
 3. Fire Escapes/Ventilation.

No sign of any classification shall be installed, erected, or attached in any form, shape or manner to a fire escape or any door or window giving access to any fire escape, nor shall any sign be placed so as to interfere with any opening legally required for ventilation.
 4. Driver Safety.

No sign shall be of such a form, character, or shape as to confuse or dangerously distract the attention of the operator of a motor vehicle or interfere with the purpose of any traffic control signal or directional device.
 5. General Safety.

Signs which in any way simulate official, directional, or warning signs erected or maintained by the State or County or public utility or similar agency concerned with the protection of the public health or safety shall not be permitted in the County.

6. Radio/Television Interference.

Signs with any lighting or control mechanism which may cause radio or television interference shall not be permitted in the County.

7. Height.

The height of all sign types except for on-structure signs shall be regulated by Section 16-10, Signs Permitted, of the Article. On-structure signs shall project no higher than the roof line for buildings with flat roofs, or the eaves line for buildings with pitched roofs. For the purposes of this ordinance, pitched awnings or roof overhangs shall not be considered pitched roofs on buildings which have otherwise flat roofs. Monument (ground-mounted) or low-profile hanging style signs are encouraged along scenic corridors designated in the Comprehensive Plan such as Route 3, 33, 17, and 227 as well as other rural corridors.

8. Other Exemptions.

Letters, symbols, numerals, and designs on any structure, cut in the facade which are an integral part of that structure and not intended to draw attention to any goods, merchandise, business, entertainment, amusements, or industry shall be considered a part of that structure and shall not require regulation by this ordinance.

9. Flags/Banners/Streamers.

Flags and insignia of any government shall not be considered as signs, except when displayed in connection with commercial promotion. Banners, streamers, or flags shall be regulated as a temporary signs.

10. Traffic/Parking Signs.

Signs directing and guiding traffic and parking on private property are permitted, provided they bear no advertising matter and do not exceed two (2) square feet in area.

11. Placement in Right-of-Ways.

No sign shall be placed in any public right-of-way except publicly owned signs, such as traffic control signs and directional signs.

12. Signage on Buildings Walls and/or Roofs.

No building wall or roof shall be used for display of advertising except that pertaining to the use carried on the same parcel.

13. Unsafe and Falling Signs.

Should any sign be or become unsafe or be in danger of falling, the owner thereof or the person maintaining the sign shall upon written notice from the Zoning Administrator proceed at once to put such sign in a safe and secure condition or remove the sign.

14. Vehicles/Trailers.

Temporary or permanent signs resting on or attached to vehicles or trailers shall not be used as a means to circumvent the provisions of this Article.

15. VDOT.

A permit from the Virginia Department of Transportation may be required to erect a sign on a route located in Middlesex County in order to meet the rules and regulations set forth in [Section 33.1-370](#) of the Code of Virginia as amended.

16. Residential Communities

Residential communities located in any R, VC or CD district shall be permitted one (1) community identification sign per community entrance. A residential community in this context shall mean any single-family, townhouse, apartment, condominium or manufactured housing development. One (1) such sign shall be permitted on each sign is attached to and designed to be an integral part of a wall or other ornamental feature. The maximum area for each such sign shall thirty (30) square feet, and the maximum height shall be ten (10) feet.

16-4. Measurement of Sign Area.

The surface area of a sign shall be computed as including the area within the outside perimeter of the sign and structure in a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign. Poles or other structural mechanisms supporting the sign shall be included in computation of surface area. (*Note: See definition of low-profile signs.*)

Provided, however, that in the case where lettering appears on opposite parallel sides of the sign, which sides are not more than twenty-four (24) inches apart, the area to be considered in total measurement of sign area shall be that of only one face.

The area of a V-shaped sign shall be the area of all surfaces legible from the public right-of-way or other point from which the sign is intended to be viewed. Only one face shall be measured if the angle of the sign is 45 degrees or less.

16-5. Signs Exempt.

All signs less than two (2) square feet in area are exempt from the restrictions or provisions of this ordinance. Signs of less than two (2) square feet shall not be counted when determining the number of signs permitted in any district.

16-6. Off Premises Signs.

For the purposes delineated in Section 16-1 of this Article no more than six (6) off premises signs shall be allowed in Middlesex County for any single business or purpose.

16-7. Campaign Signs. (Deleted 2/21/12)

16-8. Setback Requirements.

1. On Premises

On Premises Signs shall be subject to 10-foot side yard setback and shall be setback from all right-of-way according to the following sign height and minimum setback requirements:

Sign Height (feet)	Minimum Setback (feet)
6 or less	5
6 - 12	10
Greater than 12	25

2. Off Premises (*Amended 6-19-12*)

Off Premises Signs shall be subject to 150-foot side yard setback and a minimum setback from all right-of ways in accord with 16-8.2.b below.

- a. In the Resource Husbandry, Low Density Rural, and Village Community zoning districts located along Routes 3, 17, 33, and 227, more than one Off-Premise sign per parcel may be allowed provided that:
 - i. The parcel has at least 1,000 linear feet of frontage along such Routes,
 - ii. The two Off-Premise signs shall be separated by at least 500 linear feet
 - iii. The Off-Premise signs otherwise meet the setback requirements of Section 16-8.2.b

Linear foot distances shall be measured along the right-of-way line of Routes 3, 17, 33, and 227.

- b. The minimum setback from all right-of ways for off-premise signs shall be as follows:
 - i. Five (5) feet along Routes 3, 17, 33, and 227 within the Resource Husbandry and Low Density Rural Zoning Districts.
 - ii. In all other locations, Off Premises Signs shall be setback from all right-of-way according to the following sign height and minimum setback requirements:

Sign Height (feet)	Minimum Setback (feet)
6 or less	5
6 - 12	10
Greater than 12	25

16-9. On Structure Signs in GB, WC, LI, and VC Districts.

The permitting of On-Structure signs in the General Business (GB), Waterfront Commercial (WC), Light Industrial (LI), and Village Community (VC) Districts shall be permitted according to the following business building frontage and maximum sign area requirements:

1. General Business (GB), Waterfront Commercial (WC), and Light Industrial (LI) Districts

Business Frontage	Maximum Sign Area (combined total)
70 or less linear feet	65 square feet
More than 70	120 square feet

2. Village Community (VC) District

Business Frontage	Maximum Sign Area (combined total)
70 or less linear feet	32 square feet
More than 70	50 square feet

16-10. Signs Permitted.

For the purposes delineated in Section 16-1 of this Article signs shall be permitted in accordance with the requirements set forth in the following chart.

	On-Structure		On-Premises		Off-Premises		Temporary		
District	Maximum No.	Maximum Area (Total Combined Sq. Ft.) (**)	Maximum No.	Maximum Area (Total Combined Sq. Ft.) (**)	Maximum No.	Maximum Area (Total Combined Sq. Ft.) (**)	Maximum No.	Maximum Area (Total Combined Sq. Ft.) (**)	Maximum Height (Ft.) ()
C	1 per business	4	1 per parcel	6	1 per parcel	4	1 per parcel	32	12
RH	1 per business	20	1 per parcel	20	2 per parcel**** (Amended 2-21-12)	32, maximum for a single sign is 20 sq. ft. (Amended 2-21-12)	1 per parcel	32	12
LDR	1 per business	20	1 per parcel	20	2 per parcel**** (Amended 2-21-12)	32, maximum for a single sign is 20 sq. ft. (Amended 2-21-12)	1 per parcel	32	12
VC	2 per business	(*)	1 per parcel	50	2 per parcel**** (Amended 2-21-12)	32, maximum for a single sign is 20 sq. ft. (Amended 2-21-12)	1 per parcel	32	20
R	1 per business	4	1 per parcel	6	1 per parcel	2	1 per parcel	32	12
CD	1 per business	4	1 per parcel	6	1 per parcel	2	1 per parcel	32	12
WC	2 per business	(*)	2 per parcel	100	1 per parcel	40	1 per parcel	32	20
GB	2 per business	(*)	2 per parcel	100	1 per parcel	40	1 per parcel	32	20
LI	2 per business	(*)	2 per parcel	100	1 per parcel	40	1 per parcel	32	20
MH	1 per business	20	1 per parcel	20	1 per parcel	40	1 per parcel	32	12

(*) See Section 16-9, On Structure Signs in GB, WC, LI, and VC Districts Regulations.

(**) Non-illuminated or externally illuminated signs receive a total square footage bonus of 25% in addition to the maximum permitted size.

(***) On Structure Sign height is regulated by Section 16-3-7, Height, instead of the table as set forth in this Section.

(****) In the Resource Husbandry, Low Density Rural, and Village Community zoning districts located along Routes 3, 17, 33, and 227, more than one Off-Premise sign may be allowed provided that:

- The parcel has at least 1,000 linear feet of frontage along such Routes,
- The two Off-Premise signs shall be separated by at least 500 linear feet
- The Off-Premise signs otherwise meet the setback requirements of Section 16-8.2.b
- Linear foot distances shall be measured along the right-of-way line of Routes 3, 17, 33, and 227.

16-11. Zoning Permit Required.

No sign shall be erected, constructed, structurally altered or relocated until a zoning permit has been issued by the zoning administrator per the requirements of Article 21 of this ordinance. All applicants shall obtain all necessary building permits or other required approvals prior to the erection of any sign. All temporary signs permitted by this article are exempted from the requirements of this subsection.

ARTICLE 17: OFF-STREET PARKING

17-1. Purpose.

The purpose of establishing minimum off-street parking requirements is to promote and protect the general health, welfare and safety of the citizens of Middlesex County. Off-street parking is required in order to alleviate parking congestion and obstruction on the County's roads and highways, provide areas to public and non-public buildings for the handicapped and the general public, and to ensure the safety of motorists and pedestrians.

17-2. General Requirements.

No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking spaces have been provided in accordance with the provisions of this ordinance.

The provisions of this article, except where there is a substantial alteration or a change of uses, shall not apply to any existing building or structure. Where the new use involves no additions or enlargements, there shall be provided as many of such space as may be required by this ordinance.

Whenever a building or structure constructed after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase in the number of parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change. Whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) percent or more in floor area, number of employees, number of housing units, seating capacity, or otherwise, said building or structure shall then and thereafter comply with the full parking requirements set forth herein.

17-3. Dimension of Parking Spaces and Aisles.

The following dimension requirements shall apply to all off-street parking areas required for non-residential uses set forth in Articles 4 through 12.

Off-street parking areas shall be marked off into parking spaces with a minimum width of nine (9) feet and a minimum length of eighteen (18) feet; or in the case of parking spaces for trucks, buses, or special equipment, parking spaces of a minimum size to be determined by the Zoning Administrator based on the nature of the parked vehicles.

All aisles within parking areas shall have a minimum width of twenty-four (24) feet when the parking spaces are at a ninety (90) degree angle with the aisle; eighteen (18) feet when the parking spaces are at a sixty (60) degree angle with the aisle; and twelve (12) feet for parallel parking.

17-4. Design Requirement for Off-Street Parking Areas.

The physical improvement of off-street parking areas shall include:

1. Any lights used to illuminate parking areas shall be so arranged as to reflect light away from adjoining premises.

2. Whenever a parking area is located in or adjacent to a residential use district, it shall be effectively screened on all sides which adjoin or face any property used for residential purposes by an acceptable fence or planted screen. Such planted screen shall consist of densely planted evergreen shrubs or evergreen hedge not less than four (4) feet nor more than six (6) feet in height, and shall be maintained in good condition.

17-5. Maintenance of Off-Street Parking Areas.

The owner of property used for parking and/or loading shall maintain such area in good condition without holes and free of all trash and other debris.

17-6. Location of Parking Spaces.

Parking spaces for apartments, dormitories, or similar residential uses shall be located not more than three hundred (300) feet from the principal use.

The Zoning Administrator shall ensure that access to parking for the handicapped is provided in accordance with the Virginia Uniform Statewide Building Code and Section [2.2-1159](#) of the Code of Virginia as amended.

17-7. Joint Use.

Two (2) or more non-residential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that all of the requirements of this article are met and a written agreement shall be filed with the Zoning Administrator with the application for a zoning permit.

17-8. Width of Access Driveway.

The entrances and exits of the parking area shall be clearly marked. Interior vehicular circulation by way of access roads shall maintain the following minimum standards: For one-way traffic, the minimum width of fourteen (14) feet except for forty-five (45) degree parking in which case the minimum width of the access road shall be seventeen (17) feet. Access road for two-way traffic shall have a minimum width of twenty-four (24) feet. Parking areas having more than one aisle or driveway shall have directional signs or markings in each aisle or driveway.

17-9. Parking Space Requirements.

In accordance with the purposes set forth in 17-1 of this ordinance, the following parking space requirements shall apply:

TYPE OF USE

PARKING SPACES REQUIRED

RESIDENTIAL:

1. Single-family or two family dwelling Two per dwelling unit

<u>TYPE OF USE</u>	<u>PARKING SPACES REQUIRED</u>
2. Apartment hotels or multi- family dwellings	Two per unit
3. Boarding Houses	One for each sleeping room
4. Mobile Homes	Two per unit
5. Manufactured Homes	Two per unit
COMMERCIAL:	
1. Automobile service stations which also provide repair	One for each two gasoline pumps and two for each service bay
2. Hotels and motels	One per sleeping room plus one for each two employees plus one for every 30 sq. ft. of meeting room floor space
3. Funeral parlors and mortuaries	One for each 100 sq. ft. of floor area in slumber rooms, parlors, or service rooms.
4. Retail stores	One for each 200 sq. ft. of floor area
5. Banks, financial institutions	One for each 200 sq. ft. of floor area and similar uses
6. Commercial office buildings or service buildings	One for each 400 sq. ft. of floor area.
7. All other business or commercial uses permitted in any Business District	One for each 300 sq. ft. of floor area.
RECREATION OR ENTERTAINMENT:	
1. Dining rooms, restaurants, night clubs, etc.	One for each 3 seats
2. Bowling Alleys	Four for each alley or lane
3. Outdoor swimming pools, public or private, or club	One for each 5 person capacity
4. Auditoriums, theaters, and similar uses	One for each 3 seats
5. Marinas	One for each slip

TYPE OF USE

PARKING SPACES REQUIRED

INSTITUTIONAL:

- | | |
|--|---|
| 1. Churches and other places of religious assembly | One for each 4 seats |
| 2. Homes for the aged, nursing homes, and similar uses | One for each 2 beds |
| 3. Medical and dental clinics | One for every 200 sq. ft. of floor area of examination or treatment room, office and waiting room space |
| 4. Libraries | One for each 400 sq. ft. of floor area. |

SCHOOLS:

- | | |
|--|---|
| 1. Elementary and middle schools | Auto: Two for each classroom and one for every 8 seats in auditoriums or assembly halls
Bus: One for each classroom. |
| 2. High Schools | Auto: One for every 10 students and one for each teacher and employee.
Bus: One for each classroom. |
| 3. Kindergartens, child care centers, centers, nursery schools & not less than 6 similar uses. | Two for each classroom but not less 6 for the building |

INDUSTRIAL:

- | | |
|--|--|
| 1. All types of manufacturing, express parcel, delivery, and freight terminal uses permitted in Industrial Districts | One for each two employees on each single shift storage wholesale, plus one for each motor vehicle used in the business or maintained on the premises. |
|--|--|

17-10. General Interpretations.

In the interpretation of this Article, the following rules shall govern:

1. Parking spaces for permitted uses or special exceptions not listed in this article shall be determined by the Zoning Administrator. The Zoning Administrator's decision may be appealed to the Board of Zoning Appeals pursuant to Article 19, [Section 19-6\(1\)](#).
2. Fractional numbers shall be increased to the next whole number.

3. Where for any reason parking requirements are unusually low, the parking space provisions cited above may be reduced proportionately by the Board of Zoning Appeals via the variance procedure pursuant to Article 20, [Section 20-2](#).

17-11. Parking in Spaces Reserved for the Handicapped.

All parking spaces reserved for the use of handicapped persons must be identified by above grade signs. Any parking space not identified by an above grade sign is not a parking space reserved for the handicapped. All above parking space signs shall have the bottom edge of the sign no lower than four (4) feet nor higher than seven (7) feet above the parking surface. Such signs shall be designated and constructed in accordance with the Uniform Statewide Building Code.

ARTICLE 17A: SITE PLAN REVIEW

(Amended: June 18, 2003)

17A-1. Purpose

Middlesex County requires new development to be coordinated, balanced, and harmonious to achieve the highest possible quality living environment. For certain projects, site plans are submitted and reviewed to assure development is in conformance with all County ordinances as well as consistent with the Middlesex County Comprehensive Plan.

17A-2. Certain Plans Subject To Review By Planning Commission

Major site plan applications are subject for preliminary review by the Planning Commission and final review by the Zoning Administrator. Minor site plans are subject to final review only by the Zoning Administrator unless requested for Planning Commission review under Section 17A-9. Review determinations shall include approval, approval with modifications, approval with conditions or denial of the site plan application. The Zoning Administrator shall incorporate the determinations, decisions and recommendations made by the Planning Commission in performing the final review of a major site plan.

17A-3. Determination Of Major Or Minor Site Plan

The Zoning Administrator shall determine based on the information included in Sections 17A-5 and 17A-7 and any other available information whether a major site plan or a minor site plan is required for each project.

Immediately upon receipt of a site plan application, the Zoning Administrator shall verify the completeness of the application. If the application is incomplete, the Zoning Administrator shall notify the applicant of required information necessary to complete the application.

17A-4. Amendments And Additions To Previously Approved Site Plans

Amendments, additions, and modifications may be allowed to an approved final site plan subject to the following conditions;

1. Adjacent property owners and Board of Supervisors members are notified of the application following the procedure of Section 17A-9.
2. There are no requests by a Board of Supervisor member to request that the Planning Commission hear the application.
3. The amendment does not constitute a major site plan.

If there is no request by a member of the Board of Supervisors to have the Planning Commission review the request for an amendment and/or addition of a site plan, the Zoning Administrator shall review the request.

17A-5. Major Site Plans

Major site plans are required for the following uses:

1. Any nonresidential use requiring the construction of new structures on vacant, unimproved parcels for the creation of improvements such as but not limited to parking lots, buildings, drainfields, and highway entrances and access.
2. Additions and modifications of previously approved major site plan applications in conjunction with Section 17A-4.
3. The expansion of any existing nonresidential site with a building or structure or combination of buildings and structures with a total finished floor area in excess of two thousand and five hundred (2,500) square feet.
4. Use of any site with any improvements that exceed thirty-five (35) feet in height.
5. The construction of any multi-family dwellings or the conversion of any existing residential structure containing one or two dwelling units to multi-family dwellings. The installation of multiple multi-family dwellings on more than one parcel of property is subject to the major site plan review process.
6. The establishment or expansion of any manufactured home park.

17A-6. Major Site Plan Submission Requirements

Major site plans or any portion thereof involving engineering, architecture, landscape architecture or land surveying shall be certified by an engineer, architect, land surveyor or landscape architect licensed to practice in the State of Virginia. Major site plans shall be drawn to scale. The major site plan shall include all of the following information;

1. A boundary survey of the property including a north arrow, easements, waterbodies, parcel numbers, street names and route numbers, adjacent properties and other landmarks,
2. Existing and proposed finished contours at two (2) foot intervals,
3. A completed site plan application that contains the following;
 - a. Title of the project,
 - b. Name, address and phone number of the engineer, architect, planner, and/or license surveyor,
 - c. Parcel number,
 - d. The mailing address and phone number of the property owner and contact person as well as the property owner's signature.
 - e. Zoning district

- f. General location of the project,
 - g. Flood zone, and
 - h. Chesapeake Bay Preservation Area,
 - i. Estimated completion date,
- 4. A landscape plan that meets the requirements of Article 17B of this ordinance,
- 5. The height, location, type, lighting and square footage of each sign regulated by Section 16 of this ordinance,
- 6. The location, type, and size of all entrances to the site or rights-of-way located on or adjacent to the site. The Zoning Permit for the project shall not be issued until all required approved VDOT permits (or documentation stating that a permit is not required) are submitted to the Planning Department,
- 7. The location, size and type of any on-street and off-street parking and sidewalks,
- 8. The location, type and size of any primary drainfields and if required reserve drainfields or other sewage disposal systems approved by the Health Department; the zoning permit for the project shall not be issued until all Health Department permits for the construction of sanitary systems (or documentation stating a permit is not required) are submitted to the Planning Department,
- 9. The location, size, height, number of floors and use of each building,
- 10. The location of any buffers used to minimize the visual, sound, lighting or any other negative impacts of the project. Buffers shall include but may not be limited to, berms, trees, or fencing,
- 11. The location of any outside storage of equipment, supplies, materials, vehicles, boats or any other items,
- 12. The location of any utility lines that may include but is not limited to electrical lines, gas lines, cable television lines, telephone lines,
- 13. The location, size and type of any trash disposal facilities,
- 14. Outside lights, streetlights or other lighting mechanisms in accordance with Section 17C of this ordinance,
- 15. The location of any conservation easements, dedicated open space, recreational facilities or similar areas,
- 16. The location of any emergency service facilities such as fire suppression lines, hydrants or other facilities,
- 17. The location of any permanent stormwater management structures or devices,

18. The location of any gas tanks, pumps, or other facilities that may require additional federal, state or local permits,
19. The location and type of soils, water features and wetlands,
20. A schematic drawing, artist rendition or elevation drawing of any buildings located on the site,
21. The location and size of any monuments, statues or similar features,
22. The location and type of any historic building, feature or any archeological sites,
23. The locations of any rare or endangered plant or animal species,
24. The location of any rights-of-way, adjacent or nearby road improvements, and uses of adjacent properties.
25. Any other information requested by the Planning Commission or the Zoning Administrator related to site use, location, development or features, and
26. Information required by other County ordinances such as but not limited to, the Floodplain Ordinance, Erosion and Sediment Control Ordinance or Subdivision Ordinance.

The applicant may include proposed restrictive covenants as well as future or long range plans in the application for informational purposes in review of the application. (*Amended 6/15/04*)

17A-7. Minor Site Plans

A minor site plan shall be required for the following:

1. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use.
2. The conversion of a residential use to a nonresidential use or mixed use,
3. The following uses: yacht clubs, lodge halls, animal kennels, family homes, foster homes, public boat ramps, outdoor recreation facilities, cemeteries, country clubs, fishing piers, wayside stand, roadside stand, flea markets, wayside market and facilities for the racing of engine powered vehicles or devices.
4. The establishment of a new nonresidential use even if no structures are proposed, including uses such as golf courses and other nonstructural nonresidential uses.
5. All permitted uses in the WC District.

17A-8. Minor Site Plan Submission Requirements

The following are requirements of minor site plans;

1. A boundary survey of the property including a north arrow, easements, waterbodies, parcel numbers, street names, route numbers, adjacent properties and other landmarks,
2. The location, size, height, number of floors and use of any existing buildings and additions to existing buildings,
3. The location, type, number and size of parking and loading spaces,
4. A landscape plan that meets the requirements of Article 17B of this ordinance,
5. The location of any outside storage of equipment, supplies materials, vehicles, boats or any other items,
6. The height, location, type, lighting and square footage of each sign regulated by Section 16 of this ordinance,
7. Any additional information requested by the Planning Commission or the Zoning Administrator related to site development use, development, location or features,
8. The location, type and size of all entrances to the site and rights-of-way located on or adjacent to the site; the Zoning Permit for the project shall not be issued until all required approved VDOT permits (or documentation stating that a permit is not required) are submitted to the Planning Department,
9. The location, type and size of any primary drainfield and if required, reserve drainfields, or other sewage disposal systems approved by the Health Department; the zoning permit for the project shall not be issued until all required Health Department permits for the construction of sanitary systems (or documentation stating that a permit is not required) are submitted to the Planning Department,
10. A completed site plan application that contains the following;
 - a. Title of the project,
 - b. Name, address and phone number of the engineer, architect, preparer, planner, and/or license surveyor,
 - c. Parcel number,
 - d. The mailing address and phone number of the property owner and contact person as well as the property owner's signature,
 - e. Zoning district,
 - f. General location of the project,
 - g. Flood zone,
 - h. Chesapeake Bay Preservation Area,

- i. Estimated completion date,
- 11. The location, size and type of any trash disposal facilities.
- 12. Outside lights, streetlights or other lighting mechanisms in accordance with Section 17C of this ordinance.

17A-9. Notification Of Site Plan Application

Once the site plan application has been determined to be complete, the Planning Department shall provide written notice to adjacent property owners by certified mail. Written notice shall also be provided to members of the Board of Supervisors. Should it be requested within seven (7) business days by a member of the Board of Supervisors that a minor site plan be reviewed by the Planning Commission, the application shall be scheduled for a public hearing on the next available agenda to be reviewed by the Planning Commission. Should there not be a request by a member of the Board of Supervisors within seven (7) business days for the Planning Commission to review the site plan, the Site Plan shall be reviewed by the Zoning Administrator administratively. The Zoning Administrator may require additional time for staff review.

All site plans reviewed by the Planning Commission shall require a public hearing. Advertising shall be in accordance with [Section 15.2-2204](#) of the Code of Virginia, as amended. The Zoning Administrator shall not accept revisions, amendments or additions within five (5) business days of a public hearing date to review the site plan. The Planning Commission may accept revisions, amendments, or additions at the meeting when reviewing of the application.

All site plans shall be kept on file by the Zoning Administrator and made available to the public for review during established office hours.

17A-10. Review by Other Representatives

For any major site plan application received, the Zoning Administrator shall refer the site plan to the Middlesex County Health Department, Virginia Department of Transportation (VDOT), local emergency services personnel and any other applicable state agency for their review. Each of these agencies shall review the application to determine their compliance with all applicable statutes, ordinances and regulations and, if requested, to determine the various impacts that the proposed site development may have on the County. Upon completion of their review, each agency may provide the Planning Commission with written comments regarding their findings and recommendations. Each agency must provide the Commission with written comments at least three (3) days prior to the hearing date for these comments to be considered.

17A-11. Submittal Requirements

Applicants are strongly encouraged to meet with the Zoning Administrator prior to submittal of an application for site plan approval. A conceptual plan may be submitted for review, comments and recommendations concerning site development. Conceptual plans shall not be considered for approval and are not subject to the time period for final approval.

In order for a site plan to be considered, the following must be submitted:

- 1. A completed site plan application signed by the property owner.

2. For a minor site plan, five copies of the site plan contents. For a major site plan, twenty copies of the site plan contents. Should it be determined that a minor site plan to be heard by the Planning Commission for preliminary approval, fifteen additional copies must be submitted by the applicant. The Zoning Administrator may require additional copies from the applicant.
3. The required fee for site plan approval.
(Repealed 4/15/97 by adoption of FEE ORDINANCE, DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMEMNT, MIDDLESEX COUNTY, VIRGINIA. Please reference said ordinance for listing of applicable permit application and service fees.)

There shall be no additional fee for a minor site plan to be reviewed by the Planning Commission.

17A-12. Additional Studies

The Planning Commission may undertake or require the applicant to undertake any study that it reasonably deems essential to ensure that the development can satisfy the Review Criteria of Section 17A-15 of this Ordinance. The applicant shall pay the reasonable cost of any such study.

17A-12.1 Community Impact Statement.

In the case of Major Site Plans of twenty-five (25) or more dwelling units, or where the potential for the creation of twenty-five (25) or more dwelling units exists through resubdivision, or where in the opinion of the Planning Director the proposed development is expected to have a significant impact on the County services, the Major Site Plan application shall be accompanied by a Community Impact Statement analyzing the proposed development and its expected impacts upon existing municipal facilities and services. The Community Impact Statement shall provide qualified opinions regarding the following:

1. Population impact, providing an estimate of population to be added to the municipal population and broken down into data for age groupings;
2. School impact, providing an estimate of preschool and school age children to be generated by project development broken down into school grades and an analysis of the ability of the public school system to absorb the projected increase. The analysis is to provide data on school facility capacity, existing enrollments, cumulative projections of new students, impacts on facilities, support staff, and added costs to the school district;
3. Services impact, providing an analysis of the services provided by the County to serve proposed development and the impact of the development on the services; and
4. Fiscal impact, providing an analysis of the estimated tax revenues to be generated versus the cost of public improvements to be financed by the County.

17A-12.2 Traffic Impact Statement.

In the case of Major Site Plans of twenty-five (25) or more dwelling units, or where the potential for the creation of twenty-five (25) or more dwelling units exists through resubdivision, or where in the opinion of the Planning Director and VDOT the proposed development is expected to have a significant impact on the transportation network, the Major Site Plan application shall be accompanied by a Traffic Impact Statement providing an analysis of the existing road network available to serve the proposed development. The Traffic Impact Statement shall analyze the levels of service impacts of the proposed development based on a twenty (20) year demand projection, the capacity of the existing and proposed roadways, the existing and proposed traffic volumes, the existing roadway conditions, the roadway improvements that are required to serve the development and the cost for improvements. If, upon the advise of VDOT, such additional traffic would, in their opinion, exceed the standard for public safety and corrective action would not be feasible the, in such event, the Planning Commission may:

1. Require the developer to reduce the size of the development to a number of lots or dwelling units deemed to be safe;
2. Require deed restrictions to prevent the resubdivision of properties or the creation of additional dwelling units; or
3. Deny the approval of the application.

17A-13. Application Review Time Period

Within ninety (90) days from the date when a completed site plan has been submitted to the Planning Department, the site plan shall be approved, approved with modifications, or denied. If no action has been taken within ninety (90) days, the site plan shall be approved by the Zoning Administrator. Extension may be approved by the reviewing authority if the applicant submits a written request to extend the review time period for a specific time period not to exceed one (1) year from the date of application.

Preliminary approval of a site plan shall be valid for a period of two (2) years. Once a final site plan is approved by the Zoning Administrator it shall be valid for a period five (5) years.

17A-14. Surety

The Planning Commission may require surety to ensure that site plan approval conditions are installed. Surety may be required for site improvements that may include but are not limited to plantings, roads and buildings. Surety may be in the form of cash escrow or a letter of credit.

17A-15. Review Criteria

Site plans shall be reviewed in regard to the following:

1. Intensity and impacts of the proposed project to include density and adequate provisions for open space, recreational facilities as appropriate to the site usage.
2. The comprehensive impact of the design and layout of the site to include buildings, outside storage or other areas actively used on the site. Provisions should be adequate to protect adjacent property owners against noise, odor, smoke, light, undesirable visual impacts, and other nuisances.

3. The impact of signage on a transportation corridor, the commercial center, and other neighboring businesses and residences shall not result in violation with this ordinance, obstruction of other signs, or result in unnecessary signage.
4. The impact of the size and location of garbage and trash disposal facilities is adequate to ensure that the facilities do not constitute a nuisance to adjacent properties in regard to the following:
 - a. The visible impact of the size and location of refuse or refuse collection units,
 - b. The proximity of the location of refuse on the site causes a nuisance because of smell, rodents or other undesirable effects.
5. To be in conformance with the Chesapeake Bay Preservation Ordinance, Erosion and Sediment Control Ordinance, Wetlands Ordinance, Floodplain Ordinance, and State and Federal regulatory agencies such as the Army Corps of Engineers and the Virginia Marine Resources Commission. Environmental impacts shall be kept to a minimum in developing the site and measures implemented so that developmental and construction practices are environmentally sound.
6. The provision of utilities to the site is subject to the following:
 - a. The installation of utilities have the least obstructive impact possible including but not limited to screening, underground installation, color, shape, and location,
 - b. The installation of utilities is best utilized so as not to result in an unnecessary duplication of service,
 - c. The installation best serves the needs for future approved expansion.
7. The impact of increased traffic is subject to the following:
 - a. The entrance, exit, right-of-way, or other traffic features are in accordance with Virginia Department of Transportation criteria,
 - b. Does not discourage the use of pedestrian or bicycle facilities,
 - c. Parking and loading spaces are in conformance with this ordinance,
8. The site improvements do not have a visible impact subject to the following:
 - a. Does not significantly impair the viewshed of a creek, river, lake or similar feature,
 - b. Does not significantly detriment the rural nature of the county from public roads.
9. The approval does not present a public safety hazard, and that the site can be adequately served for emergency services or that adequate emergency services are available on-site.

10. Consistency with permits, standards and comments of state and federal agencies such as the Health Department, VDOT, the Department of Environmental Quality or other agencies.
11. Conformance with the overall goals and objectives of the Comprehensive Plan.
12. Conformance with the regulations and design standards contained in this ordinance and the Middlesex County Subdivision Ordinance.
13. The site plan layout is consistent in regard to physical layout and appearance with the adjoining properties and previously developed phases.

17A-16. Notifications Of Approval And Denial

The Zoning Administrator shall notify the applicant in writing upon the determination of the approval or denial of the site plan application. The notification shall contain any conditions of approval or reasons for denial.

17A-17. Phased Approvals

The plan approving authority (Planning Commission or Zoning Administrator) may allow for a phased approval on a major site plan subject to the following:

1. The applicant shall not be allowed to operate, sell or use the site until all conditions of the entire site plan are met.
2. The certificate of occupancy shall not be issued until all of the conditions of the entire site plan are met.
3. Conditions of the each phase must be completed in order for the plan approving authority to approve any subsequent phase.

17A-18. Board Of Supervisors Review Of Site Plans

The Board of Supervisors reserves the right to review any major or minor site plan application and any amendments to an existing site plan upon review by the Zoning Administrator and/or the Planning Commission. Unless requested by a member of the Board of Supervisors to review an application within three (3) business days upon determination of compliance with this Article, the decision of the Zoning Administrator on the site plan application shall be considered final.

17A-19. Exemptions

The following projects are exempt from this article:

1. Agricultural and silvicultural activities, including all buildings and structures ,
2. Single family and two-family dwellings and their accessory uses,
3. Seasonal roadside or wayside stands;

4. Signs in accordance with Section 16 of this ordinance;
5. Parking redesigns in accordance with Section 17 of this ordinance;
6. Landscaping redesigns in accordance with Section 17B of this ordinance;
7. Residential or rural home occupations in accordance with Section 17A-20 of the Ordinance; and
8. Accessory structures that are five hundred (500) square feet or less in size.
9. The expansion of any existing nonresidential site with a building or structure or combination of buildings and structures with a total finished floor area less than two thousand and five hundred (2,500) square feet.

17A-20. *.Residential and Rural Home Occupations*

Residential or rural home occupations shall be exempt from the provisions of Article 17A of this ordinance. Each residential or rural home occupation shall obtain a Zoning Permit subject to the provisions of Article 21 of this ordinance prior to the commencement of business operations. All residential and rural home occupations must meet the following criteria:

1. Must be conducted at least fifty (50) feet from adjoining properties.
2. No stock in trade shall be displayed or sold on the premises, except articles produced on the premises.
3. No alteration to the exterior of the principal dwelling that changes the character thereof as a dwelling shall be made.
4. No outside display or storage of goods, equipment or materials used in connection to a home occupation shall be permitted.

ARTICLE 17B: LANDSCAPING AND BUFFERING REQUIREMENTS

(Adopted: May 21, 2003)

17B-1. Purpose

The purpose of this Article is to set forth standards for landscaping and screening, and the provision for buffer areas between incompatible uses to minimize the harmful impacts of noise, dust, odors, artificial light intrusion, and other objectionable impacts created as a result of incompatible abutting uses; and to promote efficient land development through effective site planning with attention to landscaping and buffering.

17B-2. Landscaping Plan Submission

A conceptual landscaping plan shall be submitted in conjunction with any Site Plan review conducted under Article 17A of this ordinance. The landscaping plan shall be drawn to scale, shall include the following information:

1. Location of all existing trees in the following manner:
 - a. In open and cleared areas, all existing healthy and mature native trees (12" caliper or greater) shall be identified by location, size and species. All existing mature trees proposed for removal shall be clearly identified.
 - b. In wooded areas, the existing woodline, including average size and predominant species of existing mature trees, shall be identified. All areas of tree clearance shall be clearly identified.
2. Location of all existing vegetation, or groupings of existing vegetation, to be preserved on site;
3. Location, size and species of vegetation to be installed under the landscaping requirements of Article 17B of this ordinance;
3. Location of any buffering or screening required by the provisions of the Cluster Development (CD) District, Light Industrial (LI) District, or Sections 17B-6 of this ordinance.

17B-3. Plant Material

All plant material used shall meet the following requirements:

1. All plant materials shall be alive and in a healthy, mature condition.
2. All of the landscaped area that is not planted with trees and shrubs must be planted in ground cover plants, which may include grasses. Mulch (as a ground cover) must be confined to areas underneath plants and is not a substitute for ground cover plants.
3. The minimum size of plant material shall be as follows:

- a. *Small deciduous tress:* Small deciduous tress shall be of a species having an average minimum mature crown spread of greater than twelve (12) feet. At the time of planting, a minimum of two inches in diameter or four feet in height.
- b. *Large deciduous trees:* Large deciduous tress shall be of a species having an average minimum mature crown spread of greater than thirty (30) feet. At the time of planting, a minimum of three (3) inches in diameter or six feet in height.
- c. *Evergreen trees:* A minimum height of five (5) feet at the time of planting.
- d. *Shrubs:* A minimum height of two (2) feet at the time of planting.

17B-4. Tree Preservation

Existing healthy and mature native trees (12" caliper or greater) should be retained as practical and incorporated into the overall landscaping plan. Where any such tree is unhealthy or needs to be removed in accordance with accepted landscaping practices, its removal shall be indicated on the landscaping plan. Any healthy existing tree or shrub may be included for credit toward the requirements of this section. Existing trees do not need to be individually located on the landscaping plan.

17B-5. Parking Areas

All parking areas shall include landscaping as a part of their plan. A total of five percent (5%) of the entire parking lot, excluding the access drive, shall be landscaped with plant material. Within the parking lot there shall be planted a minimum of one (1) tree per ten (10) spaces, rounded down to the closest whole number. The primary landscaping material used in parking areas shall be trees that provide shade or are capable of providing shade at maturity. Landscaped areas shall be reasonably dispersed, located so as to divide the expanse of paving.

17B-6. Perimeter Areas

Landscaping shall be required at the outer boundaries of projects, or within the required setbacks, and shall be provided except where driveways or other openings may be required. For large development projects, perimeter landscaping shall apply to the full perimeter of the overall project and not to internal property lines. The landscaping guidelines below shall be used to calculate the number of required plantings in perimeter areas. These guidelines do not require that plantings be uniformly spaced; rather, groupings of plant materials is encouraged. Specific landscaping guidelines are as follows:

1. At least one (1) large or small deciduous tree for each fifty (50) linear feet.
2. At least one (1) evergreen tree for each thirty (30) linear feet.
3. At least one (1) shrub for each fifteen (15) linear feet.

17B-7. Buffering and Screening Requirements

Buffers and screening shall be provided according to the following standards:

1. Nonresidential uses or buildings shall not be conducted or located closer than fifty (50) feet to any lot in a residential district or any lot used for residential purposes in a

Resource Husbandry (RH), Low Density Rural (LDR), Village Community (VC), Manufactured Home (MH) and Cluster Development (CD) District. This fifty (50) foot buffer shall be landscaped to minimize visual impact of nonresidential uses on residential districts.

2. Commercial uses that are located in a Village Community (VC), General Business (GB) or Waterfront Commercial (WC) District and which abut a Residential (R) District shall screen the entire length of each side of the lot that abuts the R District, using a solid decorative wooden fence at least six (6) feet in height approved by the Planning Director.

17B-8. Maintenance

The owner or his agent shall be responsible for the maintenance, repair and replacement of all materials required by Article 17B of this ordinance. All plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris at all times. All unhealthy, dying or dead plant materials shall be replaced during the next planting season. The property owner, or the owner's successors, shall be responsible for the maintenance of all landscaping, fencing, and screening materials. Failure to maintain such landscaping, fencing and screening shall be deemed a violation of Article 17B of this ordinance.

17B-9. Installation

All required landscaping shall be installed and approved by the first planting season. This requirement shall not preclude the phasing of landscaping programs for larger development projects, the timing of which shall be approved by the Planning Director.

17B-10. Revisions

Any revisions to an approved landscaping plan shall be approved by the Planning Director if all of the requirements of Section 17B are met.

ARTICLE 17C: LIGHTING REQUIREMENTS

(Adopted: May 21, 2003)

17C-1. Purpose

The purpose of this Article is to set forth standards for lighting to preserve and enhance the rural character of Middlesex County, to protect the dark night skies of the community, and to reduce unsafe or annoying lighting conditions.

17C-2. Lighting Requirements

The lighting requirements of this Section shall apply to all outdoor lighting in nonresidential developments requiring Major Site Plan approval. Except as otherwise provided herein, lighting in nonresidential developments requiring Major Site Plan approval shall be subject to the following requirements:

1. Downward directional full cutoff lighting shall be used for all freestanding or building mounted lights on site.
2. Light intensity shall not exceed 0.5 foot-candles above background levels, measured at ground level at any property line; provided, that light levels at property lines that are immediately adjacent to property zoned General Business (GB), Waterfront Commercial (WC) or Light Industrial (LI) shall be exempt from this requirement.
3. Site plans for any commercial or industrial use that operates during any hour of darkness shall include the following:
 - a. A lighting plan for the entire site that is to be developed, which shall include a photometric plan, light fixture specifications, and fixture mounting detail;
 - b. Foot-candle plots arranged in a uniform ten-foot by ten-foot grid pattern over the site; and
 - c. Average and minimum foot-candles for contiguous lighted areas of the site.
4. Light sources shall be fully shielded from direct view from adjoining properties in the Residential (R), Cluster Development (CD), Low Density Rural (LDR), Resource Husbandry (RH) or Conservation (C) districts or from any public or private rights-of way.
5. Site lighting shall be reduced to that level necessary for security during those hours that business is not being conducted on the site. This level shall allow lighting sufficient to safely illuminate areas of building ingress and egress, areas located between building entrances and parking spaces nearest to those entrances while employees are on-site, and other areas of high security importance such as "drop-boxes". Light levels in these areas may vary from those provided during hours of operation; provided, the light levels shall not exceed those emitted during hours of operation and the overall light level of the site shall be reduced from the level during hours of operation.

6. Uplighting of building facades is permitted and cutoff fixtures shall not be required so long as shielded and directional fixtures are used. All such fixtures must be installed and aimed so as to minimize glare, sky glow and light trespass, and the light source must be aimed so that the light beam is not directed above the top of the building facade.

17C-3. Exemptions

The following types of lighting are exempt from the provisions of Section 17C of this ordinance:

1. All temporary lighting required for construction projects;
2. All emergency lighting needed by police or fire departments or other emergency services;
3. All hazard warning lighting required by Federal regulatory agencies;
4. Signs in accordance with Section 16 of this ordinance; and
4. Seasonal/decorative lighting displays.

ARTICLE 17D: MULTI-FAMILY, CONDOMINIUM AND TOWNHOUSE DEVELOPMENTS

(Adopted: June 18, 2003)

17D-1 Purpose.

The purpose of the following design standards is to ensure the efficient, economical, comfortable and convenient use of land and open space and to preserve rural character within multi-family, condominium and townhouse developments.

17D-2 Development Standards.

All multi-family, condominium and townhouse developments shall meet the following requirements:

1. *Streets:* All streets in a proposed development shall be a minimum forty (40) foot right-of-way that shall be designed and constructed in accordance with the Virginia Department of Transportation's Subdivision Street Requirements, January 1, 1996, as may be amended. The dedication and acceptance of such roads as public streets under the secondary system of state highways shall be at the option of the developer. If the streets in a proposed development are planned to remain private and not be accepted into the secondary system of state highways, the developer shall make provisions for the formation of a homeowner's association that will be responsible for maintenance and repair of the streets. Until a homeowner's association is formed, the developer shall be responsible for the streets. Documentation for the organization of a homeowner's association, including provisions for street maintenance, shall be submitted for review with the preliminary plat. When streets are to remain private, the following statement shall be included on all plats, deeds, and covenants: "The grantors hereby give notice as required by the Zoning Ordinance of Middlesex County, Virginia, that streets will not be repaired or maintained by the Virginia Department of Transportation and no other local or state governmental agency will be responsible for the development, construction, repair or maintenance of said streets. The parties of this deed shall hold all local and state agencies harmless from any liability or expense concerning the repair and maintenance of private streets within the subdivision."
2. *Water and Sewer:* All developments shall construct central water and sewer systems, including distribution lines, storage and supply facilities within the development. The central water and sewer systems shall be extended to all dwelling units. The central water and sewer systems shall meet all requirements of and be approved in writing by the State Water Control Board, State Department of Health and any other state or local agencies having authority over such system(s). The central water system shall be perpetually operated and maintained through provisions of a recorded homeowner's association charter.
3. *Distance Between Buildings:* The minimum distance between buildings containing dwelling units in any development shall be sixty (60) feet plus an additional five (5) feet for each story of each building above one (1) story.

4. *Open Space:* All developments shall provide common open space, natural areas and recreation areas equal to at least thirty percent (30%) of the total area of the development. This space is to be used for residents of the development and shall include such things as parks, playgrounds, general recreation areas and natural areas for habitat protection. This space must be located within the same zoning district as the development. Land providing community or waterfront access shall be considered as contributing to this requirement. Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions to insure that:
 - a. The open space will not be further subdivided or developed;
 - b. The use of the open space will continue in perpetuity for the purpose satisfied;
 - c. The open space shall be perpetually operated and maintained through provisions of a recorded homeowner's association charter; and
 - d. Common undeveloped open space shall not be turned into commercial enterprise admitting the public at a fee.
5. *Parking:* All parking spaces shall be located behind the front building line. All off-street parking areas and spaces with the development shall be constructed of concrete, asphalt or other permanent, dustless surface such as brick, pavers or similar material. Parking spaces in garages may be used to count towards the parking requirements of Section 17 of this Ordinance.
6. *Frontage:* The principal orientation of each building containing dwelling units shall be the street on which the lot has frontage. There shall be at least one entrance facing the street, and the principal windows of the building shall also face this street.
7. *Pedestrian Circulation:* Paved sidewalks shall be incorporated into each development as to minimize conflicts with vehicular traffic. Sidewalks shall be extended to adjacent properties and shall connect uses within individual developments.
8. *Entrances:* Entrances to the site shall be minimized and placed in such a way as to maximize safety, maximize efficient traffic circulation and minimize the impact on the surrounding residential neighborhood.
9. *Utilities:* All utilities, including telephone and electrical systems, shall be placed underground within the limits of the development. Appurtenances to these systems that can be effectively screened may be exempted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed development.
10. *Storm Sewers:* Stormwater runoff from streets and parking areas within the development shall be conveyed by a storm sewer which shall consist of curbs and gutters at the edges of pavement, curb drop inlets and storm sewer piping in

accordance with Virginia Department of Highways and Transportation specifications.

11. *Recreational Vehicles:* Recreational vehicles, including but not limited to boats and camper units, shall not be permitted to park in spaces dedicated to each of the units within the development. The development may provide, at its expense, a common storage area to accommodate such boats and recreational vehicles provided that such area is reasonably scaled to the size and type of development and should be appropriately surfaced to provide all-weather access as well as be screened by landscaping or decorative fencing.
12. *Fire Hydrants:* Fire hydrants shall be installed within the project at locations such that no structure or portion thereof within the project shall be farther than three hundred (300) feet from a hydrant.
13. *Floor Plans:* The Site Plan for the development shall contain a floor plan of the proposed dwellings, showing location, size and type of rooms proposed.

ARTICLE 18: NONCONFORMITIES

18-1. Intent.

Within the districts established by this ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures in combination which were lawful before this ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to bring these nonconforming uses into conformance with the ordinance without causing undue hardship to the present use.

18-2. Incompatibility of Nonconformities.

Nonconformities are declared by this ordinance to be incompatible with permitted uses in the districts in which such uses are located.

18-3. Avoidance of Undue Hardship.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which a valid building permit has been lawfully acquired prior to the effective date of adoption or amendment of this ordinance.

18-4. Nonconforming Lots of Record. *(Amended 5-15-12)*

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance, provided that the lot meets minimum area requirements for water and sewage established by the State Department of Health. This provision shall apply even though such lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.
2. Nonconforming lots may be changed as a result of a boundary line adjustment between two (2) adjoining nonconforming lots provided that:
 - a. No new lot is created,
 - b. The boundary line adjustment has made the size of one of the lots more conforming to the provisions of the Zoning Ordinance,
 - c. The lots will meet minimum area requirements for water and sewage established by the State Department of Health, and
 - d. The Boundary Line Adjustment:
 - i. Will not create additional nonconformity in regards to yard dimensions and requirements other than those applying to the minimum lot area,
 - ii. Does not create the need for a Variance from yard dimensions and requirements, and
 - iii. Generally improves the layout of the two lots.

(Added by Amendment 5-15-12)

18-5. Nonconforming Structures and Uses.

No nonconforming structure or use shall be enlarged, extended, reconstructed, substituted or structurally altered except when required by law or order, unless the use thereof is changed to a use permitted in the district in which located, except as follows:

1. A change in occupancy or ownership shall not affect the right to continue a nonconforming structure or use;
2. Such use may be extended throughout any part of the structure which was manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, provided no structural alterations except those required by law are made therein;
3. Any structure that is conforming as to use, but is nonconforming as to floor area, lot, yard, road frontage, distance, setback or height requirements, may be enlarged or structurally altered, but not reconstructed or substituted, so that it more nearly complies with these requirements;
4. A nonconforming use of a structure or property may be changed to a permitted use or special exception use subject to approval requirements of Article 20, Section 20-5 of the Ordinance; but it shall not thereafter be changed back to a nonconforming use;
5. No nonconforming structure which has been damaged by any cause whatsoever to the extent of more than fifty (50) percent of the market value of the structure, immediately prior to damage, shall be restored except in conformity with the regulations of this Ordinance and the Middlesex County Floodplain Ordinance and all rights as a nonconforming structure are terminated. If a nonconforming structure is damaged by less than fifty (50) percent of the market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within two (2) years of the date of such damage. For the purpose of this provision, market value shall be defined as in the Middlesex County Floodplain Ordinance;
6. If any nonconforming structure or use is voluntarily discontinued for a period exceeding two (2) years after the enactment of this ordinance on March 1, 1985, any subsequent use shall conform to the requirements of this ordinance;
7. Hours of operation or use of commercial and industrial nonconforming structures or uses shall not be extended after the effective date of adoption or amendment of this ordinance;
8. No lighting installed after the effective date of adoption or amendment of this ordinance shall shine directly on adjacent properties;
9. There shall be no additional noise, fumes, or glare generated after the effective date of adoption or amendment of this ordinance; and
10. Notwithstanding the requirements of subsections (1) through (9) above, a nonconforming structure or use within a Resource Protection Area (RPA) may be continued but not necessarily enlarged, extended or structurally altered unless a waiver is granted pursuant to Article 4A, Section 4A-13 of this chapter.

18-6. Replacement with Manufactured Homes

The replacement of an existing manufactured home or single-family dwelling with a manufactured home is allowed in Low Density Rural (LDR) and Rural Husbandry (RH) zones as well as the Village Community (VC) zone with an approved special exception permit subject to the following conditions;

1. A manufactured home or residential dwelling is located on the same parcel of land on which the replacement is intended to be located,
2. Surety is secured to remove the existing manufactured home or structure. Surety established by the Zoning Administrator shall be no less than five hundred dollars (\$500).
3. The complete removal of the existing structure from the site occurs within six (6) months.
4. Any and all zoning, building, removal or demolition permits are secured simultaneously by the applicant prior to initiation of the project.
5. The structure that is being replaced has been occupied and used as a residence for a period within two (2) years from the date the application is being made.
6. The replacement manufactured home shall be placed on a permanent foundation.

18-7. Repairs and Maintenance.

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof.

18-8. Intermittent Use

The casual, intermittent, temporary or illegal use of land, buildings or structures shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

18-9. Changes in District Boundaries.

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

18-10. Nonconforming Signs.

Where a lawful sign exists at the effective date of adoption, or amendment to, this ordinance that could not be built under the terms of this ordinance by reason of restriction on number, size or type of construction or other requirements concerning the sign, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming sign may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such a nonconforming sign be voluntarily removed for a period of six (6) months it may not be replaced.

18-11. Abandoned Nonconforming Signs.

Any nonconforming sign located on property that becomes vacant and is unoccupied for a period of two (2) years or more shall be deemed abandoned. The owner of the property on which the sign is located shall remove an abandoned nonconforming sign. If the owner fails to remove the sign, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator may enter the property upon which the nonconforming sign is located and remove such sign. Such removal may be accomplished with the assistance of any agent or employee designated by the Zoning Administrator or hired by the County for such purpose. If the Zoning Administrator should remove the nonconforming sign, the Zoning Administrator shall charge the cost of removal to the owner of the property from which the nonconforming sign was removed. In addition, the Zoning Administrator may initiate such other action in a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

ARTICLE 19: ADMINISTRATIVE BODIES AND THEIR DUTIES

19-1. Office of Zoning Administrator Created.

This ordinance shall be administered and enforced by the 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 Zoning Administrator shall be fixed in the same manner as that of other County employees.

19-2. Duties of Zoning Administrator.

The Zoning Administrator shall have the following duties and authorities:

1. Take any action authorized by this ordinance to ensure compliance with or to prevent violations of this ordinance. This may include the issuance of and action on zoning permits and such similar administrative duties as are permissible under the law.
2. Upon finding that any of the provisions of this ordinance are being violated, he shall notify in writing the persons responsible for such violation(s), indicating the nature of such violation(s), and ordering the action necessary to correct such violation(s);
3. Order discontinuance of illegal use of land, buildings, or structures;
4. Order removal of illegal buildings or structures or illegal additions, alterations, or structural changes; and
5. Order discontinuance of any illegal work being done.
6. The authority to grant variances from building setback requirements pursuant to [Section 15.2-2286.4](#) of the Code of Virginia, as amended, and [Article 20-2-D](#) of this ordinance. (Amended 4/21/98)

19-3. Duties of Planning Commission.

For purposes of this ordinance, the Commission shall have the following duties:

1. Review all proposed amendments to this ordinance and make recommendations to the Governing Body; and
2. Review applications for special exceptions and make recommendations to the Board of Supervisors.
3. Review applications for variances and make recommendations to the Board of Zoning Appeals.
4. Ensure that all proposals for streets, parks, public areas, public buildings, public structures, public utility facilities or public service corporation facilities conform with the Comprehensive plan as required by VA Code [Section 15.2-2232](#).

19-4. Board of Zoning Appeals Created.

A Board of Zoning Appeals is hereby created, which shall consist of five (5) residents of Middlesex County who shall be appointed by the Circuit Court of Middlesex County. Their terms of office shall be for five (5) years each, except that initial appointments shall be made as follows: one member who shall serve for one (1) year, one member who shall serve for two (2) years, one member who shall serve for three (3) years, one member who shall serve for four (4) years, and one member who shall serve for five (5) years. The Secretary of the Board of Zoning Appeals shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office, and shall 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 of Zoning Appeals shall hold no other public office in Middlesex 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. (*Amended 11/6/91*)

Members shall serve without compensation other than for reasonable and necessary expenses as authorized by the Board of Supervisors.

Any member of the Board of Zoning Appeals may be removed for malfeasance, misfeasance, or nonfeasance in office, or other just cause, by the Circuit Court, after a hearing held after at least fifteen (15) days notice.

The Board of Zoning Appeals shall elect from its own membership a Chairman, Vice Chairman, and Secretary, who shall serve annual terms and who may succeed themselves. Within the limits of 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.

19-5. Proceedings of the Board of Zoning Appeals.

The Board of Zoning Appeals may make, alter, and rescind rules, procedures, and forms necessary to the conduct of its affairs in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board of Zoning Appeals may determine. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be filed in the office of the Board of Zoning Appeals. For the conduct of any hearing or the taking of any action, a quorum shall not be less than a majority of all the members of the Board of Zoning Appeals.

19-6. Powers and Duties of the Board of Zoning Appeals.

The Board of Zoning Appeals shall have the following specific powers and duties:

1. To hear and decide appeals from any order, requirements, decision, or determination made by the Zoning Administrator or any other officer in the administration and enforcement of this ordinance;
2. To authorize upon appeal or original application in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest, when, owing to specific conditions a literal enforcement of the provisions will result in unnecessary hardship; in accordance with the criteria set forth in VA Code [Section 15.2-2309](#);

3. To hear and decide applications for interpretation of the Official Zoning Map where there is uncertainty as to the location of a zoning district boundary, to provide proper notice to the owners of the property affected by boundary questions prior to and after a public hearing in accordance with VA Code Section [15.2-2309](#)(4), except that the Board of Zoning Appeals shall not have the power to change substantially the locations of district boundaries as established by this ordinance; and
4. The Board of Zoning Appeals shall not have the power to rezone property.

19-7. Duties of Governing Body.

The duties of the Governing Body in connection with this ordinance shall be limited to the following:

1. To consider, and adopt or reject, proposed amendments, rezoning requests, or the repeal of this ordinance as provided by law.
2. To establish a schedule of fees and charges.
3. To hear and decide applications for such special exceptions as may be authorized in Articles 4 through 14 of this ordinance. The Governing Body may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, within the limitations imposed by this ordinance, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.
4. To decide appeals by a property owner from a determination by the Planning Commission regarding a proposal's compliance with the Comprehensive plan as set forth in VA Code [Section 15.2-2232\(B\)](#).

19-8. Duties of Zoning Administrator, Board of Zoning Appeals, Governing Body, and Courts on Matters of Appeals.

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Administrator, and that recourse from decisions of the Board of Zoning Appeals shall be to the courts as provided by law. It is further the intent of this ordinance that the duties of the Governing Body in connection with this ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise.

ARTICLE 20: ADMINISTRATIVE PROCEDURES

(Revised: July 19, 2005)

20-1. Procedures for Amendment of the Ordinance.

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Governing Body may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. Procedures for amendment of this ordinance shall be those specified in Sections 20-1-A through 20-2-G inclusive.

20-1-A Initiation of Zoning Amendments.

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

1. By resolution of the Governing Body;
2. By motion of the Commission; or
3. By petition of any property owner, contract purchaser with the owners' written consent, or the owners' agent addressed to the Governing Body and presented to the Zoning Administrator.

20-1-B Contents of Application.

Applications for amendment of the Official Zoning Map shall be on forms provided by the County and shall contain, at a minimum, the following:

1. Name, address, and telephone number of the applicant and of the applicant's agent, if any;
2. Proposed amending resolution, approved as to form by the Commonwealth Attorney, which shall include a statement as to the relationship of the proposed amendment to the Middlesex County Comprehensive Plan and the public purpose to be served by the proposed amendment;
3. Present uses(s) of areas proposed to be affected;
4. Present zoning district(s);
5. Proposed use;
6. Proposed zoning district;
7. A vicinity map at a scale approved by the Zoning Administrator showing property lines, streets and road, existing and proposed zoning, and any other information which the Zoning Administrator may reasonably determine to be necessary for the proper evaluation of the application; and

8. A list of the names and addresses of all property owners, their agents, or the occupants of each parcel proposed to be rezoned and of all abutting property and property across the street or road from the property affected, whether or not any such property is located in Middlesex County (required only if twenty-five or fewer parcels are proposed to be rezoned).

Contents of an application for rezoning to the [MH](#) District shall include, in addition to items 1 through 8 listed above, a site plan showing layout of the internal park improvements required by Article 13 of this ordinance.

Applications for amendment of any part of this ordinance other than the Official Zoning Map shall include only items 1 and 2 listed above.

No application for amendment of this ordinance shall be processed until the application fee set by the Governing Body has been paid in full.

20-1-C Transmittal to Commission.

Immediately after adoption of a resolution by the Governing Body or the filing of an application by a property owner, contract purchaser with the owner's written consent, or the owner's agent said resolution or application shall be reviewed by the Planning Director for completeness. Such review shall be completed within fourteen (14) days of the submission of the application. If the application is not complete, the Planning Director shall return the application to the applicant, identifying the manner and areas in which the application is incomplete. If the application is complete, the Planning Director shall schedule the application for a public hearing before the Commission within sixty (60) days after the Director has determined the application to be complete. Costs of required public hearing notices shall be taxed to the applicant.

20-1-D Public Hearing and Action by Commission.

After public notice as required by [Section 15.2-2204](#) of the Code of Virginia, as amended, the Commission shall hold a public hearing on all proposed changes in zoning district classifications or in the text in the Zoning Ordinance. After the conclusion of the Commission's public hearing, the Commission shall report to the Governing Body its recommendations with respect to the proposed amendment. Failure of the Commission to report within one hundred (100) days after its first formal meeting on the proposed rezoning or text amendment, or within a shorter period of time as may be prescribed by the Board of Supervisors for specific proposals, shall be deemed to constitute a recommendation of approval.

If the applicant requests a continuance or agrees to a continuance, to a subsequent meeting of the Commission, that subsequent meeting shall be deemed the first formal meeting of the Commission on such application following referral for purposes of compliance with the time period for Commission review and action.

If the applicant in any way modifies any element of the application for rezoning at the time of its consideration by the Commission, such change shall constitute grounds for continuance of the Commission's review of the application. It shall be within the discretion of the Commission to take final action on the application at the hearing at which the application is modified or to continue hearing to a subsequent meeting. Such subsequent meeting shall be deemed the first formal meeting of the

Commission to review the modified application for purposes of compliance with the time period for Commission review and action.

20-1-E Public Hearing and Action by Governing Body.

As soon as possible, but not more than sixty (60) days after receipt of the Commission's recommendation, and after public notice as required by [Section 15.2-2204](#) of the Code of Virginia, as amended, the Governing Body shall hold a public hearing on the proposed amendment. Costs of required public hearing notices shall be taxed to the applicant. After the required hearing, the Governing Body shall approve as presented, approve with modifications, or disapprove the proposed amendment, provided that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice required by [Section 15.2-2204](#) of the Code of Virginia, as amended.

Upon approval of an amendment to the text of this ordinance, such amendment shall be attached to the ordinance, signed by the Chairman of the Governing Body, and attested to by the County Zoning Administrator. Amendments to the Official Zoning Map shall be recorded in the manner prescribed by [Section 2-2](#) of this ordinance.

20-1-F Limitation on Zoning Amendments.

Substantially the same petition for a zoning amendment or change shall not be reconsidered within one (1) year of any final action thereon by the Governing Body.

20-2. Conditional Zoning.

It is the general policy of the County, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize the effects of change. It is the purpose of this Section to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning application for the protection of the community that are not applicable to land similarly zoned. The provisions of this article shall not be used for purpose of discrimination in housing.

20-2-A Proffer of Conditions.

The owner or owners of property making application for the reclassification of property to a different zoning district classification, as a part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the Governing Body, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the County's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

1. The rezoning itself must give rise to the need for conditions.
2. Such conditions shall have a reasonable relation to the rezoning.

3. All such conditions shall be in conformity to the Middlesex County Comprehensive Plan.
4. Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Section 55-508 et seq. of the Code of Virginia which includes an express further condition that members of a property association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire stations and other public facilities not otherwise provided for in Section 15.2-2241 of the Code of Virginia. Such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.
5. No proffer shall be accepted by the County unless it has adopted a Capital Improvement Program pursuant to Section 15.2-2239 of the Code of Virginia. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the Capital Improvement Program; provided, that nothing therein shall prevent the County from accepting proffered conditions which are not normally included in the Capital Improvement Program.
6. If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

20-2-B Establishment of Proffered Conditions at the Time of Rezoning.

The submission and acceptance of proffered conditions shall be in accordance with the following procedures:

1. If an applicant for a reclassification of property to a different zoning district classification desires to proffer conditions, then either the proffers or a statement of intent to submit proffers shall accompany the rezoning application. All proposed proffers shall be submitted in writing in a form acceptable to the Planning Director.
2. Proffered conditions must be signed by the property owner, contract purchaser with the owners' written consent, or the owners' agent. Proffers shall be clear and succinct and shall be separated into independently enumerated paragraphs, each of which addresses no more than one aspect of the development and use of the property.
3. Proffered site plans, architectural elevations and other graphic representations shall accompany the proffer statement and shall be clearly identified in the text of the proffers.

20-2-C Recordation and Notation of Proffered Conditions.

Upon approval by the Governing Body of a conditional zoning application, the property subject to the conditional zoning shall be appropriately annotated on the zoning map and other appropriate land records to note that it is subject to conditions, and a copy of the proffer statement shall be recorded in the

Middlesex Circuit Court Clerk's Office. No development of the rezoned property may occur and no plans for development of the property may be approved pursuant to such rezoning until such time as such recordation has occurred. It shall be the responsibility of the applicant to ensure that recordation does occur.

20-2-D Conditional Zoning Index.

The zoning map shall show by an appropriate symbol the existence of conditions attached to the zoning on the map. The Zoning Administrator shall maintain a Conditional Zoning Index, which Index shall be available in the Planning Office for public inspection during regular office hours. The Index shall provide ready access to the Ordinance creating such conditions in accordance with the Section and shall clearly list all conditions applicable to each.

20-2-E Enforcement and Guarantees.

In order to insure that the intent and purpose of conditional zoning approved in accordance with this section are furthered, the Zoning Administrator or his agent shall be vested with all necessary authority on behalf of the Board of Supervisors to administer and enforce conditions attached to a rezoning or amendment to a zoning map including:

1. Ordering in writing of the remedy of any noncompliance with the conditions;
2. Bringing of legal action to insure compliance with the conditions, including injunction, abatement, or other appropriate action or proceeding
3. Requiring a guarantee, satisfactory to the governing body, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the governing body, or agent thereof, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part; and
4. Denial of the issuance of any required use, occupancy or building permit, as may be appropriate.

20-2-F Review of Zoning Administrator's Decision.

Any person who is aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal such decision to the Governing Body. Such appeal shall be filed within thirty (30) days from the date of the decision appealed by filing a notice of appeal with the Planning Director in a form acceptable to the Director. Such notice shall specify the grounds on which the applicant is aggrieved and the basis for the appeal.

20-2-G Amendments and Variations of Conditions.

Conditions proffered and accepted as part of an amendment of the Zoning Ordinance shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions. There shall be no amendment or variation of conditions created pursuant to the provisions of

this article until after a public hearing before the Governing Body pursuant to the procedures for amendment of the ordinance in Section 20-1 of this Ordinance.

20-3. Appeals.

Appeals to the Board of Zoning Appeals

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, or board of the County affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this Ordinance, any ordinance adopted pursuant to this Ordinance, or any modification of zoning requirements pursuant to § 15.2-2286, as amended. (*Amended 1/17/12*)

Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board of Zoning Appeals, a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall immediately transmit to the Board of Zoning Appeals 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 Zoning Administrator certifies to the Board of Zoning Appeals that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board of Zoning Appeals or by the Circuit Court, on application and on notice to the Zoning Administrator and for good cause shown.

The Board of Zoning Appeals 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 make its decision within ninety (90) days. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or administrative officer or to decide in favor of the applicant. (*Amended 1/17/12*)

Certiorari to review a decision of the Board of Zoning Appeals

Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, or board of the County, may file with the clerk of the Circuit Court of the County a petition that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of Middlesex County" specifying the grounds on which aggrieved within thirty days after the final decision of the board. (*Amended 1/17/12*)

Upon presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the Board of Zoning Appeals or, if no secretary exists, the chair of the Board of Zoning Appeals, which shall not be less than ten (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 of Zoning Appeals, and on due cause shown, grant a restraining order. (*Amended 1/17/12*)

Any review of a decision of the Board of Zoning Appeals shall not be considered an action against the Board and the Board shall not be a party to the proceedings; however, the Board shall participate in the proceedings to the extent required by § 15.2-2314, as amended. The governing body, the landowner, and the applicant before the Board of Zoning Appeals shall be necessary parties to the proceedings. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals. *(Amended 1/17/12)*

The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

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 facts 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.

In the case of an appeal from the Board of Zoning Appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286, as amended, the findings and conclusions of the Board of Zoning Appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the Board of Zoning Appeals, that the Board of Zoning Appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo. *(Amended 1/17/12)*

In the case of an appeal by a person of any decision of the Board of Zoning Appeals that denied or granted an application for a variance, the decision of the Board of Zoning Appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the Board of Zoning Appeals applied erroneous principles of law, or where the discretion of the Board of Zoning Appeals is involved, the decision of the Board of Zoning Appeals was plainly wrong and in violation of the purpose and intent of the zoning ordinance. *(Amended 1/17/12)*

Costs shall not be allowed against the Board of Zoning Appeals, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Board of Zoning Appeals is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the County may request that the court hear the matter on the question of whether the appeal was frivolous. *(Amended 1/17/12)*

The time limitations for raising certain issues and filing certain proceedings with the Board of Zoning Appeals 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 of Zoning Appeals later than thirty (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 proceeding with the Board later than thirty (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.

20-4. Variance.

Variance Applications to the Board of Zoning Appeals shall be pursuant to criteria set forth in VA Code Section § 15.2-2309.2, as amended. (*Amended 1/17/12*)

Application for variance from the terms of this ordinance may be made by any property owner to the Board of Zoning Appeals or the Zoning Administrator, when, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. The procedures set forth in Sections 20-4-A through 20-4-D, inclusive, shall be followed. (*Amended 1/17/12*)

20-4-A Contents of Application.

An application for variance shall contain, at a minimum, the following information:

1. Name, address, and telephone number of the applicant;
2. Legal description of the property affected;
3. Description of the variance requested; and
4. A narrative statement demonstrating that the requested variance satisfies the following criteria:
 - 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 condition, situation, 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.
 - b. That the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

(*Items a. and b. Amended 1/17/12*)

20-4-B Actions by the Board of Zoning Appeals.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of a variance, give public notice thereof as well as due notice to the parties in interest, and make its decision within ninety (90) days. The concurring vote of a majority of the membership of the Board of Zoning Appeals shall be necessary to effect any variance from the zoning ordinance. (*Amended 1/17/12*) The variance shall not be approved by the Board of Zoning Appeals unless it finds:

1. That the variance satisfies the criteria of Section 20-4-A-4 above;
2. That the strict application of the ordinance would produce undue hardship relating to the property;
3. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
4. That the authorization of the 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;
5. That notice and hearing is in accord with § 15.2-2204, as amended.
6. That the condition or situation of the affected property or the intended use of the property is not of such general or recurring nature as to make reasonable practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

(*Items 1 through 6 Amended 1/17/12*)

In authorizing a variance, the Board of Zoning Appeals 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.

Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required. (*Amended 1/17/12*)

20-4-C Appeals.

Appeals from any decision of the Board of Zoning Appeals on an application for a variance shall be made in accordance with the provisions set forth in VA Code Section 15.2-2314, as amended.

20-4-D Administrative Variance.

The Zoning Administrator shall have the authority to grant variances of fifty percent (50%) or less from any building setback requirement contained in this ordinance provided that the Zoning Administrator finds in writing that:

- (i) the strict application of the ordinance would produce an undue hardship relating to the property;
(Amended 1/17/12)
- (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- (iii) 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.

Prior to the granting of 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 twenty-one (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. (Amended 4/21/98)

20-5. Special Exceptions.

Applications for special exceptions may be made by any property owner or any County Official, department, or board. Such applications shall be made to the Zoning Administrator in accordance with rules adopted by the Board of Supervisors. The Zoning Administrator shall promptly transmit the application and accompanying maps, plans, and other information to the Planning Commission, which shall place the matter on the docket. Procedures for the granting of a special exception shall be as set forth in Sections 20-5-A through 20-5-C, inclusive.

20-5-A Contents of Application.

An application for special exception shall contain, at a minimum, the following information:

1. Name, address, and telephone number of the applicant;
2. Nature and location of the special exception;
3. Present zoning district;
4. A narrative statement describing the effects on adjoining properties or uses of such elements as noise, glare, odor, fumes, vibration, and traffic; a discussion of the general compatibility with adjacent uses; and the relationship of the proposed use to the County's Comprehensive Plan; and
5. Evidence that the specific special exception criteria set forth in the ordinance for the special exception requested will be satisfied.

20-5-B Public Hearing by Board of Supervisors.

Within thirty (30) days after receipt of an application for special exception, and after notice as required by Section [15.2-2204](#) of the Code of Virginia, as amended, the Board of Supervisors shall hold a public hearing of the special exception.

Within thirty (30) days after the required public hearing the Board of Supervisors shall either issue a special exception permit or disapprove the application. Such permit shall be issued if the Board of

Supervisors finds that the applicant will satisfy the applicable special exception criteria specified in the ordinance and the Board of Supervisors finds adequate evidence that the proposed use:

1. Is in fact a special exception and appears on the Official Schedule of District Regulations, or elsewhere in the ordinance;
2. Will be harmonious with and in accordance with the general objectives of the County's Comprehensive Plan and Zoning Ordinance;
3. 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;
4. Will not be hazardous or disturbing to existing or future neighboring uses;
5. 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 persons or agencies responsible for establishment of the proposed use shall be able to provide adequately any such services;
6. 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;
7. 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 reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

Before any special exception permit shall be issued, the Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable;

1. 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;
2. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
3. Refuse and service areas, with particular attention to the items in (1) and (2) above;
4. Utilities, with reference to locations, availability, and compatibility;
5. Screening and buffering with reference to type, dimensions, and character;

6. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
7. Required yards and other open space; and
8. General compatibility with adjacent properties and other property in the district.

20-6. Petitions.

Petitions or applications 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 Commission or the Governing Body has 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 Commission or Governing Body has any such interest.

ARTICLE 21: ZONING PERMITS AND ENFORCEMENT

(Adopted: March 19, 1996)

21-1 Purpose

In order to ensure that uses and structures are in accordance with the provisions of this ordinance, the County requires the submission of zoning permit application for review by the Zoning Administrator. Zoning permit applications may be submitted in conjunction with a building permit application.

21-2 Zoning Permits Required

Zoning permits are required for the following uses or functions:

1. Change or movement in the exterior footprint, height or number of stories of a building or structure,
2. Change of use of a building, structure or property.

21-3 Zoning Permit Exemptions

Zoning Permits are not required for the following uses or functions:

1. Total demolition of a structure,
2. Minor repairs including but not limited to the installation or replacement of new roofs, siding, and windows.

21-4 Contents Required For The Submission Of Zoning Permits

The submission for zoning permit shall be signed by the owner, contractor or authorized agent attesting to the truth and exactness of all information supplied on the application. At a minimum, the application shall contain the following information:

- A. The Zoning Permit Application including the following:
 1. Name, address, and telephone number of the property owner.
 2. Name, address and telephone number of the contractor or authorized agent, if any,
 3. Parcel number,
 4. Existing use,
 5. Proposed use,
 6. Zoning district,
 7. CBPA Zone, if any,

The Zoning Permit Application may be submitted in conjunction with the application for a Building Permit.

B. Supplemental Documentation

1. A copy of the “Health Department Installation” permit or any other related documentation from the Health Department as it relates to the proposed use upon request by the Zoning Administrator.
2. A copy of the “Highway Access” permit or any other related documentation from the Virginia Department of Transportation (VDOT) as it relates to the proposed use upon request by the Zoning Administrator.
3. Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

C. Plot Plan.

1. The dimensions and the shape of the parcel to be built upon,
2. The exact size and location of existing building on lot, if any,
3. The location and dimensions of the proposed building(s) or alteration,
4. The height of any structures,
5. The location of any drainfield, reserve drainfield area or other sewage treatment system,
6. The location of any public or private road, street, right-of-way or easement,
7. Any other information required by the Chesapeake Bay Preservation Ordinance (see [Article 4A](#)) or deemed necessary by the Zoning Administrator.

21-5 Approval Of Zoning Permit

Within thirty (30) days after the receipt of an application, the Zoning Administrator shall either approve, approve with modifications or disapprove the application in conformance with the provisions of this ordinance. Should no action be taken by the Zoning Administrator within thirty (30) days of the complete submission, the zoning permit application shall be deemed approved.

One copy of the permit shall be returned to the applicant by the Zoning Administrator. One copy of permit shall be retained by the Zoning Administrator. The third copy shall be retained by the Building Official.

21-6 Expiration Of Zoning Permit

If the work described in any zoning permit has not been deemed substantially completed by the Zoning Administrator within five (5) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Administrator. Written notice thereof shall be given to the property owner and/or applicant affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained.

21-7 Construction And Use To Be As Provided As Applied In Zoning Permit Application

Zoning permits issued on the basis of plans and applications approved by the Zoning Administrator 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 ordinance and punishable under Section 21-8 of the Zoning Ordinance.

21-8 Schedule Of Fees, Charges, And Expenses

(Repealed 4/15/97 by adoption of FEE ORDINANCE, DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT, MIDDLESEX COUNTY, VIRGINIA. Please reference said ordinance for listing of applicable zoning permit application and service fees)

21-9 Appeal Notice

The following notice shall be placed on each Zoning Permit issued:

Any person aggrieved by this notice may have the right of appeal. Any appeal shall be filed within thirty (30) days and be in accordance with [Section 15.2-2311](#) of the Code of Virginia. This decision shall be final and unappealable if not appealed within thirty (30) days.

21-10 Enforcement Procedures.

If the Zoning Administrator shall find that any of the provisions of this ordinance 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 of illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If such violation continues, the Zoning Administrator shall immediately notify the County Attorney of such violation.

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.

21-11 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 ordinance, the Zoning Administrator, with the assistance of the Commonwealth's Attorney and/or 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.

21-12 Violation and Penalty.

All departments, officials, and public employees of this jurisdiction which are vested with the duty and authority to issue permits or licenses shall conform to the provisions of this ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.

Any person, firm, or corporation, whether as principal, agent, employed or otherwise, violating, causing, or permitting the violation or any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this ordinance is committed, continued, or permitted by such person, firm, or corporation, and shall be punishable as herein provided.

21-13 Return of Applications for Properties with Delinquent Real Estate Taxes.

No application for zoning permit, special exception permit, variance, rezoning, or any other land use permit or application approval required under this ordinance shall be processed for any property which delinquent real estate taxes are owed to Middlesex County. Any such application shall be returned to the applicant without action and notice given that such application may not be resubmitted for consideration without satisfactory evidence that any delinquent real estate taxes owed and properly assessed against the subject property have been paid. (*Amended 12/15/98*)

ARTICLE 22: DEFINITIONS

(Effective: August 17, 2004)

22-1 Interpretation of Terms or Words.

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

1. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
2. The word “shall” is a mandatory requirement, the word “may” is a permissive requirement, and the word “should” is a preferred requirement.
3. The words “used” or “occupied” include the words “intended, designed, or arranged to be used or occupied.”
5. The word “lot” includes the words “plot” or “parcel.”
5. Words and terms not defined herein shall be interpreted in accord with the most recent edition of Webster’s dictionary and customary usage.

22-2 Definitions.

ACCESS, DIRECT: A situation in which ingress/egress is to/from a highway abutting the property in question.

ACCESSORY RESIDENTIAL STRUCTURE: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal dwelling unit. Examples of accessory residential structures include decks, garages, gazebos, piers, sheds, etc.

ACCESSORY BUILDING OR STRUCTURE: A building or structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. Where an accessory building or structure is attached to the principal building in a substantial manner, as by a wall or roof, such accessory building shall be considered a part of the principal building.

ACCESSORY USE: A minor, subordinate use servicing, operating with or performing in conjunction with the principle use of a parcel.

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 purpose.

ACREAGE, NET: A unit of measure; the total land area to be developed less land area for rights-of-way and property reserved for public ownership (parks, school sites, etc.)

ADMINISTRATOR: See “Zoning Administrator.”

ADULT BOOK STORE/ADULT VIDEO STORE: An establishment having a substantial or significant portion of its stock-in-trade, including, but not limited to, video tapes, books, magazines, or periodicals, , computer disks, CD-ROMs, DVD-ROMs, virtual reality devices or any other similar media that are distinguished or characterized by their emphasis on matter depicting, describing, or related to "specified sexual activities," or "specified anatomical areas," as hereinafter defined for the sexual stimulation or titillation of patrons, or an establishment with a segment or section devoted to the sale or display of such material. *(Added by Amendment 6-19-12)*

ADULT ENTERTAINMENT: Dancing, modeling, or other live performances if the performers' performance is characterized by an emphasis on specified anatomical areas or specified sexual activities, or is intended for the sexual stimulation or titillation of patrons. This definition also includes the showing of films, motion pictures, video cassettes, slides, photographic reproductions, CD-ROMs, DVD-ROMs, streaming video, virtual reality devices, internet sites, or files transmitted over the internet, or other media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons. *(Added by Amendment 6-19-12)*

ADULT MERCHANDISE: Magazines, books, other periodicals, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. This definition also includes toys, novelties, instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices. *(Added by Amendment 6-19-12)*

ADULT MODEL STUDIO: A commercial establishment, including a lingerie store or novelty store, in which a person performs or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons. *(Added by Amendment 6-19-12)*

ADULT MOTION PICTURE THEATER: An enclosed building or open area, such as a drive-in theater, used for presenting material for observation by patrons distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." excluding movies that have been rated "G," "PG," "PG-13," "R", or "NC-17" by the Motion Picture Association of America. *(Added by Amendment 6-19-12)*

ADULT NIGHTCLUB: A restaurant, bar, club, theater, hall, or similar establishment that regularly features adult entertainment. *(Added by Amendment 6-19-12)*

ADULT USE: Any of the following as defined herein:

1. Adult bookstore/Adult video store,
2. Adult entertainment establishment,
3. Selling of Adult merchandise
4. Adult motion picture theater,
5. Adult model studio,
6. Adult nightclub.

(Added by Amendment 6-19-12)

AGRICULTURAL LANDS: Those lands used for tilling, planting and harvesting of crops or plant growth associated with livestock.

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

AIRPORT: Any publicly owned landing area, runway, or other facility designed and used by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings, and open spaces, which facilities may either be located on public property or on adjoining private property as long as such facilities are in integral part of the airport operation. For purposes of this Ordinance, “airport” shall refer exclusively to Hummel Field.

AIRPORT ELEVATION: The highest point of an airport’s usable landing area, measured in feet above mean sea level.

AIRPORT, HAZARD TO AIR NAVIGATION: An obstruction determined by the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

AIRPORT, HEIGHT: For the purpose of determining the height limits in all airport zones set forth in Article 14, the datum shall be mean sea level elevation unless otherwise specified.

AIRPORT, TREE: Any object of natural growth, except any such objects authorized by the Governing Body to be planted on public property for the purpose of controlling the altitude of aircraft.

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

ANIMAL HOSPITAL: See VETERINARY HOSPITAL.

ANIMAL UNIT: A term used to describe various types and pounds of animals. One (1) animal unit is equal to one thousand (1,000) pounds in beef animal; two (2) five hundred (500) pound calves would be one animal unit; five (5) two hundred (200) pound hogs is equivalent to one animal unit; ten (10) one hundred (100) pound sheep would be one animal unit; one horse would be one animal unit, except that two (2) miniature horses, as defined herein, shall count as one animal unit. *(Amended 7-17-12)*

APPROACH SURFACE: An imaginary surface longitudinally centered on the extended centerline of the runway, beginning at the end of the primary surface and rising outward and upward to a specified height above the established elevation.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES: Airport zones as set forth in [Article 14](#) of this ordinance.

AQUACULTURE: The production of fish, aquatic organisms under controlled or semi-controlled conditions on land utilizing water resources for the purpose of producing a harvestable crop.

ASSEMBLY AND RETREAT FACILITIES: An area including various uses and improvements intended and designed to be used for the assembly and gathering of persons for commons purposes, including but not limited to religious activities. Uses and improvements at such a facility may include,

but are not limited to, conference and assembly halls, lodging, food service, recreational facilities, and accessory retail sales. All use elements proposed within a given facility or development are intended to work collectively to provide services primarily to those groups and individuals using the facility. Individual uses within the facility, as defined herein, are not intended to operate separate from the facility. *(Amended 2/19/02)*

AUCTION HOUSE: A structure or place in which an auctioneer offers property for sale to the highest bidder.

AUDITORIUM: Facilities and support services needed for stage and film presentations.

AUTOMOBILE GRAVEYARD: Any lot or place which is exposed to the weather and upon which any motor vehicle of any kind, incapable of being operated, and which it would not be economically practical to make operative, is placed, located or found. *(Amended 8/20/96)*

AUTOMOBILE RACETRACK: A track and support services, including seating/stands, needed for the racing of automobiles.

AUTOMOBILE, MOBILE HOME, MANUFACTURED HOME, TRAILER, AND FARM IMPLEMENT SALES: The sale or rental of new and used motor vehicles, mobile homes, manufactured homes, trailers, or farm implements, but displayed and sold on the premises.

BAFFLE: A structure or device that is mounted with its face towards the firing point and intended to stop or redirect misfired shots.

BANKS AND OTHER FINANCIAL INSTITUTIONS: Any incorporated institution which is authorized to do a business in Virginia and is insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

BASEMENT: A story having fifty (50) percent or more of its height below grade level. A basement shall be counted as a story for the purposes of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premise.

BEACH: The zone of sedimentary material that extends landward from mean high water level to the place where there is marked change in material or form, or the line of permanent vegetation.

BED AND BREAKFAST INN: A building, other than a hotel, motel or motor lodge, where, in addition to constituting a residence, for compensation and by prearrangement for definite periods, lodging, or lodging and limited meals are provided for three (3) or more guests, but containing no more than five (5) sleeping rooms.

BEST MANAGEMENT PRACTICES (BMPs): A practice, or a combination of practices that is determined by a state, local or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

BOARDING HOUSE: A building or structure where, for compensation, lodging and meals are provided for at least five (5), but no more than fourteen (14) persons.

BOAT RAMPS: Any structure, public landing or natural decline, used for the ingress and egress of any boat, ship, or other nautical vessel.

BOATS FOR HIRE: Facilities for the mooring and rental of boats.

BODY SHOP: A facility which repairs major or minor structural and body damage to motor vehicles by any person for profit, which may include, but is not limited to straightening of body parts, painting, molding, welding, storing of automobiles not in working condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than the normally found in a garage, service station as defined herein.

BODY SHOP, WATERCRAFT: A facility which repairs major or minor structural and body damage to watercraft by any person for profit, which includes painting and/or restoration, temporary storing of watercraft or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than that normally found in a garage, watercraft repair as defined herein. *(Added by Amendment 3-5-13)*

BOND: A surety bond issued by a recognized financial institution, an unrestricted letter of credit issued by a bank or other financial institution, or other evidence of financial ability to ensure compliance, any of which is acceptable to the Zoning Administrator.

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 associated with land disturbances.

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 or in proximity to a dwelling unit to which it is incident in a condominium development.

BUILDING HEIGHT: The vertical distance measured from the average elevation of the finished grade at the front of the building up to the point on a structure specified by the regulations of the district in which the building is located.

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

BUILDING SUPPLIES AND SERVICES: Establishments or places of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include building material stores and home supply establishments.

BUSINESS, GENERAL: Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which serve day to day needs of the community, as well as supplying 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 included, but are not limited to, garage service stations, convenience stores, truck and auto sales and services, restaurants and fast food eating places, and hotels and motels.

BUSINESS, OFFICE TYPE: Quasi-commercial uses which may often be transitional between retail business and/or manufacturing, and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic, and drafting. Institutional offices of a charitable, philanthropic, or religious or educational nature are also included in this classification.

BUSINESS, SERVICE TYPE: 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.

CABINET, FURNITURE AND UPHOLSTERY FABRICATION: Any building, structure or facility which is used for the production, repair, refinishing or upholstering of furniture, cabinets or other similar products.

CALIPER: The diameter in inches of a tree trunk measured twelve (12) inches above the ground for nursery stock.

CAMPGROUND: Any lot or land used, maintained, or held out to the public as a place for temporary camping or lodging purposes, whether equipped with tents, tent houses, huts, cabins, cottages, campers, trailers, camper sites, tent sites, trailer sites, or not so equipped, and by whatever name the same may be called, whether any fee is charged for the use thereof or not, and which meets the requirements of [Section 35.1-17](#) of the Code of Virginia of 1950, as amended. The word “campground” shall include the terms “tourist camp”, “trailer camp,” and “campgrounds” as defined by the Virginia Membership Camping Act.”

CAMPING UNIT: A tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home and any other device or vehicular type structure for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.

CAR WASH: Facilities providing for washing and cleaning of vehicles. Typical uses include automatic conveyor machines and self-service car washes.

CATERING: A business use that provides food and food services off-site for events such as, but not limited to, anniversaries, award ceremonies, banquets, birthdays, meetings, parties, and weddings. *(Added 8/21/12)*

CEMETERY: Any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds shall not constitute the creation of a cemetery.

CENTRAL SEWER SYSTEM: A publicly or privately owned sewer system designed to serve more than one dwelling unit or nonresidential structure, and which consists of collection and transmission lines, pumping stations if necessary, and a sewage treatment and disposal facility. Such system functions by transmission of sewage away from points 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 either on land or in surface waters. Mass or centralized drainfields shall not be considered to be a central sewer system.

CENTRAL WATER SYSTEM: A publicly or privately owned water system designed to serve more than one dwelling unit or nonresidential structure in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by a company or association, including all structures, hydrants, property, equipment and appurtenances used in the collection, storage and distribution of water. Such system consists of a well or wells that are not located on any of the lots or parcels served.

CHESAPEAKE BAY PRESERVATION AREA (CBPA): Any land designated by Middlesex County pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01, and [Section 10.1-2107](#) of the Code of Virginia. A Chesapeake Bay Preservation Area (CBPA) shall consist of a Resource Protection Area (RPA) and a Resource Management Area (RMA).

CHILD CARE CENTER: Any place, however designated, operated for the purpose of providing care, protection and guidance to six (6) or more children under seven (7) years of age separated from their parents or guardians during a part of the day only between the hours of 6:00 a.m. and 7:00 p.m.

CHURCH: The actual synagogue or church building in which the sanctuary or principal place of worship is located and all educational buildings which are physically attached by enclosed or covered corridors or hallways to the building in which the sanctuary or principal place of worship is located.

CLUB: A building or portion thereof or premises owned or operated for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests.

CLUSTER DEVELOPMENT: A pre-planned environment developed under more flexible standards than would normally apply under this ordinance, usually involving trade-offs between higher densities and smaller lots on the one hand and larger areas of usable open space and other amenities on the other.

COMMERCIAL ENTERTAINMENT FACILITIES: Any profit-making activity which is generally related to the entertainment field, and which is conducted outside or in tents or other temporary structures such as drive-in motion picture theaters, carnivals, and similar entertainment activities.

COMMISSION, THE: The Planning Commission of Middlesex County, Virginia.

COMMUNICATIONS FACILITIES, PRIVATE: Any land area, structure, and equipment affixed to land or structures, singly or in any combination, used in telephone, telegraph, radio or television operations, or other operations involving the transmitting, receiving or exchanging of information over wires, cables, fibers, light beams or by energy signals through the atmosphere; where such use is only for the personal and non-mercantile use of the residents of four (4) or fewer dwelling units, such as receiving antennae,

receiving disks, ham radio and citizen's band transmitters, and similar activities customarily considered accessory to a residential use.

COMMUNICATIONS FACILITIES, PUBLIC: Any land area, structure, and equipment affixed to land or structures, singly or in any combination, used in telephone, telegraph, radio or television operations, or other operations involving the transmitting, receiving or exchanging of information over wires, cables, fibers, light beams or by energy signals through the atmosphere; where without regard to actual ownership, such use is for any purpose other than private use as defined by this Chapter in the term "private communications facilities."

COMMUNITY FACILITIES: A private facility for use solely by the residents and guests of a particular residential development or residential neighborhood, including indoor and outdoor facilities. These facilities are usually proposed or planned in association with development and are usually located within or adjacent to such development.

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 section 55-79.39 of the Code of Virginia.

CONGREGATE LIVING FACILITY: A facility which provides housing and general care on a permanent or temporary basis including the provision of supportive services, such as special care, treatment and training, in a supervised setting with on-site counselors and/or other staff. This term shall not include a group housekeeping unit, GROUP RESIDENTIAL FACILITY or HOME FOR THE AGED.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand (4,000) feet.

CONSERVATION AREAS: Property utilized for the protection, preservation, management, or restoration of wildlife and of natural resources such as forests, soil, and water.

CONTRACTOR: The office and storage facilities for equipment and supplies used by contractors engaged in the construction of bridges, roads, buildings, qualified waterfront use structures and portions thereof.

CONVENIENCE STORE: A single retail store adjacent to a primary or secondary highway selling a limited number of grocery, household, and food items including but not limited to prepared and prepackaged foods, coffee, beverages, tobacco products, magazines, fishing tackle, bait and ice within an enclosed area of not more than three thousand (3,000) square feet and which may or may not include the sale of gasoline at self-service pumps in front of or adjacent to the store.

COUNTRY CLUB: A non-profit association or corporation organized and operated to provide private facilities for tennis, golf, swimming or other recreational activities associated therein to its private, self-perpetuating membership on a contiguous tract of land containing not less than ten (10) acres. Any facility which conducts commercial activities or which operates a commercial restaurant or refreshment facilities shall not be deemed a country club. Provided however, that restaurant and refreshment facilities limited to members and their guests and conducted as an incident to other country club activities shall be allowed.

CREEK OR STREAM: A body of water having continuous flow through or in the County.

CREMATORIUM: A facility or establishment containing a furnace for purpose of incineration of the human dead

DAIRY: A commercial establishment for the production and sale of dairy products.

DANCING SCHOOL: Any place, however designated, operated for the purpose of providing instruction in the art of dancing to two (2) or more individuals during any part of the day between the hours of 9:00 a.m. and 9:00 p.m. exclusive of Sundays and Holidays.

DAY CARE CENTER FOR ADULTS: A facility, which is either operated for profit or which desires licensure, for four (4) or more aged, infirm or disabled adults which is operated during a part of the day only, which provides supplementary care and protection of individuals who reside elsewhere except supplementary care and protection of individuals who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage.

DENSITY, GROSS: A unit of measurement; the number of dwelling units per acre of the total land to be developed.

DEVELOPMENT: The construction, or substantial alteration, of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

DIAMETER AT BREAST HEIGHT (DBH): The diameter of a tree measured outside the bark at a point 4.5 feet above the ground.

DISTRICT: Districts as referred to in [Section 15.2-2280](#) of the Code of Virginia, as amended.

DOCKS: Any waterfront structure, commercial or private, used for the purpose of mooring, or storing any boat, ship, or nautical pleasure craft or vessel.

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

DWELLING, MULTI-FAMILY: A building consisting of three (3) or more dwelling units, including condominiums, garden apartments, and town houses, with varying arrangements of entrances and party walls.

DWELLING, SINGLE-FAMILY: A building consisting of a single dwelling unit occupied by members of one family. The definitions as established in this article for manufactured homes, mobile homes and trailers shall apply individually and independently for the purpose of determining use in zoning districts.

DWELLING, TWO-FAMILY: A building consisting of two (2) 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, used by only one family and its household employees for residential purposes.

DWELLING UNIT, ACCESSORY: A secondary dwelling unit established in conjunction with and clearly subordinate to a single family detached dwelling unit. Accessory dwelling units may be permitted by the provisions of Section 15-22 of the Ordinance.

“EDGE OF SWAMP” LINE: The boundary between the Dragon Run Conservation District and other zoning districts shown on the Official Zoning Map. For purposes of this ordinance, the Dragon Run Conservation District shall consist of those areas of Pocaty Soil (Soils Map Unit Symbol 17) and Kinston-Bibb Complex soils (Soils Map Unit Symbol 11) adjacent to the boundary line between Middlesex County and the Counties of Gloucester and King and Queen, plus an additional 100’ measured perpendicularly from the inland most boundary of these soil types. The “edge of swamp” line shall denote the farthest extent of said soils away from said County boundary, and in case of discrepancy between the location of the “edge of swamp” line as shown on the Official Zoning Map and actual occurrence of Pocaty and Kinston-Bibb Complex soils in the Dragon Run and its tributary streams, the “edge of swamp” line shall be deemed to denote the farthest extent of said soils as they actually occur.

ELECTRIC POWER TRANSMISSION FACILITY: Any facility, including substations, which is operated and maintained for the purpose of transmitting electricity and electrical power.

FAMILY: One or more persons occupying a single family dwelling unit, provided that such family shall not contain more than five (5) persons who are not related by blood, adoption or marriage. Exception as specified by [15.2-2291](#) of the Code of Virginia, as amended: Group Homes or other residential facilities for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority, no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons, with one or more resident counselors or other staff persons, shall be considered occupancy by a single family. (*Amended 2/18/92*)

FAMILY CARE HOMES: A single family dwelling in which individuals, are received for care, protection and guidance during only part of a twenty-four hour day.

FAMILY DAY HOME: A private, single-family residential dwelling designed to be occupied by a family and whose facility provides a physical appearance and a style of life which all make them indistinguishable from the homes of natural families living in the neighborhood. Such a facility is for the purpose of providing care, protection and guidance to a group of one through five children (excluding of the provider’s own children and any children who reside in the home as residential occupancy by a single-family) separated from their parents or guardians during a part of the twenty-four-hour day. There shall be no signs, parking lots, or other features not normally found in a single-family dwelling.

FAMILY DAY HOME, SIX (6) TO TWELVE (12) CHILDREN: A child day program as defined in Section 63.2-100 of the Code of Virginia and which operates in compliance with all State requirements as monitored by the Virginia Department of Social Services regional licensing office. Such use is conducted within a private, single-family residential dwelling designed to be occupied by a family and whose facility provides a physical appearance and a style of life which all make them indistinguishable from the homes of natural families living in the neighborhood. As such there are no signs, parking lots or other features not normally found in a single-family dwelling neighborhood and the use functions in the manner of a normal single-family household and environment. (*Added by Amendment 6-2-15*)

FARMETTE SUBDIVISION: any subdivision in which lots are 25 acres or greater in size. Depending on the number of lots, a farmette subdivision may be either a minor or major subdivision. *(Added 9/18/12)*

FAST FOOD EATING PLACE: An establishment where food is prepared and served in paper or plastic containers for patrons who order food at place of preparation, pay in advance, and carry the food themselves to tables or to their parked cars.

FEED, SEED AND FERTILIZER SALES: A commercial use offering primarily, at retail or wholesale, animal feeds; plants; seeds; and bulbs; fertilizer; pesticides; and herbicides; and related equipment, tools, implements, and products.

FIRING POINT: The location in a sport shooting facility where firearms or archery equipment are discharged.

FISHING PIERS: Any natural or man-made protrusion which is situated over any form of water whether it be a stream, lake, river, sea, ocean or any other waterway, whose purpose is to provide the public with access for commercial or recreational fishing.

FLOODPLAIN: All lands that would be inundated by flood water as a result of a storm event of a 100-year interval.

FOOD PROCESSING: Facilities for the preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

FOOTCANDLE: A measure of light falling on a given surface. One footcandle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

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.

FULLY SHIELDED: Refers to providing internal and/or external shields and louvers to prevent brightness from lamps, reflectors, refractors and lenses from causing glare at normal viewing angles.

GARAGE, PRIVATE: A detached accessory building or portion of a principal building designed or used for the storage of automobiles, travel trailers, and/or boats owned and used by the occupants of the premises. On a lot occupied by a two-family or multi-family dwelling, the private garage may be designed and used for the storage of two (2) times as many automobiles as there are dwelling units.

GARAGE, PUBLIC: A principal or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

GARAGE, SERVICE STATION: Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be sold. Uses permissible at a garage, service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A garage, service station is neither a repair garage nor a body shop.

GARAGE, REPAIR: The repair, diagnosing and correcting of malfunctions of, or damage to, a motor vehicle by any person for profit. This definition shall not include “body shops” as defined herein.

GARAGE, WATERCRAFT REPAIR: The repair, diagnosing and correcting of malfunctions of, or damage to watercraft by any person for profit, including temporary storing of watercraft. This definition shall not include “watercraft body shops” as defined herein. *(Added by Amendment 3-5-13)*

GARDEN APARTMENT: A residential building of no more than three (3) stories in height designed for three (3) or more dwelling units.

GENERAL STORE, COUNTRY: A single store with five thousand (5,000) square feet or less of sales area which primarily offers for sale at retail a limited range of foods and related items, including but not limited to: bread, milk, meat, canned and bottled foods and beverages, tobacco products, fishing tackle and bait, newspapers, and hardware articles. Gasoline may be offered for sale, but only as a secondary activity. Hours of operation are limited to the period from 5:00 a.m. to 11:00 p.m.

GLARE: The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility.

GOLF COURSE: An area of fifty (50) or more contiguous acres, publicly or privately owned, on which the game of golf is played, containing at least nine (9) holes, totaling a minimum to two thousand seven hundred (2,700) yards from tee to green, 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 common driving tee.

GOVERNING BODY: The Board of Supervisors of Middlesex County, Virginia.

GOVERNMENT OFFICE: Any office which is located in a building, or part thereof, owned or leased, and occupied and used by an agency or political subdivision of the United States of America, the Commonwealth of Virginia, the County or a town or city.

GRAIN STORAGE AND TRANSPORT FACILITIES: Any silo, storage container, structure or other facility used for the purpose of the storing or transporting of grain, wheat, or other similar agricultural product.

GREENHOUSE/NURSERY: An enclosed structure for the cultivation of plants, flowers or vegetables, and any accessory buildings for the sale of such plants, flowers or vegetables and other agricultural, horticultural, or related products. *(Amended 1/23/96)*

GROCERY STORE: A retail store which primarily offers for sale fresh, frozen, canned, bottled, and packaged foods and beverages; household utensils; cleaning and polishing agents; toiletry items and personal grooming aids, and related items.

GROUP RESIDENTIAL FACILITY: A group home or other residential facility, with one or more resident counselors or other staff persons, in which no more than: (a) eight (8) mentally ill, mentally retarded or developmentally disabled persons reside and such home is licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; or (b) eight (8) mentally retarded persons reside and such home is licensed by the Virginia Department of Social Services; or (c) eight (8) handicapped persons reside, with handicapped defined in accordance with the Federal Fair Housing Amendments Act of 1988. The terms handicapped, mental illness and developmental disability shall not include current illegal use or addiction to a controlled substance as defined in Sect. 54.1-3401 of the Code of Virginia or as defined in Sect. 102 of the Controlled Substance Act (21 U.S.C. 802). For the purpose of this Ordinance, a facility for more than eight (8) handicapped, mentally ill, mentally retarded or developmentally disabled persons shall be deemed a CONGREGATE LIVING FACILITY.

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 $RKLS/T$, as defined by the "Food Security Act (F. S. A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, 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 (6) inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Natural Resources Conservation Service.

HIGHWAY: Every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this County, excluding the streets and alleys in towns.

HOME GARDEN: A garden for the production of vegetables, fruits, and flowers for use or consumption primarily by the occupants of the premises.

HOME FOR THE AGED: Any place, however designated, operated or maintained for the maintenance or care of four (4) or more aged, infirm, chronically ill or incapacitated persons, except (1) a facility or portion of a facility licensed by the State Board of Health or the State Hospital Board and, (2) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage.

HOME OCCUPATION, RESIDENTIAL: A professional occupation, as defined herein, other office type use, or other home occupation use which:

A. Is clearly incidental and subordinate to the use of the dwelling for residential purposes, taking up no more than 50% of the gross floor area of the dwelling or, alternately, conducted within an accessory structure no more than 50% of the gross floor area of the dwelling.

B. Other than family members living on the premises, has no more than one employee who comes to the premises.

C. Limits all public contact related to such a use to the period between 7:00 a.m. and 8:00 p.m.

D. Limits all activities related to the residential home occupation to the indoors and results in no change in the outside appearance of the building or lot, nor other visible evidence of the conduct of such home

occupation, including display of goods, or storage of equipment or materials outside of a fully enclosed structure.

E. Results in no traffic being generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and deliveries shall be limited to normal daily deliveries by public and private mail carriers.

F. Can demonstrate that adequate parking area is available to serve the use and that no such parking is located in a required front yard except within an existing driveway.

G. Does not involve any equipment or process that will create noise, vibration, glare, fumes, odors, or electrical interference detectable off the lot.

(Amended 11-6-13)

HOME OCCUPATION, RURAL: An occupation conducted either within a dwelling which is the bona fide residence of the principal practitioner, or in an accessory building thereto. Rural home occupations include, but are not necessarily limited to: professional occupations, electrical services, farm machinery repair, sale of crafts or other goods produced on the premises, docking of party boats and work boats owned and operated by the owner of the residence, and off-loading and sale of small quantities of seafood by the owner of the residence. Rural home occupations must meet all of the following criteria:

1. Must be conducted at least fifty (50) feet from adjoining properties.
2. No stock in trade shall be displayed or sold on the premises, except articles produced on the premises.
3. No alteration to the exterior of the principal dwelling which changes the character thereof as a dwelling shall be made.
4. Shall not generate noise, smoke, fumes, glare, or traffic or fire hazards which would create a nuisance on adjoining properties.

HOMEOWNERS ASSOCIATION: An association combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division or cluster development.

HORIZONTAL SURFACE: A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

HORTICULTURE: Shall mean the use of land for the purpose of growing fruits, vegetables, flowers, or ornamental plants.

HOSPITAL: An institution rendering medical, surgical, psychiatric, obstetrical, convalescent care, including sanitariums.

HOTEL, MOTEL, OR APARTMENT HOTEL: A building in which lodging or boarding and lodging are provided and offered to the public for compensation; as such it is open to the public in contradiction to a boarding house which is herein defined.

HUNTING CLUBS AND FISHING CLUBS: Uses and structures that serve as social and organizational gathering spots for persons engaged in hunting, fishing, or similar outdoor activity. This definition does not include any activities specified as “sport shooting facilities” as defined herein.

HUSBANDRY: The cultivation or production of plants and animals; conservation; control or judicious use of resources.

HYDRIC SOIL: Soils that are saturated, flooded or ponded long enough during the growing season to support hydrophytic (wetlands) vegetation.

ILLUMINATION: The act of illuminating or state of being illuminated.

IMPERVIOUS COVER: A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

INDOOR THEATERS/AUDITORIUMS: A building principally devoted to use as an indoor place of public assembly for the viewing of movies, plays, concerts, theatrical events, speeches, debates and other similar activities. This term may also include structures which are used for similar purposes but are intended for the private and exclusive use of the members of “clubs,” as defined herein, such as lodge halls and social clubs.

INTERMITTENT STREAMS: Those streams only sporadically connected by surface flow to rivers and perennial streams. Intermittent streams are depicted as dotted blue or purple lines on U.S. Geological Survey 7-1/2 minute topographic quadrangle maps.

JUNK YARD: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, as defined in [Section 33.1-348](#) (a) (2) of the Code of Virginia, as amended. (*Amended 11/7/90*)

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

KINDERGARTEN/NURSERY SCHOOL: Any facility operated primarily for the educational instruction of children from two to five (2-5) years of age in which children two through four (2-4) years of age do not attend in excess of six and one-half hours per day.

LAND DISTURBANCE/LAND DISTURBING ACTIVITY: Refer to Section 1-2.T of the Middlesex County Erosion and Sediment Ordinance for definition and exempt activities.

LIGHT(S) OF CONSTANT INTENSITY: Light(s) that do not include changing degrees of intensity, and/or brightness or color, except:

- 1) Electronically controlled signage 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, or
- 2) An electronically controlled on-premise illuminated sign advertising only the business located on the property, which changes alteration on not less than a ten-second cycle when such on-premise illuminated sign does not constitute a public hazard, in the judgment of the zoning administrator. (*Amended 2-21-12*)

LIVESTOCK: Animals, and especially farm animals, raised for use, profit, or enjoyment including horses, ponies, buffalo, cattle, sheep, goats and other similar domesticated animals.

LODGE HALL: An establishment operated by a fraternal, benevolent or religious association solely for objects of national, patriotic, social, political, athletic or like nature, but not for pecuniary gain, the advantages of which belong to all the members.

LOGO: Any display of emblems, lines, colors, or any combination thereof, but not including letters or numbers, used as a symbol of any organization or business.

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 ordinance, and having frontage upon a street, road or land either shown on a plat of record or considered as a unit of property and described by metes and bounds. The minimum lot area shall not include any area of road or street right-of-way area dedicated for widening of existing Virginia Department of Transportation or private right-of-way, or access portion of flag lots. *(Amended 3/17/92)*

LOT, ADJOINING: A lot or parcel of land that shares all or part of a common lot line with another lot. *(Amended 10-19-10)*

LOT, CORNER: A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a LOT, **DEPTH OF:** The average horizontal distance between the front and rear lot lines. For parcels of ten (10) acres or less, lot depth to width ratio shall not exceed five (5) to one (1). *(Amended 3/17/92)*

LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

LOT, INTERIOR: Any lot other than a corner lot.

LOT, WATERFRONT: A lot any part of which is within 100 feet of (i) tidal waters as measured from the highest of the following: mean high water, an existing bulkhead, an established bulkhead line, or the upland boundary of a wetland as defined by the Middlesex County Wetlands Ordinance or (ii) impounded waters as measured from the higher of the normal pool elevation or the upland limits of any flowage easement.

LOT, WIDTH OF: The average horizontal distance between side lot lines.

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

LUMBER YARDS: Any structure, facility, or enclosed area used for the commercial storage and sale of lumber, hardware, construction supplies, tools or other construction related materials.

LUMEN: A measure of light energy generated by a light source.

LUMINAIRE: A complete lighting unit consisting of a lamp(s) and ballasting (when applicable) together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

LUMINANCE: Commonly called brightness or the light coming from a surface. Luminance is composed of the intensity of light striking an object or surface and the amount of that light reflected back toward the eye. Luminance is measured in footcandles.

MANUFACTURE AND/OR MANUFACTURING: The processing and/or converting of raw unfinished materials or products, or either of them, into articles of different character, or use.

MANUFACTURED HOME: A structure subject to federal regulation, which is transportable in one or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (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 more than one (1) manufactured homes intended for residential use, in which manufactured home lots are rented or leased by tenants.

MANUFACTURING, EXTRACTIVE: Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource including coal, oil, and natural gas.

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; and generating little industrial traffic and no generally objectionable impacts off-site.

MARINA/BOATYARD: A boating establishment located on a navigable waterway, which may provide covered or uncovered boat slips or dock space, dry boat storage, boat repairs and/or construction, marine fuel and lubricants, marine supplies, restaurants or refreshment facilities, boat and boat motor sales or rental.

MEDICAL HEALTH CLINIC: A building or complex in which physicians or dentists, or both, and nurses offer diagnosis and treatment to the sick and injured. A clinic shall not include inpatient care.

MINIATURE HORSE: A horse which meets the size and weight criteria of the American Miniature Horse Association (AMHA) or the American Miniature Horse Registry (AMHR). Height for both registries is determined by taking the vertical distance from the ground at the point where the last mane hairs are found at the base of the neck. Maximum height for an adult miniature horse is 38 inches and the weight for an adult horse is generally between 150 to 250 pounds. *(Added by Amendment 7-17-12)*

MINOR SUBDIVISIONS: A subdivision with six (6) or fewer lots.

MOBILE HOME: A factory assembled structure or structures equipped with the necessary service connection and, made to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase without a permanent foundation indicates that the support system is constructed with the intent that the mobile home placed thereon may be moved at the convenience of the owner. (NOTE: mobile homes were built prior to June 15, 1976 and are not subject to federal regulation.)

MORTUARIES: Any place, including main establishment, branches or chapels, where any part of the profession or business of funeral directing or any act of embalming, or either or both, is carried on, conducted or performed, or is permitted to be carried on, conducted or performed.

MOTOR HOME: Every private motor vehicle with a normal seating capacity of not more than ten (10) persons, including the driver, designed primarily for use as living quarters for human beings.

MUSEUM: An institution for the acquisition, preservation, study and exhibition of works of artistic, historical or scientific value and the facilities and land necessary to physically and financially support such activities. (Amended 10-16-07)

MUSIC AND DANCE STUDIOS: A facility where music or dance is taught, studied or recorded.

MUSIC SCHOOL: Any place, however, designated, operated for the purpose of providing instruction in the art of playing musical instruments to two or more individuals during any part of the day between the hours of 9:00 a.m. and 9:00 p.m. exclusive of Sundays and Holidays.

NATURAL WILDLIFE PRESERVES: Any area so designated by any federal state or local governmental authority as an area for the purpose of the protection of wildlife and the natural habitat.

NEWSPAPER AND COMMERCIAL PRINT SHOPS: Any building, structure, or facility which is used for the purpose of producing, printing or copying of newspapers other publications, or job printing.

NONCONFORMING LOT: A lot of record that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

NONCONFORMING STRUCTURE: An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance, for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

NONCONFORMING TREE: Any tree in existence prior to the effective date of this ordinance or any amendments thereto, which exceeds the height limitations established for the various zones set forth in Article 14, or grows beyond that height.

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

NONPOINT SOURCE POLLUTION (NPS): Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

NONTIDAL WETLANDS: Those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support and that under normal circumstances do support a prevalence of vegetation typically adopted 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 C.F.R. 328.3b.

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

NURSING HOME: Any place, however designated, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two (2) 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 recovery from injury or disease, and includes any and all of the procedures commonly employed in waiting on the sick, such as, administration of medicines, preparation of special diets, giving of bedside care, application of dressings and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

NURSERY: A facility where plants are grown for sale, transplanting, or experimentation.

OBSTRUCTION: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in [Article 14](#).

OFF-STREET PARKING AREA: Space provided for vehicular parking not on a street or roadway.

OPEN SPACE: An area intended to provide light and air, and designed, depending on the situation, for environmental, scenic and/or recreational purposes. The computation of open space shall not include driveways, parking lots or other surfaces designed or intended for motorized vehicular traffic. It shall not include bodies of water, existing utility easements, drain field lots, stormwater retention basins, Resource Protection Area (RPA), wetland, and slopes greater than 25%. (amended 5-20-08)

OPEN SPACE, COMMON: That area within the boundaries of a development which is intended to provide air and light, designed to provide recreation or preserve natural environmental features to the residents of the development. Common open space shall not include streets, roads, alleys, parking areas, sidewalks, patios, public utility easements and rights-of-way.

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 water courses. 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 purpose sated in this definition.

PARKS AND PLAYGROUNDS: Open land, owned by a governmental entity, a homeowner's association or a civic association, set aside for recreational and leisure activities. Such land may be undeveloped or developed with ball fields, trails, picnic areas, tennis courts, swimming pools, or other recreational activities.

PERENNIAL STREAM: Those streams connected to rivers by a continuous flow and therefore are tributaries to these rivers. Perennial streams are depicted as solid blue or purple lines on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle maps.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; including a trustee, receiver, assignee, or similar representative of any of them.

PERSONAL SERVICES: Any enterprise conducted for gain which primarily offers an individual's services to the general public such as shoe repair, watch repair, barber shops, beauty parlors, and similar activities.

PLAN OF DEVELOPMENT: The process for site plan or subdivision plat review to ensure compliance with [Section 10.1-2109](#) of the Code of Virginia (Chesapeake Bay Preservation Act) and this Ordinance, prior to any clearing or grading of a site or the issuance of a building permit.

PONDS: An inland body of water of either artificial or natural construction not connected by surface flow or contiguous to tidal waters.

POST OFFICES: Any building, structure, or facility which is used by the United States Postal Service for the purpose of accepting, sorting, distributing, and processing any and all mail which is subject to administration by the United States Postal Service.

PRIMARY SURFACE: A surface longitudinally centered on an airport runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface is set forth in Article 14 of this ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

PRINCIPLE RESIDENTIAL STRUCTURE: The primary residential structure of a parcel of property. Examples of principle residential structures include but are not limited to; manufactured homes, single-family dwelling units and two-family dwelling units.

PRINCIPLE RESIDENTIAL USE: The primary use of occupants of residential structures for typical residential purposes such as sleeping and eating.

PRIVATE LANDING AREA: An area for landing aircraft which has been constructed by a person for private use and which is not open to the general public.

PRIVATE SCHOOL: A bona fide educational institution other than a public school that provides instruction which is equivalent to public school education to public school-age children, and which may involve the boarding of pupils who, in the ordinary course of events, return annually to the homes of their parents or guardian for not less than two (2) months of summer vacation.

PROFESSIONAL OCCUPATIONS: Service occupations which require specialized education or training and which may be practiced only upon satisfactory completion of testing, licensing, or certification requirements. For purposes of this ordinance, only the following shall be deemed to be engaged in professional occupations: medical doctors, attorneys, licensed engineers, architects and landscape architects, hairdressers, barbers, realtors, insurance agents, surveyors, teachers, dentists, veterinarians, chiropractors, psychologists and social service counselors. When conducted in residential structures, professional occupations may not involve outside display or storage of materials or exterior modification of such residential structures to the extent that their residential appearance is compromised.

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 (§ 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 a local government in accordance with the standards of that local government.

PUBLIC SCHOOL: A bona fide educational institution operated by a duly constituted governmental entity.

PUBLIC USE: A use by any governmental agency or any licensed public utility which is required for the continued maintenance and provision of such public facilities and utilities.

PUBLIC WATER AND SEWER SYSTEMS: A water or sewer system owned and operated by a municipality or county, service authority or sanitary district, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission and approved by the Virginia Department of Health.

QUALIFIED WATERFRONT USE STRUCTURE: Shall mean marine use structures such as seawalls, bulkheads, piers, groins, wharves, docks, boat ramps, boat hoists, jetties, boathouses and the like which require approval of the Army Corps of Engineers and/or the Virginia Marine Resources Commission and which have obtained such approvals, and any natural or required landward extension, portion or adjunct of such structures.

RECREATION, COMMERCIAL: Recreational facilities open to the public, established and operated for a profit, such as commercial golf courses, golf driving ranges, swimming pools, ice skating rinks, riding stables, race tracks, carnivals and similar commercial enterprises.

RECREATION, NONCOMMERCIAL: Private and semi-public recreational facilities that are not operated for commercial gain, including private country clubs, riding clubs, campgrounds and other private noncommercial recreation areas and facilities.

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

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

RESEARCH INSTITUTIONS: Shall include any and all laboratories, institutions and other facilities or structures used for the purpose of conducting scientific, medical, or human research experiments, or other form of investigatory procedures. Any such institutions which handles, or otherwise maintains any form of controlled substances must be able to produce authorization to conduct research from the State Board of Pharmacy in accordance with [Section 54.1-3423](#) of the Code of Virginia, and must comply with all other federal, state, and local laws regarding the handling of hazardous substances and protection of the health and safety of the community. Any such institution which conducts human research must do so in accordance with [Section 37.1-234](#) et seq. of the Code of Virginia.

RESIDENTIAL USE DISTRICT: Any of the several districts identified in this ordinance as intended primarily for residential uses: To include only [VC](#), [MH](#), [CD](#) and [R](#) Districts.

RESOURCE MANAGEMENT AREA (RMA): The 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 (RPA): The 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.

RESOURCE PROTECTION/MANAGEMENT AREA DELINEATOR (RPA/RMA Delineator): A person trained in wetlands ecology, botany, agronomy, hydrology and/or related fields with experience delineating tidal and non tidal wetlands.

RESTAURANT: Any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands, including catering in conjunction therewith. (*Amended 8/21/12*)

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 or consumption by the immediate purchaser (but especially exclusive of coal, wood and lumber yards), such as the following which will serve only as illustrations; drug store, news-stand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

RIDING STABLE: Any structure or any land or any combination of either used, designed or arranged for the maintenance of horses, mules, ponies or donkeys for hire either with or without instructions or a riding area, but exclusive of horses or mules used for agricultural purposes.

RIGHT-OF-WAY: A strip of land taken or dedicated for use as a public way. It may incorporate the roadway, curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, and bridges.

RUNWAY: A defined area on an airport prepared for landing and takeoff of aircraft along its length.

SANITARY LANDFILL: A site on which solid wastes are disposed of in a manner that protects the environment; wastes are spread in thin layers, compacted to the smallest practical volume, and covered with soil by the end of each working day and which complies in all respects with all applicable federal and state statutes and regulations, and which complies with the Middlesex County Solid Waste Disposal Ordinance.

SAWMILL AND PLANING MILL: A plant where lumber is machine cut into boards, temporarily stored and primarily sold wholesale.

SAWMILL, PORTABLE: A temporary plant located on a parcel to be harvested, or an adjacent parcel, for a period not to exceed two (2) years where lumber is machine cut into boards.

SCHOOL FOR FIREARMS TRAINING: A facility for education and training in the use of firearms by qualified instructors for law enforcement personnel, the military and civilians. A school for firearms training may include outdoor and indoor firing ranges, classroom facilities, temporary lodging for students while attending training, accessory office facilities and facilities for the purchase of supplies and ammunition by students. The facility may hold a federal firearms license. (*Amended 9/20/11*)

SCHOOL OF SPECIAL INSTRUCTION: A facility principally devoted to providing specific education or instruction in vocational, artistic, dancing, recreational or sports activities for adults or children of public school age.

SCHOOLS: See “Public School, Private School, School of Special Instruction, Music, Dance, Kindergarten/Nursery School” as defined herein.

SEAFOOD PROCESSING PLANT: Any structure or facility, temporary or permanent, which is used for the cleaning, processing or packing of seafood.

SEATS: For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each twenty four (24) lineal inches of benches, pews, or space for loose chairs.

SELF-STORAGE CENTER: A building or group of buildings divided into separate compartments used to meet the temporary storage needs of small business, apartment dwellers and other residential uses.

SETBACK: The minimum distance by which any building or structure must be separated from the right-of-way line unless otherwise specified in this ordinance.

SHORE: See Tidal Shore.

SIGN: Any display of letters, designs, logos (see definition), colors, trademarks, writing, words, numerals, figures, devices, emblems, fixtures, flags, model, insignia, illumination, projected images, 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 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 the same is made. A non-illuminated display of less than two (2) square feet in area is excluded from this definition. *(Amended 2-21-12)*

SIGN ANIMATED: A sign or part of a sign that moves or appears to move. *(Amended 2-21-12)*

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

SIGN, DIGITAL: An electronically controlled sign that can be updated without changing the physical sign. *(Amended 2-21-12)*

SIGN, ELECTRONICALLY CONTROLLED: A sign containing digital or electronically controlled message components. *(Amended 2-21-12)*

SIGN, FLASHING: An illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any sign which contains rotating/revolving, scrolling text, or animated light or lights, whether illuminated or not, or a strobe type, shall be considered a flashing sign, including scrolling signs and signs which display time, temperature, date, and/or electronically controlled messages which are in conflict with the requirements of Section 16-3 herein. *(Amended 2-21-12)*

SIGN, ILLUMINATED: Any sign illuminated by electricity, gas, or other artificial light, including reflecting or phosphorescent light. Illuminated signs shall be in accord with Section 16-3.1 of this Zoning Ordinance. *(Amended 2-21-12)*

SIGN, INTERMITTENT: Any sign containing messages that are not continuous and that alternate at intervals with other messages. *(Amended 2-21-12)*

SIGN, LOW PROFILE: Any sign not exceeding twelve (12) feet in height, mounted to the ground. The mounting device shall not be computed in figuring the total square footage of the sign.

SIGN, MONUMENT: A ground mounted low profile sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. *(Amended 2-21-12)*

SIGN, OFF PREMISES: Any sign not supported by a building which directs attention to a business, profession, commodity, activity or service not offered on the premises where the sign is located.

SIGN, ON PREMISES: Any sign not supported by a building which directs attention to a business, profession, commodity, activity, or service offered on the premises where the sign is located.

SIGN, PROJECTING: Any sign which protrudes from the exterior of a building.

SIGN, TEMPORARY: Any sign not permanently attached to a structure nor permanently mounted in the ground which can be transported to another location. Such signs may include, but are not limited to, paper or poster signs, portable signs, sandwich signs, gas or hot or cold air balloons, inflatables, ribbons, string of flag, tinsels, pennants or other movable signs announcing or advertising weekly specials, real estate, special services offered by a business establishment or the like or signs applying to a seasonal or brief activity such as, but not limited to, summer camps, horse shows, auctions or sale of lands, signs at construction sites. Temporary signs may be permitted for a maximum time limit not to exceed one (1) year.

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.

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.

SHIPPING CONTAINERS: any structure designed for the purpose of storage and shipment of products. Shipping containers are usually large reusable metal boxes, trailers, vehicle bodies, or similar containers used for shipments of products. *(Amended 10-19-10)*

SOCIAL CLUB: A non-profit club or association of members organized for the purpose of providing services to the community, and engaging in charitable activities, and providing a meeting place for social interaction of its members, provided that no part of the net earnings of such club or association inures to the benefit of any private individual.

SPECIAL EXCEPTION: An exception to any provision of this ordinance, permitted within a district provided certain conditions or criteria specified in the ordinance are met, requiring a special exception permit and approval of the Board of Supervisors.

SPECIAL EXCEPTION PERMIT: A permit issued by the Zoning Administrator upon approval by the Board of Supervisors to allow a special exception use to be established within a district.

SPECIFIED ANATOMICAL AREAS: The less than completely and opaquely covered human genitals; pubic region; buttock; female breast 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. *(Added by Amendment 6-19-12)*

SPECIFIED SEXUAL ACTIVITIES: The human genitals in a state of sexual stimulation or arousal; acts or simulation of human masturbation, sexual intercourse or sodomy; and/or fondling or other erotic touching of human genital, pubic region, buttock or female breast. *(Added by Amendment 6-19-12)*

SPORTS SHOOTING FACILITIES: The use of land or structures for archery and/or the discharging of firearms for purposes including – but not limited to – target practice, skeet and trap shooting, clay shooting, silhouette shooting, mock war games, or competitions. Excluded from this use type shall be general hunting, and unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

STEEP SLOPES: See Highly Erodible Soils.

STORAGE, TEMPORARY WATERCRAFT: As used in association with Body Shops and Repair Garages for watercraft, as defined herein, means the:

1. Temporary storing of watercraft not in working condition and awaiting or undergoing body and/or repair work, or
2. Watercraft awaiting pickup by the customer.

Temporary storage shall not include dry boat storage, storage of watercraft that are incapable of being operated and which are economically impractical to make operative, storage of watercraft for salvage or parts sales, or junkyards as defined herein. *(Added by Amendment 3-5-13)*

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 (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor areas is finished off for use.

STREET OR ROAD: A public or private thoroughfare which affords principal means of access to abutting property.

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

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: For purposes of this ordinance, any division of land into two (2) or more parts. The term “subdivision” shall not include a division or partition of land by a court of competent jurisdiction, or a division for the sole purpose of straightening or clarifying property lines.

SUBDIVISION, MAJOR: Refer to Middlesex County Subdivision Ordinance for definition.

SUBDIVISION, MINOR: Refer to Middlesex County Subdivision Ordinance for definition.

SURFACE MINING: Any mining, quarrying, excavating, processing, storage, separating, cleaning, or marketing of sand, gravel, stone or soil. Any such operations conducted by the State Department of Highways and Transportation in connection with highway construction and maintenance are excluded from this definition and are not subject to the provisions of this ordinance.

TEMPORARY USE: uses of duration less than or equal to 120 days. (Amended 10-19-10)

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 Section 28.2-1300 of the Code of Virginia.

TOWN HOUSE: Any one of a group of not less than three (3) and not more than eight (8) attached dwelling units which have been constructed together in a lateral row surrounded by yard space, each dwelling separated from another by a party wall. No matter how owned, whether rental, condominium, etc.

TRACT: One or more parcels of land under the same ownership with at least one boundary in common between parcels.

TRAILER: Any vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle.

TRAILER CAMP: Any area or land, including the improvements thereon, and the waters and land adjacent thereto, private or commercial, used for parking or maintaining of motor homes or trailers for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.

TRANSITIONAL SURFACES: These surfaces extend outward at ninety (90) degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TRIBUTARY STREAM: Any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).

UTILITIES: Distribution or service connection facilities and appurtenances thereto, for gas, electricity, water, sanitary sewer, storm sewer, communications, heating or air conditioning fuel, and other similar consumable public commodities or services.

UTILITY RUNWAY: A runway that is constructed for or intended to be used for propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

VARIANCE: A variance is a relaxation of the terms of the zoning ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

VETERINARY HOSPITAL: A place designated or maintained for the treatment of diseases of animals, including the housing, boarding, breeding or keeping of or caring for animals.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures.

VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS: Any firehouse, structure, or other facility which is used by a volunteer fire department or rescue squad for the purpose of maintaining and storing fire trucks, ambulances, and assorted rescue equipment; and/or is used as a communication center for the response to emergency calls and which is or may be used for equipping, operating and training members.

WAREHOUSE: A commercial facility where goods, products and produce are stored for further use, distribution or transport. The term warehouse includes commercial storage facilities open to the general public, bonded warehouses, mini warehouses, warehouses and storage facilities used by one user such as wholesale distribution centers, and repackaging facilities.

WATERCRAFT: any boat, ship, vessel, barge, or other floating craft. *(Added by Amendment 3-5-13)*

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 (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

WATERFRONT LOT: See LOT, WATERFRONT.

WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKET: Any temporary structure or location or land used on a seasonal or temporary basis for the sale of agriculture or horticulture produce, livestock or merchandise: (a) produced by the owner or his family on their own farm, or (b) of a local, seasonal or perishable nature.

WETLANDS: All tidal and nontidal wetlands.

WILDLIFE MANAGEMENT PRESERVE: See NATURAL WILDLIFE PRESERVES.

WOOD, BRUSH AND MULCH RECYCLING/DISPOSAL FACILITIES: Facilities that receive debris waste such as limbs, brush, mulch, trees, and stumps utilizing existing recycling, composting, combustion, and other disposal capabilities while implementing effective segregation of useable wood from debris waste to allow for recovery of valuable wood resources while reducing the burden on existing solid waste management landfills. Such facilities are regulated under the Virginia Department of Environmental Quality (DEQ) Vegetative Waste Management and Yard Waste Composting Regulations. *(Added 9/18/12)*

WOODLAND: Land having a cover of trees and shrubs.

YACHT CLUB: A non-profit association or corporation organized and operated to provide private facilities for boating, swimming or other recreational activities associated therein to its private, self-perpetuating membership, on a contiguous tract of land containing not less than two (2) acres adjacent to navigable water. Any facility which conducts commercial activities such as boat repairs and/or construction, sales of marine fuel or lubricants, marine supplies, boats or motor sales, or which operates commercial restaurant or refreshment facilities shall not be deemed a yacht club.

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

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

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.

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.

ZONING ADMINISTRATOR: The Zoning Administrator of Middlesex County, Virginia. The official, appointed by the Governing Body, charged with administration and enforcement of the Zoning Ordinance.

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