

# **CITY OF COLONIAL HEIGHTS, VA**

## **ZONING ORDINANCE**

Revised August 2012



Approved by City Council August 9, 2011

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## **ARTICLE I                    GENERAL PROVISIONS**

### **Section 286-100            Title and Authority**

(A) This chapter and the Official Zoning Map of Colonial Heights, Virginia shall be known and referred to as the Colonial Heights, Virginia Zoning Ordinance.

(B) The provisions of this chapter have been adopted by the City Council pursuant to the declaration of legislative intent contained in Section 15.2-2200, and the authority contained in Section 15.2-2280 and Section 15.2-2281, of the Code of Virginia.

### **Section 286-102            Jurisdiction**

(A) The provisions of this chapter shall apply to all property within the corporate limits of the City, with the exception that any property held in fee simple ownership by the United States of America or the Commonwealth of Virginia shall not be subject to the provisions contained herein when such property is directly used for public purposes by the United States of America or the Commonwealth of Virginia.

### **Section 286-104            Purpose**

(A) This chapter and any amendments hereto, have been adopted for the general purpose of implementing the Comprehensive Plan of Colonial Heights, Virginia, and for the purpose of promoting the health, safety, and general welfare of the public. To these ends, this chapter is consistent with the applicable provisions of the Charter of the City of Colonial Heights and the Code of Virginia and is designed to give reasonable consideration to each of the following purposes:

1. Provide for adequate light, air, convenience of access, and safety from fire, flood, crime, 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: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers;
7. Encourage economic development activities that provide desirable employment and enlarge the tax base;
8. Promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the City as well as a reasonable proportion of the current and future needs of the planning district within which the City is situated; and
9. Protect surface and groundwater resources.

#### **Section 286-106      Effective Date**

(A) This chapter shall be effective on August 10, 2011.

#### **Section 286-108      Application of Regulations**

(A) All land uses and activities not specifically provided for or addressed in this chapter shall be considered uses and activities prohibited within the City unless the Administrator finds that the land use or activity is compatible and consistent with the provisions of this chapter.

(B) If a land use or activity is deemed by the Administrator to be prohibited within the City, that use or activity shall not be permitted within the City.

(C) Where the standards imposed by this chapter are more or less restrictive than the standards imposed by any other public regulation, the more restrictive standard shall apply.

(D) This chapter shall not apply to, or interfere with, any private covenant. However, if the regulations imposed by this chapter are more restrictive, or impose a higher standard than the private covenant, then the provisions of this chapter shall apply.

(E) All City agencies and officials that have the responsibility to issue permits and licenses pertaining to the construction of buildings or the use of land within the City shall do so only in accordance with the provisions of this chapter. If a permit or license is issued in conflict with the provisions of this chapter, the permit or license shall be null and void.

#### **Section 286-110      Establishment of Zoning Districts**

(A) The following zoning districts shall be established within the City of Colonial Heights. The location of these districts shall be shown on the official zoning map.

### Residential Districts

RL Low-Density Residential District  
RM Medium-Density Residential District  
RH High-Density Residential District

### Transitional Districts

RO Residential Office District

### Business Districts

BB Boulevard Business District  
GB General Business District

### Industrial Districts

IN Industrial District

### Special Purpose Regulations and Districts

BOD Boulevard Design Overlay District  
PUD Planned-Unit Development District  
HRD Historic Resource District  
FOD Floodplain Overlay District  
WPD Wetlands Protection District  
ACD Architectural Character District  
COD Chesapeake Bay Overlay District

### **Section 286-112 Interpretation of District Boundaries**

(A) If in the opinion of the Administrator, uncertainty exists as to the exact location of any zoning district boundary, the Administrator shall apply the following rules to determine the location of the boundary:

1. Zoning district boundaries that appear to approximately follow the center lines of streets, rights-of-way, or alleys, shall be construed to follow such center lines;
2. Zoning district boundaries that appear to follow platted lot lines shall be construed as following such platted lot lines except that the zoning designation of any lot shall extend to the center line of any adjacent street, rights-of-way, or alley. The legal relocation or alteration of any platted lot line subsequent to the adoption of this chapter and pursuant to the

provisions of the City of Colonial Heights Subdivision Ordinance, shall not alter or relocate any legally established zoning district boundary; and;

3. Zoning district boundaries that appear to follow the center lines of streams and rivers shall be construed as following such center lines.

(B) If the rules contained in (A) above do not provide sufficient certainty to determine the location of a zoning district boundary, the Administrator shall request the Board of Zoning Appeals to interpret the location of the district boundary pursuant to the authority granted by this chapter.

## ARTICLE II            DEFINITIONS AND USE TYPES

### Section 286-200        Definitions

(A) For the purposes of this chapter, the following rules of language shall apply:

The specific shall control the general.

The word "person" includes a firm, association, organization, partnership, and company, as well as an individual.

The word "he" shall mean she and she shall mean he.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word lot shall include plot or parcel.

The present tense includes the future tense; the singular number includes the plural; the plural includes the singular.

The word shall is mandatory; the words may and should are permissive.

All public officials, bodies, and agencies referred to in this chapter are those of the City of Colonial Heights, Virginia, unless otherwise specifically indicated herein.

(B) Where terms in this chapter are undefined, the meaning of the term shall be as ascribed in the most recent edition of Webster's Unabridged Dictionary, unless it is the opinion of the Administrator that based upon normal zoning practice, a different meaning shall apply.

(C) The words and terms listed below shall have the following meanings:

**ABUTTING** - Contiguous or adjoining; having property or zoning district lines in common, or separated by a right-of-way.

**ACCESS** - A means of approach, to provide vehicular or pedestrian physical entrance to a property.

**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 use of land, or a building or structure or portion thereof, customarily incidental and subordinate to the principal use of the land or building or structure and located on the same lot with such principal use.

**ACREAGE, GROSS** - The total amount of area, including, land unsuitable for development.

**ACREAGE, NET** - The total area of land suitable for development.

**ADDITION** - Any construction that increases the gross floor area of a building or structure, or results in an expanded footprint of a building or structure on the ground.

**ADJACENT AREA** - Within an Architectural District, the "adjacent area" to a lot upon which residential construction is proposed shall include the properties within the district containing the next two primary residential structures on each side of the lot in question. "Adjacent area" shall also include any structure on any lot in the district across the street from the lot of proposed construction, any lot lines of which, when extended, would cross any part of any of the lots noted above.

**ADMINISTRATOR** – The zoning administrator of the City of Colonial Heights, or an authorized agent thereof.

**ALLEY** - A right-of-way that provides secondary vehicle and service access to abutting properties that have frontage on one or more streets.

**ALTERATION** - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or a structure from one location to another.

**AMENDMENT** - A modification to this chapter, including the text or associated maps that have been approved by the Colonial Heights City Council.

**ANTENNA** - A communication device that transmits or receives electromagnetic signals. Antennas may be directional, including panels and microwave dishes, or omni-directional including satellite dishes, whips, dipoles, and parabolic types. An antenna does not include the tower or other supporting structure to which it is attached.

**AWNING** - A shelter constructed of rigid or non-rigid materials on a supporting framework, either freestanding, or projecting from and supported by, an exterior wall of a building.

**BASEMENT** – That portion of a building that is partly or completely below grade plane. A basement shall be considered a story above grade where the finished surface of the floor above the basement is (i) more than six (6) feet above grade, (ii) more than six (6)

feet above grade for more than 50 % of the total building perimeter, or (iii) more than twelve (12) feet above the finished ground at any point

**BERM** - A landscaped earthen mound, incorporated as part of a site design, and intended to enhance the compatibility of abutting or nearby properties through the mitigation of sound, the screening of views, and/or the visual enhancement of a property's landscaped character.

**BEST MANAGEMENT PRACTICES (BMP)** – A practice, or combination of practices as determined by the appropriate state and/or local agencies to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with the water quality goals of the City of Colonial Heights and/or the Commonwealth of Virginia.

**BOARD OF ARCHITECTURAL REVIEW** (also known as the "Board") -The Colonial Heights Board of Architectural Review as established in Section 286-318 of the Code of the City of Colonial Heights.

**BOARD OF ZONING APPEALS** – The City of Colonial Heights Board of Zoning Appeals, also referred to in this chapter as the BZA.

**BODY PIERCING** – The creation of an opening in an individual's body, other than an individual's ear, to insert jewelry or another decoration.

**BUFFER AREA** – (Chesapeake Bay Overlay District) An area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.

**BUFFER YARD** - A yard improved with screening and/or landscaping materials required between abutting zoning districts of differing intensities or between adjoining land uses for the purpose of decreasing the adverse impact of differing uses and districts.

**BUILDING** - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, activity, process, equipment, goods or materials of any kind.

**BUILDING, COVERAGE** - That portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

**BUILDING, HEIGHT** - The vertical distance measured from the average adjoining grade on all sides of a building or structure to the highest point of a flat roof, the deck line of a mansard roof, or in the case of a pitched, gambrel or hip roof, the mean level between the eaves and the highest point of the roof.

**BUILDING LINE, FRONT** - When viewed from above, the line, parallel to the street right-of-way, that passes through the point of the principal building nearest the street right-of-way.

**BUILDING LINE, REAR** - When viewed from above, the line, parallel to the rear lot line that passes through the point of the principal building nearest the rear lot line.

**BUILDING LINE, SIDE** - When viewed from above, the line, parallel to a side lot line that passes through the point of the principal building nearest the side lot line.

**CAREGIVER** - An adult who provides care for a mentally or physically impaired person within the Commonwealth. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he is caring.

**CERTIFICATE OF ZONING COMPLIANCE** - For the purposes of this chapter, official certification that premises conform to all applicable provisions of the City of Colonial Heights zoning ordinance and may be lawfully used or occupied.

**CHANNEL** – A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

**CHESAPEAKE BAY PRESERVATION AREA (CBPA)** -Any land designated by the City Council pursuant to Part 111.9 VAC 10-20-10 et seq. of the Chesapeake Bay Preservation Area Designation and Management Regulations, and Section 10.1-2107 of the Code of Virginia. A "Chesapeake Bay Preservation Area" shall consist of a resource protection area and a resource management area.

**CITY CHARTER** – The Charter of the City of Colonial Heights Virginia

**CLUSTER SUBDIVISION** - An alternative means of subdividing land that concentrates building density in specific areas of a site to allow the remaining land to be permanently reserved for the preservation of environmentally-sensitive features and open space.

**CODE OF VIRGINIA** – The Code of Virginia 1950, as amended

**COMMERCIAL DELIVERY** – The delivery of goods, products, materials or other items associated with a home occupation by any means or frequency other than that which would normally occur in a residential neighborhood.

**COMMISSION** - The Planning Commission of the City of Colonial Heights, Virginia.

**CONDOMINIUM** - A building or group of buildings, created pursuant to the Virginia Condominium Act, Section 55-79.39 et seq., Code of Virginia, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

**CONSTRUCTION, NEW** - Structures for which construction commenced on or after the effective date of this chapter and including any subsequent improvements to such structures.

**COUNCIL** – The City Council of Colonial Heights, Virginia.

**CRAWL SPACE** - A space at least 18 inches in height under the first floor of a structure between the grade and the bottom of the floor joists.

**DECK** - An exterior floor supported on at least two opposing sides by an adjacent structure, and/or posts, piers, or other independent supports.

**DEDICATION** - The transfer of private property to public ownership upon written acceptance.

**DENSITY** - The number of dwelling units permitted per unit of land, commonly expressed as dwelling units per acre.

**DEVELOPMENT** - Any man-made change to improved or unimproved real estate including but not limited to buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations.

**DEVELOPMENT FOOTPRINT** – The horizontal perimeter of any cleared, graded, disturbed or otherwise modified areas that when viewed directly from above is inclusive of any existing or proposed buildings or structures, parking and loading areas and any other surfaces that are impermeable or substantially impervious to storm water or have been disturbed or modified as a result of existing or proposed development or redevelopment of a site.

**DISTRICT** - A zoning district as described and permitted by Section 15.2-2280 et seq. of the Code of Virginia.

**DRIVEWAY** - A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

**DWELLING UNIT** - A room or group of rooms connected together containing cooking, bathroom and sleeping facilities constituting a separate, independent housekeeping unit, physically separated from any other dwelling unit in the same structure.

**EASEMENT** - A portion of a lot or acreage reserved for present or future use by a person or entity other than the fee simple owner of the lot or acreage. Easements may exist on the ground, or under or above the lot or acreage.

**ESTABLISHMENT** - Any business, enterprise or other land use permitted by this chapter.

**EXTERIOR APPEARANCE** -Architectural character, general arrangement of the exterior of a structure, general composition, including the kind, permanent color (excluding paint) and texture of the building material and type and character of all windows, doors, light fixtures, signs and appurtenant elements.

**FAMILY** - One or more persons related by blood, marriage, or adoption, or under approved foster care, or a group of not more than four persons (including domestic help) living together as a single housekeeping unit.

**FLOOR AREA, FINISHED** - The sum of the horizontal areas of a building which is intended for human habitation and use and which has a floor to ceiling height of 6 1/2 feet or greater. Areas excluded from the finished floor area would include unfinished basements and attics, storage and utility rooms, and garages.

**FLOOR AREA, GROSS** - The sum of the horizontal areas of the several stories of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the centerline of such common wall. Gross floor area shall exclude interior parking and loading spaces, and airspace above atriums.

**GARAGE, PRIVATE** - A building for the private use of the owner or occupant of a principal residential building situated on the same lot as the principal building for the storage of motor vehicles.

**GLARE** - The effect produced by lighting, with a brightness or intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GOVERNMENTAL ACTIVITY** -Any or all of the services provided by the City to its citizens for the purpose of maintaining the City, and shall include but shall not be limited to such services as constructing, repairing and maintaining roads and sewage facilities, supplying and treating water, providing streetlights, and constructing public buildings.

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

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

**HISTORIC DISTRICT** - Any area delineated by City Council and consisting of public or private property within the City containing one or more historic landmarks as established by the Virginia Historic Landmarks Commission or one or more areas, neighborhoods, sites, places, structures, objects, artifacts or buildings in which historic events occurred or reflecting significantly the lives of historic personages or great ideas or ideals of the people or having special public value because of notable architectural or other features relating to the cultural and artistic heritage of the community, state or nation, including but not limited to archaeological, architectural, economic, ethnic, military, natural, political, religious or social factors. Such landmarks, buildings, structures or areas shall have been designated by City Council as being of such historic,

architectural or cultural interest and significance as to warrant conservation and preservation.

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

**INFILL** -Utilization of vacant land in previously developed areas.

**LAND DISTURBING ACTIVITY** - Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

**LANDSCAPING** - The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials.

**LOADING SPACE, OFF-STREET** - Space for bulk pick-ups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled.

**LOT** - A parcel of land intended to be separately owned, developed, or otherwise used as a unit, established by plat, subdivision, or as otherwise permitted by law.

**LOT, CORNER** - A lot abutting on two or more streets at their intersection, or on two parts of the same street forming an interior angle of less than 135 degrees.

**LOT COVERAGE** - That portion of a lot, which when viewed from directly above, would be covered by any building or structure, parking and loading areas and other surface which is impermeable or substantially impervious to storm water. Gravel parking areas shall be considered impervious. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

**LOT, DEPTH** -- The average horizontal distance between front and rear lot lines.

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

**LOT, FLAG LOT** - A panhandle or flag-shaped lot with its widest point (called the “flag”) set back from the road at the rear of another lot, and having a thin strip of land (called the “pole”) with a minimum width of 28’ connecting to the road to provide legal access and frontage.

**LOT, FRONTAGE** - The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot which abuts a street shall be considered frontage. On curvilinear streets the arc between the side lot lines shall be considered the lot frontage.

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

**LOT, IRREGULAR** - A lot of such a shape or configuration that technically meets the area, frontage and width to depth requirements of this chapter but meets these requirements by incorporating unusual elongations, angles, curvilinear lines unrelated to topography or other natural land features.

**LOT OF RECORD** A lot which has been recorded in the office of the Clerk of the appropriate court.

**LOT, WIDTH OF** - The mean horizontal distance between the side lot lines. The mean shall consist of the straight line horizontal distances of the front and rear lot lines and the distance of a line connecting the midpoints of the side lot lines. Provided however, that for a flag-lot, no part of the pole shall be considered in calculating such distances.

**LOWEST FLOOR** - The lowest enclosed area, including basement, of any structure. An unfurnished or flood-resistant enclosure usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME** - A structure, transportable in one or more sections, which in the traveling mode is 8 feet or more in width or 40 feet or more in length, or, when erected or placed on a site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code. A manufactured home shall contain one dwelling unit. Some manufactured homes are also referred to as mobile homes.

**MIXED-USE BUILDING** - A combination of two or more use types within a single structure.

**MENTALLY OR PHYSICALLY IMPAIRED PERSON** - A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200 of the Code of Virginia as certified in a writing provided by a physician licensed by the Commonwealth.

**MODULAR HOME** - A dwelling unit constructed on-site in accordance with the Virginia Uniform Statewide Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

**MONOPOLE** - A single pole structure, usually self supporting, used to support antennas.

**NATURAL WATERCOURSE** - Any natural stream river, creek, waterway, gully, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

**NONCONFORMING LOT** - A lot, the area, dimensions or location of which was lawful at the time the lot was created, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

**NONCONFORMING STRUCTURE** - Any structure the size, dimensions or location of which was lawful when erected or altered, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

**NONCONFORMING USE** - A use or activity which was lawful when originally established, but which fails to conform to the current standards and regulations due to the adoption, revision or amendment of this chapter.

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

**NOT-FOR-PROFIT** - An organization or activity which has obtained nontaxable status from the U. S. Internal Revenue Service.

**NOXIOUS WEEDS** -Weeds that are difficult to control effectively, such as Johnson grass, kudzu and multi-flora rose.

**OFF-STREET PARKING AREA** - Space provided for vehicular parking outside the dedicated street right-of-way.

**OPEN SPACE** - Any parcel or area of land or water essentially unimproved and set aside, dedicated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be passive or active. Passive open space remains in a completely undeveloped state and lacks formal facilities. Active open space has developed facilities such as recreation centers, playgrounds, swimming pools, tennis and basketball courts, and similar facilities.

**OPEN SPACE, COMMON** - Land within or related to a development, not individually owned or dedicated for public use, which is intended for the common use or enjoyment of

the residents of the development and may include such complementary structures as are necessary and appropriate. Common open space may include recreation centers, playgrounds, swimming pools, tennis and basketball courts, and similar facilities.

**OPEN SPACE, UNUSABLE** - Any area of open space considered as undevelopable acreage based on the presence of one or more of the following:

1. Resource Protection Areas and Resource Management Areas, which must be preserved to mitigate impacts to the water quality of adjacent streams or water bodies.
2. Wetlands.
3. Steep slopes.
4. Endangered native plant and animal life pursuant to the Virginia Department of Conservation and Recreation's 2003 Natural Heritage Plan.

**OPEN SPACE, USABLE** - Any area of open space that is designated for community recreational uses, to include but not limited to uses such as swimming pools, athletic fields, tennis courts, basketball courts, golf courses, playgrounds, boating docks, walking, bridle and bicycle trails.

**OUTDOOR DISPLAY** - The display and sale of products primarily outside of a permanent building or structure, including vehicles, garden supplies, plant materials, tires, oil and other vehicle maintenance supplies, food and beverages, fireworks and holiday decorations

**OUTDOOR STORAGE** - The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

**OVERLAY DISTRICT** - A district established by this chapter to prescribe special regulations to be applied to a site in combination with the underlying or base district.

**PATIO** - A level landscaped or surfaced area, constructed of any materials, directly adjacent to a principal building, and without walls or a roof.

**PERENNIAL** – Occurring or existing on a regular or continual basis.

**PERSON** -Any corporation, association, partnership, one or more individuals or any unit of government or agency.

**PHASE** - A component of a PUD that encompasses 20 percent or more of the PUD.

**PLANNED RESIDENTIAL SUBDIVISION** – A development, constructed on a tract of at least five acres, planned and developed as an integral residential neighborhood unit. The subdivision shall consist of five or more lots of five acres or less, each lot designed and intended for the construction of a residential dwelling.

**PORCH** - Roofed open areas, which may be glazed or screened, usually attached to or part of and with direct access to or from, a building.

**PRINCIPAL BUILDING OR STRUCTURE** - A building or structure in which the primary use of the lot on which the building is located is conducted.

**PRINCIPAL USE** - The main use of land or structures as distinguished from a secondary or accessory use.

**PRIVATE** - Unless otherwise specifically indicated, private shall mean anything not owned, operated, provided and/or maintained by a local, state, or federal government.

**PUBLIC** - Unless otherwise specifically indicated, public shall mean anything owned, operated, provided and/or maintained by a local, state, or federal government.

**PUBLIC WATER AND SEWER SYSTEMS** - A water or sewer system owned and operated by: (1) a municipality, public service authority or county; or, (2) a private individual or a corporation approved and properly licensed by the State Corporation Commission prior to the adoption date of this chapter; and meeting the requirements of the State Health Department and/or Virginia Department of Environmental Quality.

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

**REPLACEMENT COST** - The cost of restoring a damaged building or structure to its original condition. Replacement cost shall include reasonable estimates of the cost of materials and labor and shall be compared with the assessed value as determined by the City of Colonial Heights to determine the percentage of the cost of improvements.

**RESOURCE MANAGEMENT AREA (RMA)** -That component of the Chesapeake Bay Preservation Area that is not classified as the resource protection area.

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

**RIGHT-OF-WAY** - A legally established area or strip of land, either public or private, on which an irrevocable right of passage has been recorded.

**SCREENING** - A method of visually shielding or obscuring one or more abutting or nearby structures or uses from other structures or uses by fencing, walls, berms or by densely planted vegetation. Screening is intended to substantially obscure the visual impacts between adjoining uses.

**SETBACK** - The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

**SHOPPING CENTER** - A group of commercial establishments planned, constructed and managed as a total entity with shared access, customer and employee parking provided onsite, provision of goods' delivery separated from customer access, aesthetic considerations and protection from the elements.

**SHORELINE** – A boundary line between a body of water and the land. This line shall consist of the sloping margin of, or the ground bordering a stream, river, reservoir, lake etc., and serve to define the limits of, and confine the waters to, the natural channel or impoundment during periods of normal flow or volume.

**SIGN** - Any letters, figures, designs, symbol, trademark, advertisement or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, that is painted, printed or constructed and displayed in any manner out-of-doors for recognized advertising purposes, and any advertising structure to which such letters, figures, designs, symbol, trademark, advertisement or illuminating device may be attached.

**SIGN, ADVERTISING** - Any temporary sign, attached to a structure or freestanding, used for a commercial message.

**SIGN, ARCADE** Any sign projecting beneath the underside of any structural overhang or passageway.

**SIGN, AWNING** – Any sign attached to, displayed on, or incorporated within an awning.

**SIGN, BANNER** - Any temporary sign of lightweight fabric or similar material that is mounted to a pole or a building by a permanent frame at one or more edges.

**SIGN, BILLBOARD** - Any sign outside of the public street, road and highway rights-of-way which (a) is 10 feet or more in height or 32 square feet or more in area, or both; and (b) advertises any business, commodity, service, facility, activity or entertainment sold or offered or conducted elsewhere than upon the same parcel of land where the sign is located.

**SIGN, BUILDING** - Any sign supported by uprights or braces or any other devices, or painted on or otherwise attached to any building or structure, and not meeting the definition of a freestanding sign.

**SIGN, BULLETIN BOARD** - Any freestanding sign listing the names, times, use and locations of various services, offices or activities within a building or group of buildings of (a) a public or semiprivate use, (b) a not-for profit or religious use, or (c) a medical office, clinic or hospital.

**SIGN, CANOPY**- Any sign attached to, displayed on, or incorporated within a canopy.

**SIGN, CONSTRUCTION** - Any temporary sign identifying the architect, developer, engineer, financier, contractor or other individual or firm involved with construction, including announcements of the character of the building, enterprise or purpose for which the building is intended.

**SIGN, DIRECTIONAL** - Any sign whose major purpose is to direct attention to the location of any business, commodity, service, facility or entertainment conducted, sold or offered upon the same lot where the sign is erected.

**SIGN, DISPLAY OF MERCHANDISE** - The out-of-doors display of merchandise labeled or conspicuously sited denoting items for sale on the premises.

**SIGN, ELECTRONIC MESSAGE BOARD** - A computer-controlled variable-message electronic sign.

**SIGN, FREESTANDING** - Any sign supported by uprights or braces placed on or in the ground, or any object on the ground, not attached to any building.

**SIGN, GROUND** - Any freestanding sign less than eight feet in height.

**SIGN, HISTORICAL MARKER** - Any historical marker, monument, sign or notice, on public or private property or any public street, road or highway, bearing any legend, inscription or notice which purports to record an historical event, incident or fact directed in the City of Colonial Heights, conforming to the requirements of Title 10, Chapter 11, of the Code of Virginia.

**SIGN, INCIDENTAL** - Any signs secondary to the primary designation or advertising of premises, including but not restricted to directional signs and historical markers.

**SIGN, MARQUEE** - Any canopy or covered structure, supporting a sign, projecting from or extending beyond a building facade when such canopy or covered structure is supported by the building. This category shall include signs mounted upon a cantilever where there is no other structural purpose for the cantilever.

**SIGN, MULTI-TENANT** - Any freestanding sign that contains three or more independent businesses or uses.

**SIGN, OFF-SITE** - A sign which advertises a commodity, product, service, activity or any other person, place or thing, which is not located, found, or sold on the premises upon which such sign is located.

**SIGN, PLAQUE** - A thin flat plate or tablet intended for ornamentation, used only for building or occupant identification and bearing no advertisement.

**SIGN, POLE** - Any freestanding sign which is eight feet or more in height.

**SIGN, POLITICAL** - Any temporary sign relating to the election of a person to public office, to a political party or to a matter to be voted upon at an election called by a duly constituted and recognized public body.

**SIGN, PORTABLE** - Any temporary sign, including traffic control message sign, which by its construction or nature may be or is intended to be freely moved from one location to another.

**SIGN, PROJECTING** - Any sign not otherwise defined by this section which is attached to a building or other structure and extends beyond the vertical surface of that portion of the building or structure to which it is attached, or any sign and/or advertising structure which extends more than 15 inches from the face of the wall or structure. "Horizontal projecting sign" means any sign which is greater in width than in height. "Vertical projecting sign" means any sign which is greater in height than in width.

**SIGN, REAL ESTATE** - Any temporary sign advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed.

**SIGN, ROOF** - Any sign erected, constructed or maintained wholly or partially upon or over the roofline of any building, with the principal structural support on the roof structure. This term shall include any sign, otherwise classified, which protrudes above the roofline.

**SIGN, SANDWICH** - Any temporary portable freestanding sign, characterized by an A-frame or other similar shape or design.

**SIGN, SHOPPING CENTER** - Any freestanding sign used pursuant to Section 286-524 of this chapter.

**SIGN, SPECIAL EVENT** - Any temporary sign used to promote fund-raisers or other similar events that benefit religious, charitable, military, fraternal or community service organizations or that promotes employee safety or similar corporate or organizational promotional activities.

**SIGN, TEMPORARY** - Any sign, banner or advertising display or sign constructed of light fabric, cardboard, wallboard, paper or other light materials, with or without frames, intended to be displayed for a limited period of time. Notwithstanding any other

provisions of this chapter, national flags, state or municipal flags, or the official flag of any institution or business, shall not be considered a temporary sign.

**SIGN, VEHICLE-MOUNTED** - Any temporary sign painted on or attached to a vehicle, which sign relates to the business, activity, use, service or product of the owner of the vehicle or to the sale of the vehicle and which sign is incidental to the primary use of the vehicle.

**SIGN, WALL** - Any sign which is affixed directly to, painted on or otherwise inscribed on a wall or parapet wall of any building or structure, with the exposed face of the sign in a plane approximately parallel to the plane of such wall and extending there from less than 18 inches. A wall sign projecting above the top of the wall to which it is attached shall be considered a roof sign.

**SIGN, WIND-DRIVEN** - Temporary signs that include banners, balloons, inflatables and strings of pennants or flags that are used for advertising or display.

**SIGN, WINDOW** - Any permanent sign oriented to the public right-of-way, legible to pedestrians or persons in vehicles, or identifiable from an adjoining property line, and placed either on the outside of a window, on the inside face of a glass window or inside a building and within a distance of the window such that it is intended for viewing from the exterior.

**SIGN, YARD SALE** - A temporary sign used to display advertising for yard or garage sales.

**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 Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under Section 58.1-3230 of the Code of Virginia.

**SLOPE, STEEP** - Terrain generally classified as having a 25 percent vertical rise to the horizontal run.

**SPECIAL EXCEPTION** - A use with operating and/or physical characteristics different from those uses permitted by right in a given zoning district which may, nonetheless, be compatible with those by-right uses under special conditions and with adequate public review. Special Exceptions are allowed only at the discretion and approval of City Council following review and recommendation by the Planning Commission and staff.

**SPECIFIED ANATOMICAL AREAS** - (a) Less than completely and opaquely covered: (1) Human genitals, pubic region, (2) buttock, and (3) female breast below a

point immediately above the top of the areola; and (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** - (a) Human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse, or sodomy; and (c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**STEALTH DESIGN** – Any tower that is designed so that all of its structural components including the associated antenna are camouflaged, disguised or otherwise hidden for the purpose of making the tower and antennae unnoticeable to the casual observer, or otherwise unrecognizable as a tower.

**STOOP** - A platform, without a roof, located at the entrance of a building with sufficient area to facilitate only the ingress and egress to the building.

**STORY** - That portion of a building included between the surface of any floor and the floor next above it, or if there is not a floor above it, then the space between the floor and the ceiling above it.

**STREET** - Any vehicular way which: (1) is an existing federal, state or municipal roadway; or, (2) is shown on a plat approved pursuant to law; or, (3) is approved by other official action. The term street shall include road and highway. Unless otherwise indicated, the term street shall refer to both public and private streets.

**STREET, CUL-DE-SAC:** A street with only one (1) outlet and an appropriate turnaround for a safe and convenient reversal of traffic movement.

**STRUCTURE** - Anything that is constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, signs, manufactured homes and swimming pools. Walls and fences shall not be deemed structures except as otherwise specifically provided in this chapter.

**STUDIO, TATTOO** – An establishment where tattooing and/or body piercing is performed as the principal business activity.

**SUBSTANTIAL ALTERATION** – Expansion or modification of a building or site which would result in a disturbance of land exceeding an area of twenty-five hundred square feet.

**SUBSTANTIAL DAMAGE** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its condition before damage would equal or exceed 50 percent of the market value of the structure before such damage occurred.

**SUBSTANTIAL IMPROVEMENT** - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the

structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement for a structure to comply with existing state or county health, sanitary or safety code specifications which are solely necessary to assure safe living condition or any alteration of a structure listed on the National Register of Historic Places of the state landmarks register.

**SUBSTANTIAL MODIFICATION** – Within a PUD, any change that significantly alters and/or impacts the character of an approved master plan.

**TELECOMMUNICATIONS** - The transmitting and receiving of electromagnetic signals through the atmosphere.

**TIDAL SHORE or SHORE** -Land contiguous to a tidal body of water between the mean low water level and the mean high water level.

**TRANSIENT** - For purposes of this ordinance, transient shall refer to the limited, temporary and/or short term occupancy, associated with the hotel/motel/motor lodge or extended stay lodging use types. Transient occupants must have, and be able to demonstrate that they maintain, a principal place of permanent residence elsewhere.

**USE** -An activity on the land other than development, including but not limited to agriculture, horticulture and silviculture.

**VARIANCE** - A reasonable deviation from the provisions regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure in accordance with, and as further defined in Section 15.2-2201 of the Code of Virginia.

**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 ports; the intake and outfall structures of power plants; sewers; marinas and other boat docking structures; beaches and other public water-oriented recreation areas; and fisheries or other marine resources facilities.

**WETLANDS** – All areas defined by the United States Army Corp of Engineers as wetlands.

**WETLANDS BOARD** - A board of seven members as provided in Section 28.2-1303 of the Code of Virginia.

**WETLANDS, NONTIDAL** - 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 adapted for life in saturated soil conditions, as defined by the United States Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b, dated November 13, 1986.

**WETLANDS, NONVEGETATED** - All that land lying contiguous to mean low water and which land is between mean low water and mean high water not otherwise included in the term "vegetated wetlands" as defined herein.

**WETLANDS, TIDAL** -Vegetated and non-vegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

**WETLANDS, VEGETATED** -All that land lying between and contiguous to mean low water and an elevation above mean low water equal to the factor 1.5 times the mean tide range at the site of the proposed project in this City, and upon which is growing on the effective date of this chapter or grown thereon and subsequent thereto anyone or more of the following: salt marsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* species), sea lavender (*Limonium* species), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* species), sea oxeye (*Borrichia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wild rice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* species), sea rocket (*Cakile edentula*), southern witdrice (*Zizaniopsis miliacea*), cattails (*Typha* species), threesquares (*Scirpus* species), buttonbush (*Cephaelanthus occidentalis*), bald cypress (*Taxodium distichum*), black gum (*Nyssa sylvatica*), tupelo (*Nyssa aquatica*), dock (*Rumex* species), yellow pond lily (*Nuphar* species), marsh fleabane (*Pluchea purpurascens*), royal fern (*Osmunda regalis*), march hibiscus (*Hibiscus moscheutos*), beggar's tick (*Bidens* species), smartweed (*Polygonum* species), arrowhead (*Sagittaria* species), sweet flag (*Acorus calamus*), water hemp (*Amaranthus cannabinus*), reed grass (*Phragmites communis*) and switch grass (*Panicum virgatum*).

**YARD** - A required open space on a lot, unoccupied and unobstructed from the ground upward, unless otherwise provided by this chapter.

**YARD, FRONT** - A yard between the front building line and the street right-of-way extending across the full width of the lot.

**YARD, REAR** - A yard between the rear line of the building and the rear line of the lot extending the full width of the lot.

**YARD, SIDE** - A yard between the side line of the building and the side line of the lot extending from the front lot line to the rear lot line.

**ZONING ADMINISTRATOR** - The zoning administrator of the City of Colonial Heights, Virginia, or an authorized agent thereof, also referred to in this chapter as the Administrator.

## **Section 286-202      Use Types; Generally**

(A) The purpose of Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted within various zoning districts in the City. The Use Types section also facilitates the process of determining the applicable use type of any activity not explicitly defined.

(B) In the event of any question as to the appropriate use type of any existing or proposed use or activity, the Administrator shall have the authority to determine the appropriate use type. In making such determination, the Administrator shall consider the operational and physical characteristics of the use in question and shall consider the classification contained in the most recent edition of the North American Industry Classification System Manual published by the U. S. Office of Management and Budget. In addition, the Administrator shall consider the specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists. The Administrator may also determine that a proposed use or activity is sufficiently different from any use type listed below and thus will require an amendment to the text of this ordinance.

(C) The Administrator shall make such determinations of appropriate use types in writing, which shall include an explanation of the reasons for the determination.

(D) A determination of the Administrator may be appealed to the Board of Zoning Appeals pursuant to the procedures for administrative appeals outlined in Section 286-626 of this chapter.

### **Section 286-202.02   Agricultural Use Types**

**AGRICULTURE** - The use of land for the production of food and fiber, including farming, dairying, pasturage, agriculture, horticulture, viticulture, and animal and poultry husbandry. A garden accessory to a residence shall not be considered agriculture. The keeping of a cow, pig, sheep, goat, chicken or similar animal shall constitute agriculture regardless of the size of the animal and regardless of the purpose for which it is kept.

**STABLE, PRIVATE** - The boarding, keeping, breeding, pasturing or raising of horses, mules, donkeys, ponies or llamas exclusively for personal use and enjoyment by the owner or occupant of the property or the riding of such animals by the owner or occupant of the property or his non-paying guests.

### **Section 286-202.04   Residential Use Types**

**ACCESSORY APARTMENT** - A second dwelling unit within a detached single family dwelling or within an accessory structure on the same lot as the detached single family dwelling, which is clearly incidental and subordinate to the main dwelling unit.

**DUPLEX** - The use of an individual lot for two dwelling units which share at least one common wall, each occupied by one family.

**FAMILY DAY CARE HOME** - A single family dwelling in which more than five (5) but less than thirteen (13) individuals receive care, protection and guidance during only part of a twenty-four hour day. Individuals related by blood, legal adoption or marriage to the person who maintains the home, or is providing the care, shall not be counted towards this total. The care of five (5) or less individuals for portions of a day shall be considered a home occupation.

**GROUP HOME** - A building used as a dwelling unit where not more than 8 mentally ill, mentally retarded or other developmentally disabled persons, not related by blood or marriage, reside, with one or more resident counselors or other staff persons and for which the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority, pursuant to Section 15.2-2291 of the Code of Virginia. Excluded from this definition are drug or alcohol rehabilitation centers, half-way houses and similar uses.

**HOME OCCUPATION** - An accessory use of a dwelling unit for gainful employment involving the production, provision, or sale of goods and/or services in accordance with Article IV Use and Design Standards.

**MANUFACTURED HOME** - A single or multi-sectional manufactured home as defined in Section 286-200 of this chapter.

**MANUFACTURED HOME, EMERGENCY** - A manufactured home used temporarily for the period of reconstruction or replacement of an uninhabitable dwelling lost or destroyed by fire, flood, or other act of nature, or used temporarily as housing relief to victims of a federally declared disaster in accordance with Section 286-404 of this chapter.

**MULTI-FAMILY DWELLING** - A building or portion thereof which contains three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing and condominiums.

**SINGLE FAMILY DWELLING** - A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy.

**ATTACHED** - Two single family dwellings sharing a common wall area, each on its own individual lot.

**DETACHED** - A single family dwelling which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

**TEMPORARY FAMILY HEALTH CARE STRUCTURE** - A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.

**TOWNHOUSE** - A grouping of three or more attached single family dwellings in a row, each on a separate lot of record, in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common walls.

#### **Section 286-202.06 Civic Use Types**

**ASSISTED CARE RESIDENCE** - An establishment, regulated by the Commonwealth of Virginia, that provides shelter and services which may include meals, housekeeping, and personal care assistance primarily for the elderly. Residents are able to maintain a semi-independent lifestyle, not requiring the more extensive care of a nursing home.

**CEMETERY** - Land used or dedicated to the burial of the dead, including columbariums, crematoriums, mausoleums, and necessary sales and maintenance facilities. Funeral Services use types shall be included when operated within the boundary of such cemetery.

**CLUB** - A use providing meeting or social facilities for civic or social clubs, and similar organizations and associations, primarily for use by members and guests. Recreational facilities, unless otherwise specifically cited in this section, may be provided for members and guests as an accessory use. This definition shall not include fraternal or sororal organizations associated with colleges or universities. A club does not include a building in which members reside.

**COMMUNITY RECREATION** - A recreational facility for use solely by the residents and guests of a particular residential development, planned unit 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.

**CORRECTION FACILITY** - A public or privately operated use providing housing and care for individuals legally incarcerated, designed to isolate those individuals from a surrounding community.

**CRISIS CENTER** - A facility providing temporary protective sanctuary for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

**CULTURAL SERVICE** - A library, museum, or similar public or quasi-public use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

**EDUCATIONAL FACILITY, COLLEGE/UNIVERSITY** - An educational institution authorized by the Commonwealth of Virginia to award associate, baccalaureate or higher degrees.

**EDUCATIONAL FACILITY, PRIMARY/SECONDARY** - A public, private or parochial school offering instruction at the elementary, junior and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the Commonwealth of Virginia.

**GOVERNMENTAL SERVICE** – A governmental office providing administrative, clerical or public contact services that deal directly with the citizen. Typical uses include federal, state, City, town and county offices

**GUIDANCE SERVICE** – An establishment providing counseling, guidance, recuperative, or similar services for persons requiring rehabilitation assistance or therapy for only part of a twenty-four hour day. This use type shall not include facilities operated for the treatment of drug addiction or substance abuse.

**HALFWAY HOUSE** - An establishment providing residential accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction, to persons reentering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders or circumstances.

**LIFE CARE FACILITY** - A residential facility primarily for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home type care where all related uses are located on the same lot. Such facility may include other services integral to the personal and therapeutic care of the residents.

**NURSING HOME** – An establishment providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Nursing homes have doctors or licensed nurses on duty.

**PARK AND RIDE FACILITY** – A publicly owned short term parking facility for commuters.

**POST OFFICE** – An establishment providing postal services directly available to the consumer operated by the United States Postal Service.

**PUBLIC ASSEMBLY** – A facility owned and operated by a public or quasi-public agency accommodating public assembly for sports, amusement, or entertainment purposes. Typical uses include auditoriums, sports stadiums, convention facilities, fairgrounds, and sales and exhibition facilities.

**PUBLIC MAINTENANCE AND SERVICE FACILITY** - A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment services centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

**PUBLIC PARK AND RECREATIONAL AREA** - Publicly-owned and operated parks, picnic areas, playgrounds, indoor or outdoor athletic facilities, and open spaces.

**RELIGIOUS ASSEMBLY** – An establishment located in a permanent building and providing regular organized religious worship and related incidental activities, except primary or secondary schools and day care facilities.

**SAFETY SERVICE** – A facility for the conduct of safety and emergency services for the primary benefit of the public, whether publicly or privately owned and operated, including police and fire protection services and emergency medical and ambulance services.

**UTILITY SERVICE, MAJOR** - Services of a regional nature which normally entail the construction of new buildings or structures such as generating plants and sources, electrical switching facilities and stations or substations, water towers and tanks, community waste water treatment plants, and similar facilities. Included in this use type are also electric, gas, and other utility transmission lines of a regional nature which are not otherwise reviewed and approved by the Virginia State Corporation Commission.

**UTILITY SERVICE, MINOR** - Services which are necessary to support existing and future development within the immediate vicinity and involve only minor structures. Included in this use type are distribution lines and small facilities that are underground or overhead, such as transformers, relay and booster devices, and well, water and sewer pump stations. Also included are all major utility services that were in existence prior to the adoption of this chapter.

## **Section 286-202.08 Office Use Types**

**FINANCIAL INSTITUTION** – An establishment that provides financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are generally provided on site. Typical uses include banks, savings and loan associations, savings banks, credit unions, lending establishments and free-standing automatic teller machines.

**GENERAL OFFICE** – An establishment devoted to business, professional, or administrative uses excluding medical offices. Typical uses include real estate, insurance, management, travel, computer software or information systems research and development, or other business offices; organization and association offices; or law, architectural, engineering, accounting or other professional offices. Retail sales do not comprise more than an accessory aspect of the primary activity of a General Office.

**LABORATORY** – An establishment primarily engaged in performing research or testing activities into technological matters. Typical uses include engineering and environmental laboratories, medical, optical, dental and forensic laboratories, x-ray services; and pharmaceutical laboratories only involved in research and development. Excluded from this use type are any laboratories which mass produce one or more products directly for the consumer market.

**MEDICAL OFFICE** – An establishment which provides *physical or mental health* diagnoses, minor surgical care and outpatient care on a routine basis, but which does not provide overnight care or serve as a base for an ambulance service. Excluded from this definition shall be facilities operated for the treatment of drug addiction and substance abuse. *Medical Office includes offices operated by:*

- (a) persons licensed by the Commonwealth of Virginia to practice medicine, osteopathy, chiropractic, podiatry, optometry, dentistry, or acupuncture;
- (b) persons licensed by the Commonwealth to practice professions in the healing arts similar to those in paragraph (a);
- (c) mental health service providers licensed by the Commonwealth to practice clinical psychology, professional counseling, clinical social work, marriage and family therapy, or practical nursing; and
- (d) providers licensed by the Commonwealth to practice professions similar to those in paragraph (c).

**SUBSTANCE ABUSE CLINIC** - An establishment which provides outpatient services primarily related to the treatment of alcohol, or other drug or substance abuse disorders, which services include the dispensing and administering of controlled substances and pharmaceutical products by professional medical practitioners as licensed by the Commonwealth of Virginia.

## **Section 286-202.10 Commercial Use Types**

**ADULT BOOKSTORE** - An establishment that devotes more than fifteen (15) percent of the total floor area utilized for the display of books and periodicals to the display and sale of the following: (a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, blue ray discs, compact discs, digital video discs, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas;" or (b) instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities." An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen (15) percent of the total floor area of the establishment to the sale of books and

periodicals, or photographs, films, motion pictures, blue ray discs, compact discs, digital video discs, video cassettes, slides, tapes, records, or other forms of visual or audio representations.

**ADULT DRIVE-IN-THEATRE** - An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" for observation by patrons.

**ADULT MINI-MOTION PICTURE THEATRE** - An establishment, with a capacity of more than five (5) but less than fifty (50) persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

**ADULT MODEL STUDIO** - An establishment open to the public where, for any form of consideration or gratuity, figure models who display "specified anatomical areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation, or institution which meets the requirements established in the Code of Virginia, for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

**ADULT MOTION PICTURE ARCADE** - A place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or specified "anatomical areas."

**ADULT MOTION PICTURE THEATRE** - An establishment, with a capacity of fifty (50) or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown; and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

**ADULT USE** - Any adult bookstore, adult motion picture theatre, adult mini-motion picture theatre, adult motion picture arcade, adult model studio, or adult drive-in theatre, as defined in this chapter.

**AGRICULTURAL SERVICE** - Services provided specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be servicing of agricultural equipment, independent equipment operators, and other related agricultural services.

**ANTIQUE SHOP** - A place offering primarily antiques for sale. An antique for the purposes of this chapter shall be a work of art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old.

**ASSEMBLY HALL** - A building, designed and used primarily for the meeting or assembly of a large group of people for a common purpose. Typical uses include meeting halls, union halls, bingo halls, and catering or banquet facilities.

**AUTOMOBILE DEALERSHIP, NEW** –An establishment that uses building, land area or other premise for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.

**AUTOMOBILE DEALERSHIP, USED** – A lot or establishment where three or more used motor vehicles, including automobiles, trucks, and motorcycles are displayed at one time for sale.

**AUTOMOBILE PARTS/SUPPLY, RETAIL** - Retail sales of automobile parts and accessories. Typical uses include automobile parts and supply stores which offer new and factory rebuilt parts and accessories, and include establishments which offer minor automobile repair services.

**AUTOMOBILE RENTAL/LEASING** - Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.

**AUTOMOBILE REPAIR SERVICE, MAJOR** - Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted. This includes minor automobile repairs in conjunction with major automobile repairs. Typical uses include automobile and truck repair garages, transmission shops, radiator shops, body and fender shops, equipment service centers, machine shops and other similar uses where major repair activities are conducted.

**AUTOMOBILE REPAIR SERVICE, MINOR** - Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include tire sales and installation, wheel and brake shops, oil and lubrication services and similar repair and service activities where minor repairs and routine maintenance are conducted.

**BED AND BREAKFAST** - A dwelling, occupied by the owner, in which not more than five (5) bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without meals.

**BUSINESS SUPPORT SERVICE** – An establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, as well as temporary labor services.

**BUSINESS/TRADE SCHOOL** – An establishment providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as an educational facility, either primary and secondary, or college and university.

**CAR WASH** – An establishment that washes and cleans vehicles. Typical uses include automatic conveyor machines and self-service vehicle washes.

**COMMERCIAL INDOOR AMUSEMENT** – An establishment which provides multiple coin operated amusement or entertainment devices or machines as other than an incidental use of the premises. Such devices would include pinball machines, video games, and other games of skill or scoring, and would include pool and/or billiard tables, whether or not they are coin operated. Typical uses include game rooms, billiard and pool halls, and video arcades.

**COMMERCIAL INDOOR ENTERTAINMENT** – An establishment conducting predominantly spectator uses within an enclosed building. Typical uses include motion picture theaters, and concert or music halls.

**COMMERCIAL INDOOR SPORTS AND RECREATION** – An establishment conducting predominantly participant uses within an enclosed building. Typical uses include bowling alleys, ice and roller skating rinks, indoor shooting ranges, indoor racquetball, swimming, and/or tennis facilities.

**COMMERCIAL OUTDOOR ENTERTAINMENT** - An establishment conducting predominantly spectator uses in open or partially enclosed or screened facilities. Typical uses include sports arenas, go-cart, lawn mower, motor vehicle or animal racing facilities, tractor pulls, and outdoor amusement parks.

**COMMERCIAL OUTDOOR SPORTS AND RECREATION** – An establishment conducting predominantly participant uses in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf, swimming pools, tennis courts, outdoor racquetball courts, motorized cart and motorcycle tracks, and motorized model airplane flying facilities.

**COMMUNICATIONS SERVICE** – An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as Utility Services - Major or Minor and Towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

**CONSTRUCTION SALES AND SERVICE** – An establishment or place of business primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile or equipment supplies otherwise classified herein. Typical uses include, lumber yards, building material stores and home supply establishments.

**CONSUMER REPAIR SERVICE** – An establishment primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

**CONVENIENCE STORE** – An establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, and limited household supplies and hardware. Convenience stores may include fuel pumps or the selling of fuel for motor vehicles. Typical uses include neighborhood markets and country stores.

**DANCE HALL** – An establishment in which more than 10 percent of the total floor area is designed or used as a dance floor, or where an admission fee is directly collected or some other form of compensation is obtained for dancing.

**DAY CARE CENTER** – A facility operated for the purpose of providing care, protection and guidance to thirteen or more individuals during only part of a twenty-four hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full twenty-four hour (24) period.

**EQUIPMENT SALES AND RENTAL** – An establishment primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, similar industrial equipment; and the rental of recreational vehicles. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

**EXTENDED STAY LODGING** - A building or group of attached or detached buildings containing lodging units available for rental or lease to transients for periods of 30 consecutive days or more. Lodging units generally contain full kitchens and kitchen wares, and onsite guest laundry facilities, periodic maid service, and may offer restaurants, meeting rooms and/or recreation facilities.

**FLEA MARKET** -A building or lot used for the regular or periodic display of new or used merchandise for sale. Flea markets are typically characterized by one or more vendors who display goods on tables and/or in small booths

**FUNERAL SERVICES** - Establishments engaged in undertaking services such as preparing the dead for burial, and arranging and managing funerals. Typical uses include mortuaries and crematories.

**GARDEN CENTER** - Establishments or places of business primarily engaged in retail or wholesale (bulk) sale, from the premises, of trees, shrubs, seeds, fertilizers, pesticides, plants and plant materials primarily for agricultural, residential and commercial consumers. Such establishments typically sell products purchased from others, but may sell some material which they grow themselves. Typical uses include nurseries, plant stores and lawn and garden centers.

**GASOLINE STATION** - Any place of business with fuel pumps and gasoline storage tanks which provides fuels for motor vehicles.

**GOLF COURSE** - A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters. Included would be executive or par 3 golf courses. Specifically excluded would be independent driving ranges and any miniature golf course.

**HOSPITAL** - A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis and including ancillary facilities for outpatient and emergency treatment diagnostic services, training, research, administration, and services to patients, employees, or visitors.

**HOTEL/MOTEL/MOTOR LODGE** - A building or group of attached or detached buildings containing lodging units available for rental or lease to transients for periods of less than 30 consecutive days. Such uses generally provide additional services such as daily maid service, restaurants, meeting rooms and/or recreation facilities.

**ITINERANT MERCHANT** - Any person engaged temporarily in the retail sale, lease, or rental of goods, wares, or merchandise and who for the purpose of conducting such business, displays such goods, wares, or merchandise to the public outside a building on property in which such person holds a legal temporary interest.

**KENNEL, COMMERCIAL** - The boarding, breeding, raising, grooming or training of dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, for commercial gain.

**LAUNDRY** - Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

**MANUFACTURED HOME SALES** – An establishment primarily engaged in the display, retail sale, rental, and minor repair of new and used manufactured homes, parts, and equipment.

**MINI-WAREHOUSE** - A building designed to provide rental storage space in cubicles where each cubicle has a maximum floor area of 400 square feet. Each cubicle shall be enclosed by walls and ceiling and have a separate entrance for the loading and unloading of stored goods. Cubicles may or may not be climate controlled.

**MODULAR HOME SALES** – A site used for the construction and display of model modular homes, including a sales office and incidental storage associated with the construction of the model homes.

**PAWN SHOP** – An establishment engaged in the loaning of money on the security of property pledged to a pawnbroker and the incidental sale of such property.

**PERSONAL IMPROVEMENT SERVICES** - Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses include driving schools, health spas or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

**PERSONAL SERVICES**- Establishments or places of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops; massage clinics; grooming of pets; seamstresses, tailors; florists; and laundry dry cleaning services.

**RECREATIONAL VEHICLE SALES AND SERVICE** – An establishment engaged in the retail sales of recreational vehicles, boats, and jet skis, including service and storage of vehicles parts and related accessories.

**RESTAURANT, FAMILY** - An establishment engaged in the preparation and sale of food and beverages containing no more than 2000 gross square feet and characterized primarily by table service to customers in non-disposable containers. Typical uses include cafes, coffee shops and small restaurants.

**RESTAURANT, FAST FOOD or DRIVE-IN** - An establishment engaged in the preparation and sale of food and beverages for either take-out, delivery, or table service, served in disposable containers at a counter, a drive-up or drive-thru service facility, or at a curb.

**RESTAURANT, GENERAL** - An establishment engaged in the preparation and sale of food and beverages containing more than 2000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

**RETAIL SALES** – An establishment engaged in sale or rental with incidental service, of commonly used goods and merchandise for personal or household use, excluding those classified more specifically by these use type classifications.

**STUDIO, FINE ARTS** - A building, or portion thereof, used as a place of work by a sculptor, artist, photographer or similar artisan.

**STUDIO, TATTOO** - An establishment where tattooing and or body piercing is performed as the principal business activity

**TRAVEL CENTER**- An establishment containing a mixture of uses which cater to the traveling public and in particular motor freight operators. A travel center might include such uses as fuel pumps, restaurants, overnight accommodations, retail sales related to the motor freight industry, and similar uses.

**VETERINARY HOSPITAL/CLINIC** – An establishment rendering surgical and medical treatment of animals. Boarding of animals shall only be conducted indoors, on a short term basis, and shall only be incidental to such hospital/clinic use, unless also authorized and approved as a commercial kennel.

#### **Section 286-202.12 Industrial Use Types**

**ASPHALT PLANT** – An establishment engaged in manufacturing or mixing of paving materials derived from asphaltic mixtures or tar.

**COMPOSTING** –Process by which animal wastes and plant discards are combined and manipulated to produce a soil additive/nutrient. Composting does not include the processing of municipal wastes.

**CONSTRUCTION YARD** – An establishment primarily engaged in construction activities, including outside storage of materials and equipment. Typical uses are building contractor's yards.

**CUSTOM MANUFACTURING** - Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses.

**INDUSTRY, HEAVY** - An establishment which has the potential to be dangerous or extremely obnoxious. Included are those in which explosives are stored, petroleum is refined, natural and liquid gas and other petroleum derivatives are stored and/or distributed in bulk, radioactive materials are compounded, pesticides and certain acids are manufactured, and hazardous waste is treated or stored as the establishment's principal activity.

**INDUSTRY, LIGHT** – An establishment engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Light Industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. A machine shop is included in this category. Also included is the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature or requiring similar production characteristics.

**INDUSTRY, MEDIUM** - Enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Included in this use type are industries involved in processing and/or refining raw materials such as chemicals, rubber, wood or wood pulp, forging, casting, melting, refining, extruding, rolling, drawing, and/or alloying ferrous metals, and the production of large durable goods such as automobiles, manufactured homes, or other motor vehicles.

**INTERMODAL FACILITY** – A facility where freight in transit is transferred from one mode of transportation (air, rail, truck, water) to another mode of transportation.

**LANDFILL, CONSTRUCTION DEBRIS** –The use of land for the legal disposal of construction and demolition wastes consisting of lumber, wire, sheet rock, broken brick, shingles, glass, pipes, concrete, and metals and plastic associated with construction and wastes from land clearing operations consisting of stumps, wood, brush, and leaves.

**LANDFILL, RUBBLE** - The use of land for the legal disposal of only inert waste. Inert waste is physically, chemically and biologically stable from further degradation and considered to be non-reactive, and includes rubble, concrete, broken bricks, and block.

**LANDFILL, SANITARY** - The use of land for the legal disposal of municipal solid waste derived from households, business and institutional establishments, including garbage, trash, and rubbish, and from industrial establishments, other than hazardous wastes as described by the Virginia Hazardous Waste Regulations.

**MEAT PACKING AND RELATED INDUSTRIES** – An establishment processing meat products and by-products directly from live animals or offal from dead animals.

**RAILROAD FACILITIES** - Railroad yards, equipment servicing facilities, and terminal facilities.

**RECYCLING CENTER** - A receptacle or facility used for the collection and storage of recyclable materials designed and labeled for citizens to voluntarily take source separated materials for recycling.

**RESOURCE EXTRACTION** – An establishment involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

**SAWMILL** –An establishment for the storage of harvested timber and/or the sawing of timber into lumber products.

**SCRAP AND SALVAGE SERVICE** – A place of business primarily engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in their original forms. Typical uses include paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.

**TRANSFER STATION** - Any storage or collection facility which is operated as a relay point for municipal solid waste which ultimately is to be transferred to a landfill.

**TRANSPORTATION TERMINAL** - A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of ground transportation, including bus terminals, railroad stations, and public transit facilities.

**TRUCK TERMINAL** - A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.

**WAREHOUSING AND DISTRIBUTION** – An establishment specializing in storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses include wholesale distributors, storage warehouses and, moving/storage firms.

#### **Section 286-202.14   Miscellaneous Use Types**

**AMATEUR RADIO TOWER** - A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the Federal Communications Commission (FCC).

**AVIATION FACILITY, GENERAL** -Landing fields, aircraft parking, service facilities and related facilities for the operation, service, fueling, repair, storage, charter,

sales, and rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

**AVIATION FACILITY, PRIVATE** – Any area of land used or intended to be used for the landing or taking-off of aircraft for personal use of the tenant or owner of the site, and not available for public use or commercial operations. Aircraft include helicopters, and all fixed wing planes and gliders, including hang gliders.

**PARKING FACILITY, SURFACE/STRUCTURE** – A site used for surface parking or a parking structure unrelated to a specific use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

**SHOOTING RANGE, OUTDOOR** – A site where land is used for archery and the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, such as a turkey shoot. Excluded from this use type shall be general hunting and the unstructured and nonrecurring discharging of firearms on private property with the property owner's permission.

**TOWER** - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term includes but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone and wireless communication towers. Tower types include, but are not limited to monopoles, lattice towers, wooden poles, and guyed towers. Excluded from this definition are amateur radio towers, which are otherwise defined.

## **ARTICLE III DISTRICT REGULATIONS**

### **Section 286-300 RL Low Density Residential District**

#### **Section 286-300.02 Statement of Intent**

(A) The RL Low Density Residential District is created in recognition that many residential neighborhoods in the City of Colonial Heights are comprised primarily of single-family dwellings. RL districts have access to public water and sewer services and are the location of many well-established neighborhoods in the City. It is anticipated and desired that residential development will occur on any remaining lands within this district. Limited uses other than single family residential are permitted. Development standards such as lot sizes and frontage requirements are set in the RL district. Average densities of approximately 3.5 dwelling units per acre are envisioned for new residential development and an average density of approximately 5 dwelling units per acre are envisioned for existing lots of record in the RL district.

#### **Section 286-300.04 Permitted Uses**

(A) The following uses are permitted by right or by special exception permit in the RL Low Density Residential District, subject to all other applicable requirements contained in this ordinance. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

##### **1. Agricultural Use Types**

Stable, Private (S) \*

##### **2. Residential Use Types**

Accessory Apartments \*

Family Day Care Home \*

Group Home

Home Occupation \*

Manufactured Home, Emergency \*

Single Family Dwelling, Attached (S) \*

Single Family Dwelling, Detached \*

Temporary Family Health Care Structures \*

##### **3. Civic Use Types**

Community Recreation \*

Cultural Service

Educational Facilities, College/University (S) \*

Educational Facilities, Primary/Secondary (S) \*

Public Parks and Recreational Areas

Religious Assembly \*  
Safety Service \*  
Utility Service, Major (S)\*  
Utility Service, Minor

4. Office Use Types

(None)

5. Commercial Use Types

(None)

6. Industrial Use Types

(None)

7 Miscellaneous Use Types

Amateur Radio Tower \*

**Section 286-300.06 Site Development Regulations**

The following are general development standards for the RL Low Density Residential District. For additional, modified or more stringent standards see Article IV, Use and Design Standards

(A) Minimum Lot Requirements

Area: 7500 square feet  
Frontage: 75 feet  
Depth: 100 feet

(B) Minimum Setback Requirements

1. Principal Structure:

Front Yard: 25 feet, except that for lots of record recorded prior to 12/17/68 the minimum front yard setback shall be the average of all front yard setbacks of homes on the block, but no less than 15 feet nor greater than 25 feet

Side Yard: 7.5 feet except that for lots of record recorded prior to 12/17/68 the minimum side yard setback shall be 10 percent of the lot width or 5 feet, whichever is greater

Side Yard- Corner Lot: 15 feet

Rear Yard: 25 Feet

2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Rear Yard: 5 Feet

(C) Maximum Height of Structures

1. Principal Structures: 35 feet

2. Accessory Structures: Shall not exceed the height of the principal structure.

(D) Maximum Lot Coverage

1. Principal Structures: 40 percent of lot area.

(2) Accessory structures; 20% of rear yard area; provided however, that if any accessory building is a swimming pool, at least 80% of which is below grade, coverage of up to 30% of the rear yard shall be permitted.

## **Section 286-302 RM Medium Density Residential District**

### **Section 286-302.02 Statement of Intent**

(A) The RM Medium Density Residential District is created to provide a residential living area that is comprised of and allows a mixture of low to medium density housing types on relatively small lots. RM districts have access to public water and sewer services and are the location of many older, established neighborhoods within the City. Development standards such as lot sizes and frontage requirements are reduced in the RM district to recognize existing development patterns and promote a more compact development pattern. Average densities of approximately 5 to 8 dwelling units per acre are envisioned for new residential development in the RM district.

### **Section 286-302.04 Permitted Uses**

(A) The following uses are permitted by right or by special exception permit in the RM Medium Density Residential District, subject to all other applicable requirements contained in this ordinance. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

#### 1. Agricultural Use Types

(None)

#### 2. Residential Use Types

Accessory Apartment \*  
Duplex \*  
Family Day Care Home \*  
Group Home  
Home Occupation \*  
Manufactured Home, Emergency \*  
Single Family Dwelling, Attached \*  
Single Family Dwelling, Detached  
Townhouse\*

#### 3. Civic Use Types

Assisted Care Residence (S)  
Community Recreation \*  
Cultural Service  
Educational Facilities, College/University (S) \*  
Educational Facilities, Primary/Secondary (S)\*  
Public Parks and Recreational Areas \*  
Safety Service \*  
Religious Assembly \*  
Utility Service, Major (S) \*

Utility Service, Minor

4. Office Use Types

(None)

5. Commercial Use Types

Bed and Breakfast (S) \*

6. Industrial Use Types

(None)

7. Miscellaneous Use Types

Amateur Radio Tower \*

**Section 286-302.06 Site Development Regulations**

The following are general development standards for the RM Medium Density Residential District. For additional, modified or more stringent standards see Article IV, Use and Design Standards.

(A) Minimum Lot Requirements

Area: 7,500 square feet  
Frontage: 75 feet  
Depth: 100 feet

(B) Minimum Setback Requirements

1. Principal Structure:

Front Yard: 25 feet, except that for lots of record recorded prior to December 17, 1968 the minimum front yard setback shall be the average of all front yard setbacks of homes on the block, but no less than 15 feet nor greater than 25 feet.

Side Yard: 7.5 feet, except that for lots of record recorded prior to December 17, 1968 the minimum side yard setback shall be 10 percent of the lot width or 5 feet, whichever is greater.

Side Yard, Corner Lot: 15 feet

Rear Yard: 25 Feet

2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Side yard, corner lot: 15 feet

Rear Yard: 5 Feet

(C) Maximum Height of Structures

1. Principal Structures: 35 feet

2. Accessory Structures: Shall not exceed the height of the principal structure.

(D) Maximum Lot Coverage

1. Principal Structures: 40 percent of lot area

(2) Accessory structures; 20 percent of rear yard area. provided however, that if any accessory building is a swimming pool at least 80% of which is below grade, coverage of up to 30% of the rear yard shall be permitted.

## **Section 286-304      RH High Density Residential District**

### **Section 286-304.02   Statement of Intent**

(A) The RH High Density Residential District has been created in recognition that some areas within the City of Colonial Heights are suitable for higher density residential uses. Multi-family dwellings and townhouses, also served by public water and sewer, are allowable land uses in this district, as well as single-family homes and duplexes. These housing types provide diversity in the style, size, value, and affordability of housing options in the City. Development standards in the RH district such as density, lot sizes and frontage requirements reflect and recognize that higher density housing, properly designed and located, can play an important role in meeting the City's future housing needs. This district aims to provide a suitable environment for those living in higher density residential housing, such as multifamily or townhouses. Average densities up to twelve (12) dwelling units per acre are envisioned for new residential development in the RH district.

### **Section 286-304.04   Permitted Uses**

(A) The following uses are permitted by right or by special exception permit in the RH High Density Residential District, subject to all other applicable requirements contained in this ordinance. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

#### **1.      Agricultural Use Types**

(None)

#### **2.      Residential Use Types**

- Accessory Apartment \*
- Duplex \*
- Family Day Care Home \*
- Group Home
- Home Occupation \*
- Manufactured Home, Emergency \*
- Multi-Family Dwelling \*
- Single Family Dwelling, Attached \*
- Single Family Dwelling, Detached
- Townhouse \*

#### **3.      Civic Use Types**

- Assisted Care Residence.
- Cemetery (S) \*
- Club (S) \*

Community Recreation \*

Crisis Center (S)

Cultural Service

Educational Facilities, College/University (S) \*

Educational Facilities, Primary/Secondary \*

Governmental Service (S)

Guidance Service (S)

Halfway House (S)

Life Care Facility (S)

Nursing Home (S)

Public Parks and Recreational Areas \*

Religious Assembly \*

Safety Service\*

Utility Service, Major (S) \*

Utility Service, Minor

4. Office Use Types

(None)

5. Commercial Use Types

Bed and Breakfast \*

Day Care Center (S) \*

Golf Course (S)

6. Industrial Use Types

Recycling Center (S) \*

7. Miscellaneous Use Types

Amateur Radio Tower \*

**Section 286-304.06 Site Development Regulations**

The following are general development standards for the RH High Density Residential District. For additional, modified or more stringent standards see Article IV, Use and Design Standards.

(A) Minimum Lot Requirements

Area: 8,000 square feet

Frontage: 60 feet

(B) Minimum Setback Requirements

1. Principal Structure:

Front Yard: 25 feet

Side Yard: 7.5 Feet

Side yard, corner lot: 15 feet

Rear Yard: 25 Feet

2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Side yard, corner lot: 15 feet

Rear Yard: 5 Feet

(C) Maximum Height of Structures

1. Principal Structures: 60 feet

2. Accessory Structures: Shall not exceed the height of the principal structure or 35 feet whichever is lower.

(D) Maximum Lot Coverage

1. Principal Structures: 50 percent of lot area

2. Accessory Structures: 20 percent of rear yard area. provided however, that if any accessory building is a swimming pool, at least 80% if which is below grade, coverage of up to 30% of the rear yard shall be permitted.

## **Section 286-306 RO Residential Office District**

### **Section 286-306.02 Statement of Intent**

(A) The purpose of the RO Residential Office District is to serve as a transition district between more intensive commercial uses and residential neighborhoods and to provide for the adapted reuse of residential structures for low intensity office uses. Most commercial use types are not permitted in this transitional district due to their potential impact on residential uses. Allowed use types in this district will primarily be transitional uses with office use types serving the needs for smaller office space in the local geographic area. RO districts are most appropriately found along or near a residential collector street or minor arterial roadway. The total district size shall typically be no more than several acres. In order to enhance the general character of the district, its function of neighborhood service, and its overall compatibility with residential surroundings, building heights, the size of certain uses and characteristics are all limited.

### **Section 286-306.04 Permitted Uses**

(A) The following uses are permitted by right or by special exception permit in the RO Residential Office District, subject to all other applicable requirements contained in this chapter. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

#### **1. Agricultural Use Types**

(None)

#### **2. Residential Use Types**

Accessory Apartment \*  
Duplex \*  
Family Day Care Home \*  
Group Home  
Home Occupation \*  
Single-Family Dwellings, Attached \*  
Single-Family Dwellings, Detached.

#### **3. Civic Use Types**

Governmental Service  
Guidance Service  
Park and Ride Facility \*  
Post Office  
Religious Assembly \*  
Safety Service \*  
Utility Service, Major (S) \*

## Utility Service, Minor

### 4. Office Use Types

Financial Institution  
General Office  
Laboratory  
Medical Office

### 5. Commercial Use Types

Day Care Center \*  
Studio, Fine Arts

### 6. Industrial Use Types

(None)

### 7. Miscellaneous Use Types

Amateur Radio Tower \*

## **Section 286-306.06 Site Development Regulations**

The following are general development standards for the RO Residential Office District. For additional, modified or more stringent standards see Article IV, Use and Design Standards.

### (A) Minimum Lot Requirements

Area: 7,500 square feet  
Frontage: 75 feet

### (B) Minimum Setback Requirements

#### 1. Principal Structure:

Front Yard: 35 feet

Side Yard: 7.5 feet

Side yard, corner lot: 15 feet

Rear Yard: 25 feet

#### 2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Side yard, corner lot: 15 feet

Rear Yard: 5 Feet

(C) Maximum Height of Structures

1. Principal Structures: 35 feet
2. Accessory Structures: 15 feet

(D) Maximum Lot Coverage:

1. Principal Structures: 40 percent of lot area
2. Accessory Structures: 20 percent of rear yard area.

## **Section 286-308 BB Boulevard Business District**

### **Section 286-308.02 Statement of Intent**

(A) The purpose of the BB Boulevard Business District is to provide for the development of attractive and efficient local business uses including those retail uses which serve the community needs. This district allows for retail and service uses that are intended to be compatible with general office uses and adjoining residential uses. The BB district is most appropriately found along or near The Boulevard, US Route 1. Site development standards are intended to ensure compatibility with adjacent land uses, particularly when adjacent to residential areas in the City.

### **Section 286-308.04 Permitted Uses**

(A) The following uses are permitted by right or by special exception permit in the BB Boulevard Business District, subject to all other applicable requirements contained in this chapter. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

#### 1. Agricultural Use Types

(None)

#### 2. Residential Use Types

Duplex \*  
Home Occupation \*  
Multi-family Dwelling (S) \*  
Single-Family Dwellings, Attached (S) \*  
Single-Family Dwellings, Detached

#### 3. Civic Use Types

Assisted Care Residence  
Club \*  
Crisis Center  
Cultural Service  
Educational Facilities, College/University (S) \*  
Governmental Service  
Guidance Service  
Halfway House (S)  
Life Care Facility  
Nursing Home  
Park and Ride Facility \*  
Post Office  
Public Assembly (S)  
Public Parks and Recreational Areas \*

Religious Assembly \*  
Safety Service \*  
Utility Service, Major (S)\*  
Utility Service, Minor

4. Office Use Types

Financial Institution  
General Office  
Laboratory  
Medical Office  
Substance Abuse Clinic (S)

5. Commercial Use Types

Agricultural Service  
Antique Shop  
Automobile Dealership, New \*  
Automobile Dealership, Used \*  
Automobile Parts/Supply, Retail  
Automobile Rental/Leasing  
Automobile Repair Service, Major \*  
Automobile Repair Service, Minor \*  
Bed and Breakfast \*  
Business Support Service  
Business/Trade Schools  
Car Wash \*  
Commercial Indoor Sports and Recreation  
Communications Service  
Construction Sales and Service \*  
Consumer Repair Service  
Convenience Store  
Day Care Center \*  
Equipment Sales and Rental \*  
Extended Stay Lodging  
Flea Market (S)  
Funeral Service  
Garden Center \*  
Gasoline Station  
Hotel/Motel/Motor Lodge  
Itinerant Merchant \*  
Laundry  
Personal Improvement Service  
Personal Services \*  
Recreational Vehicle Sales and Service \*  
Restaurant, Family

Restaurant, Fast Food or Drive-In  
Restaurant, General  
Retail Sales  
Studio, Fine Arts  
Veterinary Hospital/Clinic \*

6. Industrial Use Types

(None)

7. Miscellaneous Uses

Amateur Radio Tower \*  
Parking Facility, Surface/Structure (S) \*  
Tower (S) \*

**Section 286-308.06 Site Development Regulations**

The following are general development standards for the BB Boulevard Business District. For additional, modified or more stringent standards see Article IV, Use and Design Standards.

(A) Minimum Lot Requirements

Area: 15,000 square feet  
Frontage: 80 feet

(B) Minimum Setback Requirements

1. Principal Structure:

Front Yard: 25 feet

Side Yard: 0.0 Feet

Side yard, corner lot: 15 feet

Rear Yard: 15 Feet

2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Side yard, corner lot: 15 feet

Rear Yard: 5 Feet

- (C) Maximum Height of Structures
  - 1. Principal Structures: 45 feet
  - 2. Accessory Structures: 15 feet

- (D) Maximum Lot Coverage:
  - 1. Principal Structures: 70 percent of lot area
  - 2. Accessory Structures: 20 percent of rear yard area

## **Section 286-310      GB General Business District**

### **Section 286-310.02   Statement of Intent**

(A) The purpose of the GB General Business District is to provide locations for a variety of commercial, retail, and service related activities within the City of Colonial Heights that serve community-wide and regional commercial needs. The General Business District is located and is most appropriately found in the areas in and around Southpark Mall. Site development regulations are designed to promote commercial development and to ensure compatibility with adjoining land uses.

### **Section 286-310.04   Permitted Uses**

(A) The following uses are permitted by right or by special exception permit in the GB General Business District, subject to all other applicable requirements contained in this chapter. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards.

#### 1.      Agricultural Use Types

(None)

#### 2.      Residential Use Types

Home Occupation \*

Multi-family Dwelling (S) \*

#### 3.      Civic Use Types

Assisted Care Residence

Club \*

Correction Facility (S)

Crisis Center

Cultural Services

Educational Facilities, College/University (S) \*

Educational Facilities, Primary/ Secondary \*

Governmental Service

Guidance Service

Halfway House (S)

Life Care Facility

Nursing Home

Park and Ride Facility \*

Post Office

Public Assembly

Public Maintenance and Service Facility (S)

Public Parks and Recreational Areas \*

Religious Assembly \*

Safety Service \*  
Utility Service, Major (S) \*  
Utility Service, Minor

4. Office Use Types

Financial Institution  
General Office  
Laboratory  
Medical Office  
Substance Abuse Clinic (S)

5. Commercial Use Types

Adult Use (S) \*  
Agricultural Service  
Antique Shop  
Assembly Hall  
Automobile Dealership, New \*  
Automobile Dealership, Used \*  
Automobile Parts/Supply, Retail  
Automobile Rental/Leasing  
Automobile Repair Service, Major \*  
Automobile Repair Service, Minor  
Business Support Service  
Business/Trade Schools  
Car Wash \*  
Commercial Indoor Amusement  
Commercial Indoor Entertainment  
Commercial Indoor Sports and Recreation  
Commercial Outdoor Entertainment  
Commercial Outdoor Sports and Recreation  
Communications Service  
Construction Sales and Service \*  
Consumer Repair Service  
Convenience Store  
Dance Hall (S)  
Day Care Center \*  
Equipment Sales and Rental \*  
Extended Stay Lodging  
Flea Market (S)  
Funeral Service  
Garden Center \*  
Gasoline Station  
Golf Course  
Hospital

Hotel/Motel/Motor Lodge  
Kennel, Commercial (S) \*  
Itinerant Merchant \*  
Laundry  
Manufactured Home Sales (S) \*  
Mini-Warehouse (S) \*  
Modular Home Sales  
Pawn Shop  
Personal Improvement Service  
Personal Services \*  
Recreational Vehicle Sales and Service  
Restaurant, Family  
Restaurant, Fast Food or Drive-In  
Restaurant, General  
Retail Sales  
Studio, Fine Arts  
Studio, Tattoo (S)\*  
Travel Center  
Veterinary Hospital/Clinic

#### 6. Industrial Use Types

Construction Yard (S) \*  
Custom Manufacturing \*  
Recycling Center \*  
Transportation Terminal (S)  
Truck Terminal (S)

#### 7. Miscellaneous Uses

Amateur Radio Tower \*  
Parking Facility, Surface/Structure (S) \*  
Tower (S) \*

### **Section 286-310.06 Site Development Regulations**

The following are general development standards for the GB General Business District. For additional, modified or more stringent standards see Article IV, Use and Design Standards.

#### (A) Minimum Lot Requirements

Area: 15,000 square feet  
Frontage: 80 feet

(B) Minimum Setback Requirements

1. Principal Structure:

Front Yard: 35 feet

Side Yard: 0.0 Feet

Side yard, corner lot: 15 feet

Rear Yard: 15 Feet

2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Side yard, corner lot: 15 feet

Rear Yard: 5 Feet

(C) Maximum Height of Structures

1. Principal Structures: 60 feet

2. Accessory Structures: 15 feet

(D) Maximum Lot Coverage:

1. Principal Structures: 80 percent of lot area

2. Accessory Structures: 20 percent of rear yard area

## **Section 286-312 IN Industrial District**

### **Section 286-312.02 Statement of Intent**

(A) The purpose of the IN Industrial District is to provide areas within the City which are suitable for non-intensive industrial activities. These areas are primarily designated based on the suitability of the land in terms of slope and freedom from flooding, as well as the availability of adequate sewer and water capacity, access to arterial road network, and proximity to rail facilities or the interstate highway system. Since land with suitable characteristics for industrial development is limited in the City, a high degree of protection is promoted where industrial development is located adjacent to existing or future commercial, office, or residential areas. Also, this district will allow for more intensive industrial uses only with certain conditions and development standards that will ensure that the industrial uses do not adversely affect adjoining uses.

### **Section 286-312.04 Permitted Uses.**

(A) The following uses are permitted by right or by special exception permit in the IN Industrial District, subject to all other applicable requirements contained in this chapter. An (S) indicates a special exception permit is required. An asterisk (\*) indicates that the use is subject to additional, modified or more stringent standards as listed in Article IV, Use and Design Standards..

#### 1. Agricultural Use Types

(None)

#### 2. Residential Use Types

(None)

#### 3. Civic Use Types

Correction Facility (S)  
Governmental Service  
Post Office  
Public Maintenance and Service Facility  
Safety Service \*  
Utility Service, Major (S) \*  
Utility Service, Minor

#### 4. Office Use Types

Financial Institution  
General Office  
Laboratory  
Medical Office

5. Commercial Use Types

Business Support Services  
Business Trade School  
Construction Sales and Service \*  
Day Care Center (S) \*  
Equipment Sales and Rental  
Mini-Warehouse \*

6. Industrial Use Types

Construction Yard (S) \*  
Custom Manufacturing \*  
Industry, Light  
Industry, Medium (S)  
Industry, Heavy (S)  
Landfill, Construction Debris (S)  
Landfill, Rubble (S)  
Landfill, Sanitary (S)  
Recycling Center \*  
Transportation Terminal  
Truck Terminal  
Warehousing and Distribution

7. Miscellaneous Use Types

Parking, Surface/Structure (S)\*  
Tower (S) \*

**Section 286-312.06 Site Development Regulations**

The following are general development standards for the IN Industrial District. For additional, modified or more stringent standards see Article IV, Use and Design Standards.

(A) Minimum Lot Requirements

Area: 15,000 square feet  
Frontage: 80 feet

(B) Minimum Setback Requirements

1. Principal Structure:

Front Yard: 25 feet

Side Yard: 10 Feet

Rear Yard: 15 Feet

2. Accessory Structures:

Front Yard: Behind front building line of principal structure.

Side Yard: 5 Feet

Rear Yard: 5 Feet

(C) Maximum Height of Structures

1. Principal Structures: 45 feet

2. Accessory Structures: 15 feet

(D) Maximum Lot Coverage:

1. Principal Structures: 70 percent of lot area

2. Accessory Structures: 20 percent of rear yard area.

## **Section 286-314      BOD Boulevard Design Overlay District**

### **Section 286-314.02 Statement of Intent**

(A) The purpose and intent of this section is to encourage quality, compatible, developments in the six distinct sub-areas of the Boulevard Design Overlay District as identified in Sections 286-314.10.02 through 286-314.10.12 below.

### **Section 286-314.04 Review and Approval Procedures**

(A) The Boulevard Design Overlay District shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Boulevard Design Overlay District shall also lie in one or more of the other zoning districts provided for by this chapter. Unless otherwise stated in the Boulevard Design Overlay District, the review and approval procedures provided for in Section 286-506 Site Plan Review shall be followed in reviewing and approving development, redevelopment and uses governed by this chapter.

### **Section 286-314.06 Applicability**

(A) The Boulevard Design Overlay District shall apply to all lands identified as the Boulevard Design Overlay District and as shown on the City's zoning map.

### **Section 286-314.08 General Architectural and Visual Compatibility Guidelines.**

(A) All proposed structures, buildings or improvements shall be compatible with existing well designed structures within the overlay district and shall comply with the standards and goals of this district.

(B) Freestanding buildings shall use the same or architecturally harmonious materials, colors, texture and treatment for all exterior walls and, in the case of partially freestanding buildings, the same or architecturally harmonious materials, colors, texture and treatment for all exterior walls shall be used on all portions of all exterior walls exposed to public view.

(C) The design, material, texture, color, lighting, landscaping, dimension, line, mass or roofline and height of any structure, building or improvement shall not be designed to serve primarily as an advertisement or commercial display, exhibit exterior characteristics likely to deteriorate rapidly or be of a temporary or short-term architectural or aesthetic acceptability.

(D) Architectural details of interest may be highlighted by the blending of contrasting colors. Simple harmonious color schemes shall be used and neutral and earth-tone colors are recommended.

(E) Bright, intense primary colors including fluorescent, neon and day glow are not permitted, except when used as accent.

(F) If masonry or brick is painted, it shall be painted the natural color of the original material or with colors in common with the main building.

### **Section 286-314.10 Designation of Overlay District Sub-Areas**

(A) The Boulevard Design Overlay District is divided into six sub- areas as described below. Development guidelines and standards are presented for each sub-area. These standards shall be in addition to the general development standards found elsewhere in this chapter. If a conflict exists between a sub-area standard and a general ordinance standard, the more stringent standard shall apply

#### ***Section 286-314.10.02 Chesterfield Approach.***

(A) The purpose of the Chesterfield Approach sub-area overlay district is to encourage quality suburban-scale commercial development that provides an effective transition between Chesterfield County to the north and the more densely developed Colonial Heights commercial center to the south. Additionally, high-quality architectural features combined with streetscape improvements provide a transition to the Colonial Heights Boulevard.

(B) Boundaries for the Chesterfield Approach sub- area overlay district are as shown on the map and labeled "Chesterfield Approach."

(C) No building shall exceed 30 feet in height or be greater than 2 1/2 stories in height in this subarea.

(D) All new buildings and building additions shall be compatible with the existing traditional vernacular architectural style in the sub-area. Design features shall include, but not be limited to, dormers, articulated roofs, chimneys, cornices, brick corbelling and fretwork, and articulation of doors and windows. Compatibility shall be achieved through the use of red brick on all visible walls. Use of other materials on rear facing walls shall be permissible provided the walls are not visible from any right-of-way or adjacent business. No visible flat or shed roofs shall be permitted.

(E) Only earth-tone colors shall be used on the exterior of buildings as the principal building color. Earth-tone colors include: browns, greens, dirt-colored reds, or shades of those earth-tone colors or other similar colors approved by the Administrator. Primary colors, intense colors, neon's, day-glow or fluorescent colors are not approved.

(F) Parking areas for new businesses shall be located on the sides and rear of the buildings. If site constraints limit parking availability on the sides and rear, parking shall be dispersed to allow as much open yard in the front setback as possible.

(G) All new development, redevelopment, or additions requiring a site plan shall be required to construct a five-foot-wide VDOT standard sidewalk within the Boulevard right-of-way.

(H) New development, redevelopment, or additions requiring a site plan shall be required to provide streetlights within the Boulevard right-of-way. Streetlights shall be

evenly spaced, with staggered spacing from the opposite side of the street where applicable. Features such as lighting distance, light source and type shall be consistent with the existing streetscape lights as approved by the Colonial Heights Public Works Department.

(I) All new development, redevelopment, or additions requiring a Site plan shall be required to provide street trees on the subject property. On properties without overhead power lines in the tree planting area, Red Sunset Maples or October Glory Maples are to be planted one every 30 feet on center. Where overhead power lines are located in the area for planting, Hedge Maples are to be planted one every 15 feet on center. Trees are to be a minimum size of two-and-one-half-inch caliper d.b.h. at planting and must be healthy nursery stock.

(J) Access to the Boulevard shall be limited. Wherever possible, ingress and egress from sites shall occur at streets other than the Boulevard. Also, wherever possible ingress and egress shall be consolidated.

#### ***Section 286-314.10.04 Commercial Center***

(A) The purpose of the Commercial Center sub-area overlay district is to encourage high-quality community-scale commercial development consistent with the appearance of the Colonial Heights Boulevard. This can be accomplished through the use of unifying elements and the avoidance of visual clutter.

(B) Boundaries for the Commercial Center sub-area overlay are as shown on the map and labeled "Commercial Center."

(C) Architectural treatment of buildings shall be compatible with adjacent buildings or those on the same block. At locations where existing buildings are not as high quality as the proposed structure, the Administrator shall approve a new architectural treatment or theme.

(D) Primary colors, intense colors, neon's, day-glow or fluorescent colors are not approved as exterior building colors except when used as limited accents.

(E) Each proposed development in this sub-area shall have a signage plan that addresses architectural compatibility with the main buildings, location in relation to landscaping, and sight distance for the Boulevard and driveways. No sign shall exceed eight feet in height and the overall area of the sign face shall not be any greater than 36 square feet.

(F) All new development, redevelopment, or additions requiring a site plan shall be required to construct new five-foot-wide VDOT standard sidewalks within the Boulevard right-of-way.

(G) New development, redevelopment, or additions requiring a site plan shall be required to provide streetlights within the Boulevard right-of-way. Streetlights shall be evenly spaced, with staggered spacing from the opposite side of the street where applicable. Features such as lighting distance, light source and type shall be consistent with the existing streetscape lights as approved by the Colonial Heights Public Works Department.

(H) Parking areas for new businesses shall be located on the sides and rear of the buildings. If site constraints limit parking availability on the sides and rear, parking shall be dispersed to allow as much open yard in the front setback as possible.

(I) Access to the Boulevard shall be limited. Wherever possible, ingress and egress from sites shall occur at streets other than the Boulevard. Also, wherever possible ingress and egress shall be consolidated.

(J) All new development, redevelopment, or additions requiring a Site plan shall be required to provide street trees on the subject property. On properties without overhead power lines in the tree planting area, Mountain Ash or Hardy Locust are to be planted one every 45 feet on center. Where overhead power lines are located in the area for planting, Crepe Myrtles (Catawba, Tonto, Dynamite or Acoma) or Yoshino Cherry trees are to be planted one every 15 feet on center. Mountain Ash or Hardy Locust trees are to be a minimum size of two-and-one-half-inch caliper d.b.h at planting and must be healthy nursery stock. Crepe Myrtles (Catawba, Tonto, Dynamite or Acoma) and Yoshino Cherry trees must be a minimum of seven feet high at planting and must be healthy nursery stock.

#### ***Section 286-314.10.06. The Valley.***

(A) The purpose of the Valley subarea overlay district is to address site constraints, pedestrian and vehicle circulation, and preserve and enhance the green belt along Old Town Creek and the Boulevard.

(B) Boundaries for the Valley sub-area overlay district are as shown on the map and labeled "The Valley."

(C) Architectural treatment of buildings shall be compatible with adjacent buildings or those on the same block. At locations where existing buildings are not as high quality as the proposed structure, the Administrator shall approve a new architectural treatment or theme.

(D) Primary colors, intense colors, neon's, day-glow or fluorescent colors are not approved as exterior building colors except when used as limited accents.

(E) No portion of a building visible from any adjacent property or any public right-of-way shall be constructed of unadorned cinderblock, corrugated and/or sheet metal or other semi-permanent materials.

(F) Parking areas for new businesses shall be located on the sides and rear of the buildings. If site constraints limit parking availability on the sides and rear, parking shall be dispersed to allow as much open yard in the front setback as possible.

(G) Access to the Boulevard shall be limited. Wherever possible, ingress and egress from sites shall occur at streets other than the Boulevard. Also, wherever possible ingress and egress shall be consolidated.

(H) All new development, redevelopment and additions to this area shall maintain or accentuate existing natural topography along the Boulevard and stream valley wherever possible.

(I) All new development, redevelopment, and additions to this area shall retain existing trees greater than six-inch caliper within all setbacks, with the exception of necessary removal for the accommodation of vehicular access or utilities that run generally perpendicular through the setback.

(J) All new development, redevelopment, or additions requiring a site plan shall be required to construct new five-foot-wide VDOT standard sidewalks within the Boulevard right-of-way.

(K) New development, redevelopment, or additions requiring a site plan shall be required to provide streetlights within the Boulevard right-of-way. Streetlights shall be evenly spaced, with staggered spacing from the opposite side of the street where applicable. Features such as lighting distance, light source and type shall be consistent with the existing streetscape lights as approved by the Colonial Heights Public Works Department.

(L) All new development, redevelopment, or additions requiring a Site plan shall be required to provide street trees on the subject property. Native evergreen species shall be used, and shall be of a species and size that will reach a minimum height of 18 feet in 20 years. One tree shall be planted for every 20 linear feet of road frontage. Planting required in this section shall be in an irregular line and randomly spaced. Suggested species include Live Oak and Southern Magnolia. In areas under power lines, smaller native species may be used, such as Washington Hawthorne or Red Buds.

#### ***Section 286-314.10.08 Main Street.***

(A) The purpose of the Main Street sub-area overlay is to improve quality and compatibility incrementally and to avoid visual clutter and add unifying elements to the area that will create compatibility with the rest of the Boulevard.

(B) Boundaries for the Main Street sub- area overlay are as shown on the map and labeled "Main Street."

(C) No building shall exceed 30 feet in height or be greater than 2 1/2 stories in height.

(D) Architectural treatment of buildings shall be compatible with the majority of buildings or those on the same block. At locations where existing buildings are not as high quality as the proposed structure, the Administrator shall approve a new architectural treatment or theme. No portion of a building visible from any adjacent property or any public right-of-way shall be constructed of unadorned cinderblock or corrugated and/or sheet metal or any other semi permanent material.

(E) There shall be no visible flat or shed roofs permitted, unless a flat roof issued in conjunction with a period-style commercial structure with a brick false-front finish.

(F) Primary colors, intense colors, neon's, day-glow or fluorescent colors are not approved as exterior building colors except when used as limited accents.

(G) Each development shall have a signage plan that addresses architectural compatibility with the main buildings, location in relation to landscaping, and sight distance for the Boulevard and driveways. No sign shall exceed eight feet in height. The size of the sign face shall not be any greater than 36 square feet.

(H) All new development, redevelopment, or additions requiring a site plan shall be required to construct new five-foot-wide VDOT standard sidewalks within the Boulevard right-of-way.

(I) New development, redevelopment, or additions requiring a site plan shall be required to provide streetlights within the Boulevard right-of-way. Streetlights shall be evenly spaced, with staggered spacing from the opposite side of the street where applicable. Features such as lighting distance, light source and type shall be consistent with the existing streetscape lights as approved by the Colonial Heights Public Works Department.

(J) Parking areas for new businesses shall be located on the sides and rear of the buildings. If site constraints limit parking availability on the sides and rear, parking shall be dispersed to allow as much open yard in the front setback as possible.

(K) Access to the Boulevard shall be limited. Wherever possible, ingress and egress from sites shall occur at streets other than the Boulevard. Also, wherever possible ingress and egress shall be consolidated.

(L) All new development, redevelopment, or additions requiring a site plan shall be required to provide street trees on the subject property. On properties without overhead power lines in the tree planting area, alternating Red Sunset Maples or October Glory Maples and Zelkovas are to be planted one every 25 feet on center. At street intersections, the nearest tree will be a Live Oak, with a 30-foot separation from the next tree. Where overhead power lines are located in the area for planting, one-inch healthy,

nursery stock Zelkovas shall be used. All other trees are to be a minimum size of two-and-one-half-inch caliper d.b.h. at planting and must be healthy nursery stock,

***Section 286-314.10.10 Government Center***

(A) Purpose. The purpose of the Government Center area is to create a downtown district along the Boulevard that fills the need for a City center with civic spaces, superior pedestrian access, more dense development, and support services for government.

(B) Boundaries for the Government Center sub area overlay are as shown on the map and labeled "Government Center,"

(C) No building shall exceed 60 feet in height or be greater than five stories in height.

(D) No building facade (whether front, side, or rear) shall consist of architectural materials that differ in composition, appearance, or detail from any other facade of the same building. This is not to preclude the use of varying materials on different facades, but to preclude the use of inferior materials on sides facing adjoining properties or that may impact pedestrian activity or future use of adjacent properties. No portion of a building shall be constructed of unadorned cinder block, corrugated or sheet metal, or other semi permanent materials.

(E) Only neutral and/or earth-tone colors shall be used on the exterior of buildings as the principal building color. Neutral colors include: white, beige, cream, gray, tan, brown or other similar colors approved by the Administrator. Earth-tone colors include: browns, greens or dirt-colored reds or shades of those earth-tone colors or other similar colors approved by the Administrator.

(F) Primary colors, intense colors, neon's, day-glow or fluorescent colors are not approved as exterior building colors except when used as limited accents.

(G) Parking areas for new businesses shall be located on the sides and rear of the buildings. If site constraints limit parking availability on the sides and rear, parking shall be dispersed to allow as much open yard in the front setback as possible.

(H) Access to the Boulevard shall be limited. Wherever possible, ingress and egress from sites shall occur at streets other than the Boulevard. Also, wherever possible ingress and egress shall be consolidated

(I) Buildings shall be designed to accommodate and encourage pedestrian activity. This can be accomplished by placing pedestrian entrances toward the street, providing attractive facade treatments and textures such as variation in building heights, materials, and the use of cornices, articulated windows, columns, awnings, and other street level improvements. Roofs and walls shall be articulated to create visual interest to pedestrian traffic and building massing shall be at a pedestrian scale. Additional elements to provide

safety for pedestrian activity include use of brick or cast-iron bollards with chains for separation and delineation of pedestrian spaces.

(J) Setbacks shall be reduced for all properties, regardless of underlying zoning category, to the equivalent of the Boulevard Business Zoning District.

(K) All utility lines such as electric, telephone, or other similar lines shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened with appropriate landscaping.

(L) Each development shall have a signage plan that addresses architectural compatibility with the main buildings, location in relation to landscaping, and sight distance for the Boulevard and driveways. No sign shall exceed eight feet in height. The overall area of the sign face shall not be any greater than 36 square feet.

(M) All new development, redevelopment, or additions requiring a site plan shall be required to construct new five-foot-wide VDOT standard sidewalks within the Boulevard right-of-way.

(N) New development, redevelopment, or additions requiring a site plan shall be required to provide streetlights within the Boulevard right-of-way. Streetlights shall be evenly spaced, with staggered spacing from the opposite side of the street where applicable. Features such as lighting distance, light source and type shall be consistent with the existing streetscape lights as approved by the Colonial Heights Public Works Department.

(O) All new development, redevelopment, or additions requiring a site plan shall be required to provide street trees on the subject property. Little Leaf Lindens are to be planted one every 30 feet on center. At street intersections, there will be a series of three Washington Hawthorne's, with twelve-foot separations on center, before the first Linden. Trees are to be a minimum size of two-and-one-half-inch caliper d.b.h. at planting and must be healthy nursery stock.

#### ***Section 286-314.10.12 Petersburg Approach***

(A) The purpose of the Petersburg Approach sub-area overlay district is to encourage residential-scale buildings compatible with the existing residential and small-scale commercial structures.

(B) Boundaries for the Petersburg Approach sub-area overlay are as shown on the map and labeled "Petersburg Approach."

(C) Architectural treatment of buildings shall be compatible with adjacent buildings or those on the same block. At locations where existing buildings are not as high quality as the proposed structure, the Administrator shall approve a new architectural treatment

or theme. All new buildings and building additions shall be compatible with residential architecture or with the existing period commercial false-front buildings. Commercial development in this area shall choose either style of development. Residential design features shall include articulation of doors and windows, clapboard or brick exteriors, A-frame rooflines, and chimneys. Commercial-style development shall consist of brick or painted block buildings with flat roofs, and a brick, articulated block, or stone false-front style compatible with period-style commercial structures in the area.

(D) Primary colors, intense colors, neon's, day-glow or fluorescent colors are not approved as exterior building colors except when used as limited accents.

(E) Each development shall have a signage plan that addresses architectural compatibility with the main buildings, location in relation to landscaping, and sight distance for the Boulevard and driveways. No sign shall exceed eight feet in height. The overall area of the sign face shall not be any greater than 36 square feet.

(F) Parking areas for new businesses shall be located on the sides and rear of the buildings. If site constraints limit parking availability on the sides and rear, parking shall be dispersed to allow as much open yard in the front setback as possible.

(G) Access to the Boulevard shall be limited. Wherever possible, ingress and egress from sites shall occur at streets other than the Boulevard. Also, wherever possible ingress and egress shall be consolidated.

(H) All new development, redevelopment, or additions requiring a site plan shall be required to provide street trees on the subject property. On properties without overhead power lines in the tree planting area, Red Sunset Maples or October Glory Maples are to be planted one every 30 feet on center. Where overhead power lines are located in the area for planting, Hedge Maples are to be planted one every 15 feet on center. Trees are to be a minimum size of two-and-one-half-inch caliper d.b.h. at planting and must be healthy nursery stock.

## **Section 286-316 PUD Planned Unit Developments.**

### **Section 286-316.02 Statement of Intent**

(A) The purpose of planned unit development districts is to promote the efficient use of land to allow for flexible application of development controls, promote a broad spectrum of land uses in more intensive developments, and protect the natural features and beauty of the land. Planned Unit Developments (PUD's) are intended to provide variety, flexibility, and convenience for residents. PUD's should be in accordance with the approved comprehensive plan and should be developed to allow for appropriate integration with existing land uses.

### **Section 286-316.04 Location and Size of Planned Unit Developments.**

(A) The location of planned unit developments shall be in accordance with the approved comprehensive plan and an approved master plan of the PUD.

1. The minimum PUD size shall be no less than 10 acres of contiguous land.
2. The proposed PUD shall be designed in a manner to promote the fulfillment of the purposes in the comprehensive plan that is consistent with the plan, as well as other City plans and/or policies.
3. The PUD shall provide for the appropriate use and management of available land and will preserve and protect, to the greatest possible extent, the natural features of the land such as topographic features, trees and streams.
4. PUDs shall only be developed in areas where adequate transportation facilities, fire protection, schools, public water and sewer and other public and community facilities exist or will be available for the uses and densities proposed.

### **Section 286-316.06 Submission Process; Documents Required**

(A) A pre-application conference with the applicant and Administrator or his designee shall be held prior to any filing for a rezoning. The Administrator, prior to filing, may require a preliminary plan review from the applicant.

(B) The applicant shall be required to send notification, schedule and conduct a meeting with residents that live within the vicinity of the proposed development. This public meeting shall be conducted prior to filing an application with the planning department.

(C) The applicant shall submit any information required by the Administrator necessary to evaluate a rezoning application or site plan, not limited to, but to include the following:

1. Application for rezoning.

2. A required application fee, as set forth within the most recent fee schedule approved by the City Council, shall be submitted along with the application.
3. Ten copies of a master plan schematic for review.
4. Community impact statement.

(D) A certified planner, licensed surveyor, architect, landscape architect and/or engineer shall prepare the master plan. It shall include:

1. A vicinity map showing the property with surrounding roads and adjacent properties at a scale of not less than one inch to one mile.
2. A north arrow.
3. The approximate boundaries of each section, land use and proposed density, location of proposed streets and right-of-ways, and location of proposed common open space and recreation areas.
4. It shall contain a table showing, for each section or different uses, the use, approximate development phasing, density and maximum number of dwelling units for residential areas, maximum area of square feet for commercial or office areas and maximum acreage of each.
5. Indicate master water, sewer and drainage plans.
6. A design manual for the PUD, to include descriptions and depictions for the following:
  - a. An overall PUD description establishing the community characteristics, design themes and elements to be incorporated into the PUD, to include concepts relative to bulk, material composition and physical relationships.
  - b. Proposed typical elevations for all structures, which shall include the following details:
    - i. Facade materials, to include color(s) to be used.
    - ii. Building height, depth and length. Building height shall be pursuant to the applicable requirements of the development standards for PUDs, contained in Section 286-316.12.
    - iii. Roof lines and roof material(s) to be used.

- iv. Screening for the air conditioning, heating and electrical systems used for commercial or mixed use buildings. Screening shall be established pursuant to the minimum requirements of the development standards for PUDs contained in Section 286-316.12.
- c. Community design characteristics to include the following details:
  - i. Functional classifications for internal roads.
  - ii. Streetscape design within the PUD. Streetscape design shall be established pursuant to the requirements of the development standards for PUDs.
  - iii. Proposed setback lines for each road type classified (if applicable).
  - iv. Pedestrian system, including type(s) of impervious surface and/or paving to be used.
- d. Landscape details including plantings and larger specimen tree types and locations, street furniture, site lighting and recreational improvements and or the following areas:
  - i. Along the perimeter of the PUD.
  - ii. Along major thoroughfares external to the PUD.
  - iii. Internal streets.
  - iv. Common areas.
- v. Parking lots.

Plantings, larger specimen tree types and site lighting shall be established pursuant to the applicable requirements of the development standards for PUDs.

- e. An open space plan, to include areas proposed for passive and active recreational uses, natural and undisturbed areas, and proposed buffer areas around the perimeter of the PUD. The plan shall address how the features described in the submission materials shall be preserved and/or enhanced. Information on the specific design, location and timing of these areas and their ownership and maintenance should be included.

(E) The community impact statement shall be prepared and address:

1. Assessment of impact on schools.
2. A public utilities and services plan providing requirements for and provision of all utilities, sewer, public services and public facilities to serve the PUD. This plan shall address:
  - a. Adequacy of existing utilities, water, sewer, public services and public facilities in the vicinity of the PUD.
  - b. Public improvements both offsite and onsite that are proposed for construction and a cost estimate for providing these improvements.
3. A traffic impact study pursuant to the Code of Virginia, Section 15.2-2222.1.
4. Economic impact of the proposed project.
5. Employment opportunities to be created by the development.
6. Environmental impact analysis, to include:
  - a. Wetlands determination pursuant to the Army Corps of Engineers manual.
  - b. Topography shown at five-foot contour intervals. Pre-development and post-development storm water runoff amounts shall be provided.
  - c. Groundwater to be impacted including ponds, lakes, streams, rivers and Chesapeake Bay Act associated water bodies.
  - d. Flood plains.
  - e. Tree lines to be impacted. The limits of clearing and where buffers will be installed.
  - f. Endangered native plant and animal life pursuant to the Virginia Department of Conservation and Recreation's 2003 Natural Heritage Plan.
  - g. Historic resources to be impacted including, but not limited to, historic places designated by the National Register of Historic Places.

## **Section 286-316.08 PUD Review Process**

(A) The proposed master plan shall be reviewed by all appropriate agencies to ensure that existing or planned public infrastructure can accommodate rezoning for the PUD.

(B) The Planning Commission shall review the proposed master plan for a recommendation to the City Council after the public hearing has been advertised pursuant to Code of Virginia, Section 15.2-2204. The Planning Commission shall report its recommendation to the City Council after the public hearing. The Planning Commission shall recommend approval, approval with appropriate modifications, or deny the master plan.

(C) The City Council shall review the proposed master plan, and act to approve, approve with modifications or deny the proposed master plan after receiving a recommendation from the Planning Commission and after a public hearing has been advertised pursuant to Code of Virginia, Section 15.2-2204. Approval of the proposed master plan shall constitute acceptance of the plan's concepts and provisions pursuant to permitted uses in PUD developments, maximum PUD densities, and development standards for PUDs. The plan approved by the City Council shall constitute the final plan for the PUD.

(D) Major revisions to the approved master plan shall be reviewed at a public hearing before the Planning Commission and City Council following the procedures and requirements of this section. Major revisions include, but are not limited to, changes such as:

1. Density increases in the PUD.
2. Changes that intensify permitted uses in the PUD by 20 percent or more.
3. Substantial changes in access or circulation.
4. Substantial changes in the mixture of dwelling unit's types within the PUD.
5. Substantial changes in the mixture of land use types.
6. Substantial changes in the amount of acreage devoted to nonresidential uses.
7. Reduction of acreage approved for open space, buffering or landscaping.
8. Substantial changes in site design or architectural features.
9. Any other change that the Administrator deems a major change to the approved master plan.

(E) All other changes of the approved master plan shall be considered as minor revisions. The Administrator, upon receipt of a written request of the owner or authorized agent, may approve such minor revisions after consultation and agreement with any other impacted City or state agency.

(F) A request which is not approved by the Administrator shall be considered as a major revision and shall be subject to the approval process outlined in this section.

(G) Following the approval of the final master plan, the owner or the authorized agent shall be required to submit preliminary and final site plans.

(H) Subdivision plans shall be submitted and reviewed simultaneously with the site plan submittal. Subdivision plans shall be submitted pursuant to the applicable requirements of the subdivision ordinance.

(I) Preliminary and final site plans submitted for review shall conform to the final master plan approved by the City Council.

(J) If a preliminary site plan for the PUD or any phase of the PUD is not submitted for approval within five years of the approval of the final master plan, City Council shall notify the owner by certified mail of City Council's intent to initiate a rezoning action to revert acreage in the PUD to its former zoning classification. The City Council may act to approve the zoning reversion after review by the Planning Commission, and a public hearing has been advertised pursuant to Code of Virginia, Section 15.2-2204. The applicant and owner shall bear all costs associated with the rezoning application and advertising.

(K) The Administrator, upon receipt of a written request of the owner or authorized agent, may grant a time extension beyond five years to submit a preliminary site plan provided; however, such extension shall not exceed one year.

### **Section 286-316.10 PUD Permitted uses**

(A) Any residential, civic, office or commercial use type may be permitted within PUD developments, provided the use is specifically shown on the approved master plan approved by the City Council.

(B) Accessory structures and uses that are typically subordinate and incidental to the principal use shall be permitted on any parcel within the PUD.

### **Section 286-316.12 PUD Development Standards**

(A) Maximum densities allowable in the PUD shall be established through a recommendation of the Planning Commission and approval by the City Council. The density within the PUD shall not exceed that which can be served by adequate public infrastructure either existing or planned at the time of rezoning.

(B) Off street parking shall be provided in accordance with Section 286-518 of this chapter

(C) Single-family detached dwellings shall not exceed 35 feet in height. Other residential structures shall be erected to a height not to exceed four stories. Mixed-use buildings that include residences shall not be less than two stories in height. The first floor of a mixed-use building shall be used for commercial and/or office uses, not residential uses. Nonresidential structures shall be erected to a height not to exceed 65 feet. Nonresidential structures over four stories shall not be located at the boundaries of land zoned for lower maximum height restrictions.

(D) All landscaping shall be established pursuant to an approved master plan. Plantings should be of low height with preference given to native and drought-resistant species. Landscaping is also encouraged throughout parking areas of multi-family, office and business development. Larger specimen trees shall be used between parking areas and public rights-of-way. Within large parking areas, planting shall be designed to break up large parking areas into smaller parking areas.

(E) Site lighting shall be provided to allow for safe and efficient pedestrian and vehicular movement. Site lighting shall be designed to minimize the trespass of light onto adjacent buildings and glare. The light fixtures shall serve as way finders and enhance the character of the PUD during the nighttime. Light fixture locations are subject to site plan review pursuant to an approved master plan. Lighting on parcels shall be consistent with the Colonial Heights Public Works Department lighting policy.

Site plans for any business or office use that operates during any hour of darkness shall include a lighting plan for the entire site to be developed which shall include a photometric plan, light fixture specifications, and fixture mounting detail. Light sources from business or office sites shall be directed away from adjoining residential parcels.

(F) Signs shall comply with the requirements set forth in Section 286-524 of this chapter. In addition, signage shall be compatible with the architecture of the building.

(G) Usable open space shall be provided within the PUD. No less than 15 percent of the gross acreage of the PUD shall be usable open space. Undevelopable acreage shall not be applied to meet the usable open space requirement. Recreation improvements in usable open spaces may be used as a credit towards the gross acreage requirement. These improvements shall be reviewed by the Planning Commission and the City Council.

(H) Sidewalks shall be installed along all roads and streets in residential, office and commercial areas according to City standards.

(I) Natural features such as wildlife habitats, historic sites, and irreplaceable assets shall be preserved to the maximum extent possible.

(J) Screening is required for service, loading and trash areas, as well as, mechanical equipment. Screening shall be constructed in a manner that minimizes views into the areas from adjacent right-of-ways and buildings. Mechanical equipment shall be screened by walls, fences or plantings that are a minimum of five feet in height.

(K) Vehicular access to the internal streets within the PUD shall be established through a boulevard style collector road. Parking areas shall be accessed from internal streets. Access points along internal streets shall align with streets and parking area access that intersect at a common point, where possible, in order to limit conflict points and promote the continuation of those streets. Shared common access points into parking lots shall be established to limit conflict points from internal streets. Cross-access easements between adjacent parking lots shall be established whenever possible to limit conflict points along internal streets. All streets shall meet the standards of and be maintained by the City.

(L) Business and office uses shall be compatible with residential uses when integrated with such uses. Any traffic, noise, and light generated by business or office uses shall be mitigated by design when integrated with residential uses. Outside storage shall not be permitted. There shall not be any emissions that may have a detrimental effect in the community.

(M) A homeowners' association shall be created during the subdivision process when any of the following conditions are proposed:

1. Alleys, pedestrian access ways and/or sidewalks that are not maintained by the City.
2. Commonly held parcels or open space are proposed.
3. Storm water management infrastructure/best management practices are located on a commonly held parcel.

#### **Section 286-316.14 PUD Development Standard Modification**

(A) The Planning Commission may recommend, and the City Council may grant, modifications to development standards established in this section. Modifications may be granted with or without conditions. The owner or authorized agent shall submit an application to the planning department to request modifications to development standards at the time of submittal of the original PUD application.

(B) No development standard modification shall be authorized by the Planning Commission unless substantial compliance has been determined for the following factors, as applicable:

1. By reason of the exceptional size and/or shape of the parcel or parcels or by reason of exceptional topographic conditions when strict application of

the terms of this chapter would prevent or reasonably restrict the use of the parcel or parcels.

2. The granting of the modification will provide relief from a clearly demonstrated hardship. This hardship shall be distinguishable from a special privilege or convenience.
3. The modification will not endanger the public safety, health or general welfare of adjacent parcel owners; and will not change the character of the PUD.
4. The modification will comply with the comprehensive plan.

## **Section 286-318 HRD      Historic Resource District**

### **Section 286-318.02 Intent**

(A) These provision are intended to promote the general welfare of the City of Colonial Heights by providing for the preservation, protection and maintenance of certain historic areas, landmarks, buildings and structures within the City which have historical, architectural or cultural interest and importance by designation on the National Register of Historic Places, the Virginia Landmarks Register or by the City Council as having national, state or local historical, architectural or cultural significance.

(B) Regulations within historic districts are intended to protect against destruction of or encroachment upon such areas, structures and premises; to encourage conservation, improvement and preservation of the cultural, social, economic, political, architectural, historical or archaeological heritage and resources of the City; to stabilize property values in the districts designated; and to encourage new building and development that will be harmonious with existing significant features, assuring that new structures within each such district will be in keeping with the existing character of the districts to be so preserved and enhanced, even though not necessarily of the same architectural style.

(C) It is the intent of these provisions to preserve historic districts, not in a vacuum, but as vital areas which each succeeding generation may use with the quality and sensitivity of past generations.

### **Section 286-318.04 Historic Districts Established**

(A) There are hereby established or designated several areas to be known as "historic districts and within such districts certain landmarks, buildings, structures and historic areas. The historic districts, landmarks, buildings, structures and areas are delineated or located respectively as shown on the City's Zoning map. The requirements placed on property located within historic districts by this section shall be in addition to the requirements set out elsewhere in this chapter.

### **Section 286-318.06 District Boundaries**

(A) The district boundaries shall in general be drawn so as to include all lands closely related to and bearing upon the character of a landmark, building, structure or area, thus providing a landscape unit and affording buffer areas needed to control potentially adverse environmental influences. Such district boundaries shall, wherever reasonably feasible, be designated in accordance with the following priorities:

1. Center lines of public street rights-of-way;
2. Property boundaries; and
3. Natural features.

### **Section 286-318.08 Establishing and Amending Districts**

(A) The Planning Commission or any interested citizen may propose to the City Council, or the City Council on its own initiative may propose, amendments to these provisions including the establishment of additional districts. Upon receipt of the proposal, the City Council shall refer it to the Planning Commission. The Planning Commission shall prepare and submit to the City Council a recommendation in the form of a written report on the proposed amendment.

(B) If such amendment shall involve the extension or establishment of a district, such report shall establish and define the district boundaries as well as the historic, architectural, cultural or other significance of the landmarks, buildings, structures or areas to be protected and shall describe present trends, conditions and desirable public objectives for preservation

### **Section 286-318.10 Board of Architectural Review**

#### **Section 286-318.10. Board of Architectural Review**

A. The Board of Architectural Review (the "Review Board") shall consist of seven members appointed by City Council. Of the Review Board's initial members, three shall be appointed for four year terms; two shall be appointed for three year terms; and two shall be appointed for two year terms. Thereafter all appointments shall be for four years. The City Council may reappoint members to subsequent terms.

B. The membership shall consist of the following: one member shall be a licensed architect or architectural historian that resides or owns a business in the City; one member shall be an engineer that resides or owns a business in the city; one member shall be a representative from the Planning Commission; one member shall be a resident or business owner in a historic resource district; and three members shall be residents or owners of a business in the City.

#### **Section 286-318.12 Decisions of Review Board**

(A) The Review Board shall vote and announce its decision on any matter properly before it not later than 60 days after the conclusion of the hearing on the matter, unless the time is extended with the written consent of the applicant. The Review Board shall not reconsider any decision made by it, except in cases where an applicant appears within 90 days of the decision with his application amended as hereinafter provided. The Review Board shall not otherwise rehear or reconsider for a period of one year the subject matter of any application which has been denied.

(B) In case of disapproval of the erection, reconstruction, alteration, restoration or moving of a landmark, building or structure, the Review Board shall state its reasons in writing; and it may, and at the request of the applicant shall, make recommendations as to changes and alterations, if any, sufficient to bring the proposed building, structure or alteration into compatibility with the landmarks, buildings or structures located in the surrounding area. In case of disapproval accompanied by recommendations, the applicant

may again be heard before the Review Board, if, within 90 days, he comes before the Review Board with his application so amended that it will comply with all the recommendations of the Review Board.

(C) In case of disapproval for the razing or demolition of a building in a historic district, the Review Board shall state its reasons in writing, stating the reason or reasons such denial relates to the objectives of this section.

(D) In case of any disapproval, the Review Board shall transmit a record of the reasons to the applicant and the Administrator.

(E) In matters governing procedure not covered by this section, the Review Board may establish its own rules, provided that they are not contrary to law or the spirit of this section.

#### **Section 286-318.14 Enforcement**

(A) The Administrator shall enforce the provisions of this section.

#### **Section 286-318.16 Certificate of Appropriateness Required**

(A) No permit required under the provisions of this chapter, Chapter 109, Building Construction, or other provisions in the Code of the City of Colonial Heights shall hereafter be issued for the erection, reconstruction, alteration, restoration, moving, razing or demolition of the exterior of any landmark, building or structure, or part thereof, within a historic district, unless and until the applicant shall have secured a certificate of appropriateness from the Review Board.

(B) No work within a historic district not requiring a permit but involving the razing, demolition or moving, in whole or in part, of any landmark, building or structure designated as of historic, architectural or cultural interest, excluding ordinary maintenance or repair, shall be commenced unless and until a certificate of appropriateness shall have been secured from the Review Board.

(C) Application for a certificate of appropriateness required by this section shall be made in writing to the Administrator, who shall notify the Review Board of such application within 10 days of filing of a completed application and all required submissions.

(D) The Administrator may, and at the direction of the Review Board shall, require submission of any or all of the following: site plan, architectural plans, landscaping plans, plans for proposed signs with appropriate detail as to location, size, number and character, proposed exterior lighting arrangements, elevations of all portions of structures with significant relation to public view, indications as to materials, design of doors and windows, ornamentation and permanent colors (excluding paint), photographs or perspective drawings indicating visual relationship to adjoining structures and spaces and such other exhibits and reports as are reasonably relevant to the Review Board's determination as to appropriateness.

(E) A written statement documenting the significance of the site or structure, beginning with the first significant event, if any, or date of construction, shall be supplied by the applicant.

### **Section 286-318.18 Criteria for Issuance of Certificate of Appropriateness**

(A) Before a certificate of appropriateness is issued for the erection, reconstruction, alteration or restoration of a landmark, building or structure in the historic district, the Review Board shall consider, among other factors:

1. Any historical, architectural or cultural value and significance of the landmark, building or structure and its relationship to or congruity with the historic value of the land, place and area in the district upon which it is proposed to be erected, reconstructed, altered or restored.
2. The appropriateness of the exterior architectural features of such landmark, building or structure to and compatibility with the exterior architectural features of landmarks, buildings, or structures in the district, taking into consideration the following:
  - a. General design
  - b. Character and appropriateness of design
  - c. Form
  - d. Proportion and scale
  - e. Mass
  - f. Configuration
  - g. Arrangement
  - h. Texture
  - i. Material
  - j. Permanent color of exterior materials (excluding paint)
  - k. The relationship of such elements to similar features of structures in the immediate surroundings
  - l. Congruity with the character of the historic district

(B) Before a certificate of appropriateness is issued for the demolition or razing of a landmark, building or structure in a historic district, the Review Board shall consider, in addition to the guidelines provided in Section A above and among other factors:

1. Whether the landmark, building or structure is of such architectural, historic or cultural significance that its removal or disturbance would be to the detriment of the public interest.
2. Whether the landmark, building or structure is of such significance that it could be made into a national, state or local historic shrine.
3. Whether the landmark, building or structure is of such old or unusual design, texture or material that it could not be reproduced or could be reproduced only with extraordinary difficulty or expense.
4. Whether retention of the landmark, building or structure would help preserve the historic character of the district.
5. Whether retention of the landmark, building or structure would help preserve and protect a historic interest in a place or an area of the City.
6. Whether retention of the landmark, building or structure would promote the general welfare by maintaining and increasing real estate values; generating business; creating new positions; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American or local history; stimulating interest and study in architecture and design; educating citizens in American or local culture and heritage; or making the City a more attractive and desirable place in which to live.
7. Whether restoration of the landmark, building or structure is reasonably possible considering its physical condition.

(C) Before a certificate of appropriateness is issued for moving a landmark, building or structure, the Review Board shall consider, in addition to the guidelines provided in Subsection B above and among other factors:

1. Whether the proposed relocation would have a detrimental effect on the structural soundness of the landmark, building or structure.
2. Whether the proposed relocation would have a detrimental effect on the significant aspects of landmarks, or other buildings or structures designated as significant, in the historic district.

3. Whether the relocation would provide new surroundings that would be incongruous with historical, architectural or cultural aspects of the landmark, building or structure.
4. Whether relocation of the building would help preserve and protect a significant place or area of interest in the City.
5. Whether relocation of the building would promote the general welfare by maintaining real estate values; generating business; creating new positions; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American or local history; stimulating interest and study in architecture and design; educating citizens in American or local culture and heritage; or making the City a more attractive and desirable place in which to live.

#### **Section 286-318.20 Notice of Public Hearings**

(A) No application for a certificate of appropriateness to demolish, raze or move a landmark, building or structure in a historic district shall be considered by the Review Board until a public hearing has been held thereon, with notice as required by Section 15.2-2204 of the Code of Virginia.

#### **Section 286-318.22 Issuance of Certificate of Appropriateness; Expiration**

(A) Upon approval by the Review Board of any erection, reconstruction, alteration, restoration, moving or demolition, the Review Board shall record its reasons in its minutes, and a certificate of appropriateness shall be issued no later than 15 days from the date of the decision, attached to the application and forwarded to the applicant.

(B) Any issued certificate of appropriateness shall expire 12 months from the date of issuance if the work authorized by the certificate has not commenced or if any such work is suspended or abandoned for a period of 12 months after being commenced.

(C) In the case of demolition, if preservation is found by the Review Board to be physically or economically unfeasible, the Review Board shall issue the certificate forthwith. If preservation is found to be physically and economically feasible, the Review Board shall take or promote the taking of whatever public or private action seems likely to lead to such preservation, either on the site on which the structure is located or on another site to which it might appropriately be moved.

(D) If no decision has been made by the Review Board within 180 days after the Administrator has received the completed application and required submissions and no mutual agreement between the applicant and the Review Board has been made for the extension of this time period, the Administrator shall submit the application to the Clerk of City Council, and City Council shall review the application in the same manner as if a decision of the Review Board has been appealed.

## **Section 286-318.24 Appeals**

(A) Whenever the Review Board shall, in a final decision, deny an applicant a certificate of appropriateness, the applicant shall have the right to appeal to and be heard before City Council, provided that he files with the Clerk of City Council, on or before 14 days after the decision of the Review Board, a notice in writing of his intention to appeal. Upon receipt of such notice, the Clerk of Council shall forthwith notify the City Manager, who shall schedule a public hearing before City Council at a time not to exceed 30 days after receipt by the Clerk of such notice.

(B) Any resident of the City of Colonial Heights who appears before the Review Board in opposition to the granting of a certificate of appropriateness shall have the right to appeal to and be heard before the City Council, provided that there is filed with the Clerk of City Council, on or before 14 days after a decision of the Board to grant the certificate, a written petition indicating the intention to appeal. The same provisions for setting a hearing date as aforesaid shall apply.

(C) On any such appeal, the final decision of the Review Board shall be stayed, pending the outcome of the appeal before City Council, except that the filing of the appeal shall not stay the decision of the Review Board if such decision denies the right to raze or demolish any historic landmark, building or structure. The City Council shall conduct a full and impartial public hearing on the matter before rendering a decision.

(D) The same standards and considerations established for the Review Board shall be applied to the City Council. By majority of those members present and voting, the City Council may affirm, reverse or modify the decision of the Board, in whole or in part. The decision, subject to Subsection B of this section, shall be final. If approved, a certificate of appropriateness shall be signed and issued, 31 days after the decision of City Council, by the Clerk of Council and the City Manager and processed in the same manner as if it had been approved by the Review Board.

(E) Any applicant or applicants jointly or severally aggrieved by any decision of City Council made pursuant to this section, or any City resident with standing to appeal a decision of the Review Board to City Council, or any officer, department, board or bureau of the City charged directly or indirectly with any responsibility under this section, may present to the Circuit Court a petition specifying the grounds on which aggrieved, within 30 days after the decision is rendered by City Council.

(F) Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the City Council and shall prescribe therein the time within which a return thereto must be made.

(G) The filing of the petition shall stay the decision of the City Council pending the outcome of the appeal to the Court, except that if such decision denies the right to raze or demolish a historic landmark, building or structure, the filing of such petition shall not stay the decision of City Council. The Court may reverse or modify the decision of the

City Council, in whole or in part, if it finds, upon review, that the decision of the City Council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of City Council.

### **Section 286-318.26 Demolition**

(A) In addition to the right of appeal, the owner of a landmark, building or structure, the demolition of which is subject to the provisions of this section, shall, as a matter of right, be entitled to demolish such landmark, building or structure, provided that:

1. He has applied to the City Council for such right;
2. The owner has, for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building or structure and the land pertaining thereto to any person, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it will preserve and restore the building or structure and the land pertaining thereto; and
3. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the Court from a decision of City Council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated related to a stay of the decision appealed from, shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after the final decision by the City Council. The time schedule for offers to sell shall be as follows:

Property Valued At Minimum Offer to Sell	Period (Months)
Less than \$25,000.00	3
\$25,000.00 to \$39,999.99	4
\$40,000.00 to \$54,999.99	5
\$55,000.00 to \$74,999.99	6
\$75,000.00 to \$89,999.99	7
\$90,000.00 or more	12

(B) Before making a bona fide offer to sell, as provided for in Subsection A, an owner shall first file a statement with the Administrator. The statement shall identify the property and state the offering price, the date the offer of sale is to begin and the name of the real estate agent, if any. No time period set forth in the schedule contained in Subsection A shall begin to run until the statement has been filed. Within five days of

receipt of a statement, copies of the statement shall be forwarded to the members of the City Council, members of the Review Board and the City Manager.

**Section 286-318.28 Exclusions**

(A) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any landmark, building or structure described in this section, nor shall anything in this section be construed to prevent the construction, reconstruction, alteration, restoration or demolition of any such elements which authorized municipal officers shall certify as required by Chapter 109, Building Construction, or other provisions of the Colonial Heights City Code.

**Section 286-318.30 Penalties**

(A) In addition, to the other penalties provided for in this chapter, any violation of this section may be enjoined by any court having jurisdiction, and, as a part of such equitable relief, any person found to be in violation of this section may be required, at his own expense, to remove all nonconforming work and material from the landmark, building or structure and to restore the landmark, building or structure to its appearance immediately prior to the time that such unauthorized work began.

## **§ 286-320. FOD Floodplain Overlay District.**

### **§286-320.02. Authority and Purpose.**

A. This floodplain ordinance is adopted pursuant to the authority granted to localities by § 15.2-2280 of the Code of Virginia.

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

- (1) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
- (2) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
- (3) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and
- (4) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

### **§ 286-320.04. Applicability.**

A. These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the City of Colonial Heights (the “City”) and identified as areas of special flood hazard according to the flood insurance rate map (“FIRM”) that is provided to the City by the Federal Emergency Management Agency (“FEMA”).

### **B. Compliance and Liability.**

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

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

C. Records of actions associated with administering this ordinance shall be kept on file and maintained by the Floodplain Administrator.

D. If the provisions of this ordinance conflict with those in any other ordinance, the more restrictive provisions shall be applicable.

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

F. Any person who fails to comply with any of the requirements or provisions specified herein, or directions of the Zoning Administrator or his designee, shall be guilty of the appropriate violation and subject to the penalties specified in § 286-616 of this Code.

In addition to such penalties, all other actions are hereby preserved, including an action in equity for the proper enforcement of these provisions. The imposition of a fine or penalty for any violation of, or noncompliance with, the provisions herein shall not excuse the

violation or noncompliance or permit it to continue; and all persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of these provisions.

§286-320.06. Administration.

A. The Zoning Administrator shall serve as the Floodplain Administrator. The Floodplain Administrator is hereby designated to administer and implement these regulations.

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

(a) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

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

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

(d) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required.

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

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

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

(h) Review Elevation Certificates and require incomplete or deficient certificates to be corrected.

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

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

[1] Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

[2] Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

- (k) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- (l) Advise the Board of Zoning Appeals regarding the intent of these regulations, and for each application for a variance, prepare a staff report and recommendation.
- (m) Administer the requirements related to proposed work on existing buildings:
  - [1] Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
  - [2] Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (n) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- (o) Notify the Federal Emergency Management Agency when the corporate boundaries of the City have been modified and:
  - [1] Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
  - [2] If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption. Such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the State Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- (p) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- (q) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

B. The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

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

- (a) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered a special flood hazard area and subject to the requirements of these regulations;
- (b) Are above the base flood elevation, the area shall be regulated as a special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

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

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

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

(5) If a Preliminary Flood Insurance Rate Map or a Preliminary Flood Insurance Study has been provided by FEMA:

- (a) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
- (b) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data and used where no base flood elevations or floodway areas are provided on the effective FIRM.
- (c) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change or appeal to FEMA.

C. The delineation of any of the Floodplain Districts may be revised, where natural or man-made changes have occurred or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from FEMA.

D. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

E. Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify FEMA of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.

F. When development in the floodplain causes a change in the base flood elevation, the applicant, including state agencies, shall notify FEMA by applying for a Conditional Letter of Map Revision or a Letter of Map Revision. Such revisions shall include, but not be limited to, the following:

- (1) Any development that causes a rise in the base flood elevations within the floodway;
- (2) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; and
- (3) Alteration or relocation of a stream, including but not limited to installing culverts and bridges.

§ 286-320.08. Establishment of Zoning District.

A. Basis of District.

(1) The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM prepared by the FEMA, Federal Insurance Administration, dated August 2, 2012, and any subsequent revisions or amendments thereto.

The City may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a "Local Flood Hazard Map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.

The boundaries of the SFHA Districts are established as defined in Table 3 of the above referenced FIS and as shown on the FIRM, which is declared to be a part of this ordinance, and which shall be kept on file in the office of the Floodplain Administrator.

(2) The Floodway District is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one foot at any point.

The following provisions shall apply within the Floodway District of an AE zone:

(a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies for a Conditional Letter of Map Revision (CLOMR), and receives the approval of the Federal Emergency Management Agency.

All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 286-320.10.

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

(3) The AE or AH Zones on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH zone:

(a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development, shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

(b) Development activities in Zones A1-30 and AE or AH, on the City FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies for a Conditional Letter of Map Revision, and receives the approval of the Federal Emergency Management Agency.

(4) The A Zone on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply:

(a) The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports and U. S. Geological Survey Flood-Prone Quadrangles, then the applicant for the proposed use, development or activity shall determine this base flood elevation. For development proposed in the approximate floodplain, the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated at least one foot above the base floor elevation.

During the permitting process, the Floodplain Administrator shall obtain:

[1] The elevation of the lowest floor, including the basement, of all new and substantially improved structures; and

[2] if the structure has been flood-proofed in accordance with applicable requirements, the elevation, in relation to mean sea level to which the structure has been flood-proofed.

(5) The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:

(a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(b) All new construction and substantial improvements of non-residential structures shall:

[1] have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or

[2] together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

[3] Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

**B. Overlay Concept.**

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map; and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions shall apply.

**§ 286-320.10. District Provisions**

**A. Permit Requirement.**

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a determination of zoning compliance. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances. Prior to any such determination, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

**B. Development and Permit Applications.**

All applications for development within any floodplain district and all building permits issued for the floodplain shall incorporate the following information:

(1) The elevation of the Base Flood at the site;

The elevation of the lowest floor;

For non-residential structures to be flood-proofed, the elevation to which the structure will be flood-proofed; and

(2) Topographic information showing existing and proposed ground elevations.

C. General Standards.

(1) The following provisions shall apply to all permits:

(a) New construction and substantial improvements shall be according to the Virginia USBC, and anchored to prevent flotation, collapse or lateral movement of the structure.

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

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

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

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

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

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

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

(2) In addition to provisions a through h above, in all special flood hazard areas, prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this City, a joint permit shall be obtained from the U. S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. Furthermore, in riverine areas, the applicant shall give notification of the proposal to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required State agencies, and FEMA.

(3) The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

D. Elevation and Construction Standards.

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with this ordinance, the following provisions shall apply:

(1) Residential Construction – New construction or substantial improvement of any residential structure, including manufactured homes, in Zones A1-30, AE, AH and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to at least one foot above the base flood level.

(2) Non-Residential Construction – New construction or substantial improvement of any commercial, industrial, non-residential building, or manufactured building shall have the lowest floor, including basement, elevated to or above the base flood level. Buildings located in all A1-30, AE, and AH zones may be flood-proofed in lieu of being elevated,

provided that all areas of the building components below the elevation corresponding to the BFE plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.

(3) Space Below the Lowest Floor – In zones A, AE, AH, AO, and A1-A30, fully enclosed areas of new construction or substantially improved structures, which are below the regulatory flood protection elevation, shall:

(a) not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles, limited storage of maintenance equipment, or entry to the living area;

(b) be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and

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

[1] Provide a minimum of two openings on different sides of each enclosed area subject to flooding.

[2] The total net area of all openings must be at least one square inch for each square foot of enclosed area subject to flooding.

[3] If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

[4] The bottom of all required openings shall be no higher than one foot above the adjacent grade.

[5] Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

[6] Foundation enclosures made of flexible skirting shall not be considered enclosures for regulatory purposes; therefore, they do not require openings. Masonry or wood underpinning, regardless of structural status, shall be considered an enclosure and requires openings as outlined above.

#### E. Standards for Manufactured Homes.

All manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements specified in this Chapter.

#### F. Standards for Subdivision Proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

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

- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
- (4) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

G. Recreational Vehicles Prohibited.

Recreational vehicles are prohibited in SFHA Districts.

§ 286.320.12. Existing Structures In Floodplain Areas.

A. A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- (1) Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.
- (2) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure or use located in any floodplain areas to an extent or amount of less than fifty percent of its market value shall conform to the Virginia USBC.
- (3) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure or use, regardless of its location in a floodplain area to an extent or amount of fifty percent or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the Virginia USBC.

§ 286.320.14. Variances: Factors To Be Considered.

A. (1) Variances shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals (“BZA”) has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the BZA has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, (d) nuisances, (e) fraud or victimization of the public, or (f) conflict with local laws or ordinances.

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

B. In passing upon applications for variances, the BZA shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the 100 year flood elevation.

- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- (10) The safety of access by ordinary and emergency vehicles to the property in time of flood.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (12) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (13) Such other factors which are relevant to the purposes of this ordinance.

E. The BZA may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

F. Variances shall be issued only after the BZA has determined that such issuance shall not result in (i) unacceptable or prohibited increases in flood heights, (ii) additional threats to public safety, (iii) extraordinary public expense, (iv) nuisances, (v) fraud or victimization of the public, or (vi) conflict with local laws or ordinances.

G. Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

H. The BZA shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the 100 year flood elevation (i) increases the risks to life and property, and (ii) shall result in increased premium rates for flood insurance.

I. A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

#### § 286-320.16 Definitions.

A. For the purposes of these provisions relating to the Floodplain Overlay District, the following terms shall be defined as follows:

- (1) Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.
- (2) Base flood elevation - The Federal Emergency Management Agency designated one percent annual chance water surface elevation and the elevation determined per Section 4.6. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is one hundred (100) year flood or 1% annual chance flood.
- (3) Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- (4) Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- (5) Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (6) Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).
- (7) Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- (8) Existing construction - Structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."
- (9) Flood or flooding -
  - (a) A general or temporary condition of partial or complete inundation of normally dry land areas from
    - [1] the overflow of inland or tidal waters; or
    - [2] the unusual and rapid accumulation or runoff of surface waters from any source; or
    - [3] mudflows which are proximately caused by flooding as defined in paragraph (a) [2] of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)[1] of this definition.

(10) Flood Insurance Rate Map (FIRM) - An official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

(11) Flood Insurance Study (FIS) – A report by FEMA that examines, evaluates and determines flood hazards, and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

(12) Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

(13) Flood proofing - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(14) Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(15) Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

(16) Highest adjacent grade - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(17) Historic structure - Any structure that is

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

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

- (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - [1] by an approved state program as determined by the Secretary of the Interior; or
  - [2] directly by the Secretary of the Interior in states without approved programs.

(18) Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

(19) Letters of Map Change (LOMC) - An official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that Land, as defined by meets and bounds or structure, is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and
- (c) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

(20) Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR §60.3.

(21) Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days, but does not include a recreational vehicle.

(22) Manufactured home park or subdivision - A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

(23) New construction - Construction commenced on or after September 2, 1981, including any subsequent improvements to such structures.

(24) Post-FIRM structure - A structure for which construction or substantial improvement occurred after September 2, 1981.

(25) Pre-FIRM structure - A structure for which construction or substantial improvement occurred on or before September 2, 1981.

(26) Recreational vehicle - A vehicle which is

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light duty truck; and,
- (d) not primarily designed for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

(27) Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions during a ten year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five percent of the market value of the building at the time of each flood event.

(28) Shallow flooding area – A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(29) Special flood hazard area - The land in the floodplain subject to a one percent or greater chance of being flooded in any given year as determined in this ordinance.

(30) Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; and the installation on the property of accessory buildings. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(31) Structure - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(32) Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

(b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(34) Violation - The failure of a structure or other development to be fully compliant with the City's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

(35) Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

## **Section 286-322 WPD Wetlands Protection District**

### **Section 286-322.02 Purpose**

(A) The purpose of these provisions is to fulfill the policy standards set herein to regulate the use and development of wetlands.

### **Section 286-322.04 Applicability**

(A) These provisions shall apply to all lands within the jurisdiction of the City of Colonial Heights and identified as being vegetated and non-vegetated wetlands.

### **Section 286-322.06 Compliance Required**

(A) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms of these provisions and any other applicable ordinances and regulations which may apply.

### **Section 286-322.08 Permitted Uses**

(A) The following uses of and activities on wetlands are permitted, if otherwise permitted by law:

1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters, fences, duck blinds, 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 and preserve the natural contour of the wetlands.

2. The cultivation and harvesting of shellfish and worms for bait.
3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing, shell fishing, horseback riding, swimming, skeet and trap shooting and shooting preserves, provided that no structure shall be constructed except as permitted above.
4. The cultivation and harvesting of agricultural, forestry 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. Emergency decrees of any duly appointed health officer of a governmental subdivision acting to protect the public health.
8. The normal maintenance, repair or addition to presently existing roads, highways, railroad beds or the facilities of any person, firm, corporation, utility, federal, state, county, City or town abutting on or crossing wetlands, provided that no waterway is altered and no additional wetlands are covered.
9. Governmental activity on wetlands owned or leased by the Commonwealth of Virginia or a political subdivision thereof.
10. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are covered, and provided further that this subsection shall not be deemed to authorize construction of any drainage ditch.

#### **Section 286-322.10 Application for Development of Wetland**

(A) Any person who desires to use or develop any wetland within this City, other than those for exempt activities specified, shall first file an application for a permit with the Wetlands Board directly or through the Virginia Marine Resource Commission.

(B) An application shall include the following: the name and address of the applicant; a detailed description of the proposed activity and a map, drawn to an appropriate and uniform scale, showing the area of wetland directly affected, with the location of the

proposed work thereon, indicating the area of existing and proposed fill and excavation, especially the location, width, depth and length of any proposed channel and the disposal area and all existing and proposed structures; sewage collection and treatment facilities, utility installments, roadways and other related appurtenances or facilities, including those on adjacent uplands, and the type of equipment to be used and means of equipment access to the activity site; the names and addresses of owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; and estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental off-site effects; the completion date of the proposed work, project or structure; and such additional materials and documentation as the Wetlands Board may deem necessary.

(C). A nonrefundable processing fee of \$50 to cover the cost of processing the application, including the time, skill and Administrator's expense involved, shall accompany each application.

#### **Section 286-322.12 Documents to Remain Open for Public Inspection**

(A) All applications and maps and documents relating thereto shall be open for inspection at the office of the Director of Planning and Community Development.

#### **Section 286-322.14 Public Hearing on Application**

(A) Not later than 60 days after receipt of such application, the Wetlands Board shall hold a public hearing on such application. The applicant, the local governing body, the Virginia Marine Resource Commissioner, the owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, the Water Control Board, the Department of Transportation and governmental agencies expressing an interest therein shall be notified by the Wetlands Board of the hearing by mail not less than 20 days prior to the date set for the hearing. The Wetlands Board shall also cause notice of such hearing to be published at least once a week for two weeks prior to such hearing in a newspaper having a general circulation in this City. The costs of such publication shall be paid by the applicant.

#### **Section 286-322.16 Action on Permit**

(A) In acting on any application for a permit, the Wetlands Board shall grant the application upon the concurring vote of four members. The Chairman of the Wetlands Board, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. Any person may appear and be heard at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The Wetlands Board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decisions of the Wetlands Board and the rationale for the decision. The Wetlands Board shall make its determination within 30 days from the hearing. If the Wetlands Board fails to act within such time, the application shall be

deemed approved. Within 48 hours of its determination, the Wetlands Board shall notify the applicant and the Virginia Marine Resource Commissioner of such determination, and if the Wetlands Board has not made a determination, it shall notify the applicant and the Virginia Marine Resource Commission that 30 days have passed and that the application is deemed approved.

(B) The Wetlands Board shall transmit a copy of the permit to the Virginia Marine Resource Commissioner. If the application is reviewed or appealed, then the Wetlands Board shall transmit the record of its hearing to the Virginia Marine Resource Commissioner. Upon a final determination by the Virginia Marine Resource Commission, the record shall be returned to the Wetlands Board. The record shall be open for public inspection at the office of the Director of Planning and Community Development.

### **Section 286-322.18 Bond Required**

(A) The Wetlands Board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The Wetlands Board may, after hearing as provided herein, suspend or revoke a permit if the Wetlands Board finds that the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The Wetlands Board, after hearing, may suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

### **Section 286-322.20 Standards for Review of Application**

(A) In making its decision whether to grant, to grant in modified form or to deny an application for a permit, the Wetlands Board shall base its decision on these factors:

1. Such matters raised through the testimony of any person in support of or in rebuttal to the permit application.
2. The impact of the development on the public health and welfare as expressed by the policy and standards of Chapter 2.1 of Title 62.1 of the Code of Virginia and any guidelines which may have been promulgated by the Virginia Marine Resource Commission.

(B) If the Wetlands Board, in applying the standards above, finds that the anticipated public and private benefit of the proposed activity exceeds the anticipated public and private detriment and that the proposed activity would not violate or tend to violate the purposes and intent of Chapter 2.1 of Title 62.1 of the Code of Virginia and of this chapter, the Wetlands Board shall grant the permit, subject to any reasonable condition or modification designed to minimize the impact of the activity on the ability of this City to provide governmental services and on the rights of any other person and to carry out the public policy set forth in Chapter 2.1 of Title 62.1 of the Code of Virginia and in this chapter. Nothing in this section shall be construed as affecting the right of any person to seek compensation for any injury in fact incurred by him because of the proposed

activity. If the Wetlands Board finds that the anticipated public and private benefit from the proposed activity is exceeded by the anticipated public and private detriment or that the proposed activity would violate the purposes and intent of Chapter 2.1 of Title 62.1 of the Code of Virginia and of this chapter, the Wetlands Board shall deny the permit application with leave to the applicant to resubmit the application in modified form.

**Section 286-322.22 Permit to be in Writing**

(A) The permit shall be in writing, signed by the Chairman of the Wetlands Board and notarized.

**Section 286-322.24 Expiration of Permit; Extensions**

(A) No permit shall be granted without an expiration date, and the Wetlands Board, in the exercise of its discretion, shall designate an expiration date for completion of such work specified in the permit from the date the Wetlands Board granted such permit. The Wetlands Board, however, may, upon proper application,, grant extensions.

**Section 286-322.26 Permit not to Affect other Requirements**

(A) No permit granted by a Wetlands Board shall affect in any way the applicable zoning and land use ordinances of the City.

**Section 286-322.28 Minimum Structure Setback**

(A) No structure shall be located within 10 feet of the boundary of a designated wetland.

## **Section 286-324      ACD Architectural Character District**

### **Section 286-324.02   Intent**

(A) Within the City of Colonial Heights, there are older areas which contain residential structures that exhibit certain design and construction features that, although common at the time of construction, are now rare and not likely to be reproduced. In fact, these areas constitute distinct neighborhoods, the character of which may be detrimentally affected by the construction of dissimilar types of buildings. In establishing neighborhoods using particular styles, a certain architectural style was created in areas of the City which are of local significance. It is in the public interest to protect and preserve the character of these neighborhoods. In this effort, the City hereby designates certain areas as architecturally significant and provides certain standards for the construction of new residential structures within these areas.

(B) For the most part, those areas of architectural significance are included within the developed areas of the original Town of Colonial Heights. The boundaries have been designed so as not to isolate individual properties for regulation, but rather to protect and preserve the existence of complete neighborhoods containing significant examples of various building styles and designs popular at the time of incorporation of the town.

### **Section 286-324.04   Architecturally Significant Areas**

(A) There are hereby established and designated several areas to be known as "Architectural Districts" within certain existing sections of the City of Colonial Heights. Within these areas, there are hereby provided standards for the design of primary dwelling units so as to ensure that the architectural character of existing neighborhoods is preserved and protected. These significant areas are delineated on a map entitled "Architectural Districts Map," which is included as a part of the Official Zoning Map. The requirements placed on the design of new structures located within these districts shall be in addition to other applicable requirements found elsewhere in this chapter.

### **Section 286-324.06   Submission of Application; Review**

(A) Upon application for a permit to construct any residential structure within an Architectural District, the applicant shall submit to the Administrator one copy of the plans for construction of such structure, showing the square footage on each floor and the elevation of such structure. The Administrator, in considering the granting of a zoning certificate, shall assess the submitted plans to determine the compliance of the proposed structure with the standards set forth herein.

(B) If the proposal is determined to meet the standards as provided herein, the Administrator shall proceed to review the application and plans according to standard procedure for reviewing applications for building permits. Should the Administrator determine that the proposal is not in conformance with the standards provided herein, the zoning certificate shall be rejected and the applicant shall have a right of appeal to the Colonial Heights Board of Architectural Review, as provided herein.

### **Section 286-324.08 Criteria for Approval**

(A) Before approval of an application for a zoning certificate in connection with plans to construct a primary residential structure in an Architectural District, the Administrator shall certify that the following standards have been met:

1. The proposed structure shall have at a minimum the same number of stories as the average number of stories in structures in the adjacent area, as defined herein.
2. The linear footage of the front elevation of the proposed structure shall have a minimum of 95% of the average linear front footage of primary residential structures in the adjacent area; provided, however, that applicable side yard requirements shall be complied with in any event.
3. There shall be no flat roofs on primary residential structures constructed within an Architectural District unless all of the primary residential structures within the specific adjacent area have such roofs.
4. It shall be apparent from the street that there is a crawl space under at least a portion of the first floor of the building or that there is at least a partial basement.
5. The front yard setback of a new residential structure shall be the average of the setbacks of the main residential structures within the adjacent area. Upon appeal, the Board of Architectural Review shall have authority to modify the front yard setback by a maximum of five feet in either direction of the calculated average. There shall be, however, no maximum or minimum front yard setback specified herein, and said front yard setback otherwise required pursuant to this chapter shall not be applicable. For the purposes of this district, front yard setback shall be measured from the front property line to the front wall of the primary residential structure.

### **Section 286-324.10 Appeal of Administrator's Decision**

(A) Whenever the Administrator shall deny approval to a zoning certificate pursuant to these standards the applicant shall have the right to appeal to and be heard before the Board of Architectural Review, provided that he files with the Administrator on or before five working days after the decision of the Administrator, a notice, in writing, of his intention to appeal. Upon receipt of such notice, the Administrator shall forthwith notify the Clerk of the Board, who shall schedule a public hearing before the Board at a time not to exceed 30 days after receipt by the Administrator of such notice. On any such appeal, the final decision of the Administrator shall be stayed, pending the outcome of the appeal before the Board.

(B) The same standards and considerations shall be applied by the Board as are established for the Administrator, except as otherwise specifically stated herein. By majority of those members present and voting, the Board may affirm, reverse or modify

the decision of the Administrator. Except as specifically provided herein, the decision of the Board shall be final.

**Section 286-324.12 Appeal of Decision of Board of Architectural Review**

(A) Whenever a person is aggrieved by a decision of the Board of Architectural Review, he or she shall have the same rights to appeal, if any, as are provided such person in the consideration of certificates of appropriateness pursuant to Section 286-318.

**Section 286-324.14 Public Hearing**

(A) Upon appeal of any matter relating to construction in an Architectural District to the Board of Architectural Review, a public hearing, advertised in the same manner as required in Section 15.2-2204 of the Code of Virginia shall be called.

**Section 286-324.16 Non-Applicability**

(A) Nothing in this chapter relating to Architectural Districts shall pertain to any structure existing within the City of Colonial Heights on the effective date of these provisions or to any addition to any structure or to any accessory structure. Standards contained herein are intended to relate to new primary residential structures only.

## **Section 286-326 COD Chesapeake Bay Overlay District**

### **Section 286-326.02 Title**

(A) This section shall be known and referenced as the "Chesapeake Bay Overlay District" of the City of Colonial Heights.

### **Section 286-326.04 Purpose and Intent**

(A) This section is enacted to implement the requirements of Section 10.1-2100 et seq. of the Code of Virginia (the Chesapeake Bay Preservation Act. The intent of City Council and the purpose of the Overlay District are 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 from pollution;
4. Prevent any increase in pollution;
5. Reduce existing pollution; and
6. Promote water resource conservation in order to provide for the health, safety and welfare of the present and future citizens of the City of Colonial Heights.

### **Section 286-326.06 Review and Approval Procedures**

(A) The Overlay District shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by this chapter. Unless otherwise stated, the review and approval procedures provided for in Chapter 109, Building Construction; this Chapter; Chapter 250, Subdivision of Land; and Chapter 241, Soil Erosion and Sediment Control, shall be followed in reviewing and approving development, redevelopment and uses governed by this chapter.

### **Section 286-326.08 Legislative Authority**

(A) These provisions are enacted under the authority of Section 10.1-2100 et seq. (the Chesapeake Bay Preservation Act) and Section 15.2-2283 of the Code of Virginia

### **Section 286-326.10 Applicability**

(A) The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the City Council and as shown on the Chesapeake Bay Preservation Area Maps dated July 1, 1990, adopted September 12, 1990. The

Chesapeake Bay Preservation Area Maps dated July 1, 1990, together with all explanatory matter thereon, are hereby adopted by reference and declared to be a part of this chapter.

### **Section 286-326.12 Resource Protection Areas**

(A) At a minimum, RPAs shall consist 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 cause significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction or assimilation of sediments, nutrients and potentially harmful or toxic substances in runoff entering the bay and its tributaries, and minimize the adverse effects of human activities on state waters and aquatic resources.

(B) The resource protection area shall include:

1. Tidal wetlands.
2. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
3. Tidal shores.
4. Such other lands considered by the City to meet the provisions of Subsection A herein and to be necessary to protect the quality of state waters, including highly erodible soils and slopes in excess of 25 percent.
5. A vegetated buffer area not less than 100 feet in width located adjacent to and landward of the components listed in Subsections (B) 1 through 4 above, and along both sides of any water body with perennial flow.

### **Section 286-326.14 Resource Management Areas**

(A) Resource management areas shall include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the RPA.

(B) A resource management area shall be provided contiguous to the entire inland boundary of the RPA. The resource management area is composed of concentrations of the following land categories: floodplains; highly erodible soils, including steep slopes; highly permeable soils; non-tidal wetlands not included in the RPA; and such other lands meeting the provisions of Section (A) herein and to be necessary to protect the quality of state waters.

(C) The Chesapeake Bay Preservation Area Maps dated July 1, 1990, show the general location of CBPAs and should be consulted by persons contemplating activities within the City of Colonial Heights 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

by this chapter through the review and approval of the site plan process or as required through the review and approval of a water quality impact assessment.

(D) If the boundaries of a CBPA include a portion of a lot, parcel or development project, the entire lot, parcel or development project shall comply with the requirements of the Overlay District. The division of property shall not constitute an exemption from this requirement.

### **Section 286-326.16 Use Regulations**

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

### **Section 286-326.18 Lot Size**

(A) Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards

### **Section 286-326.20 Required Conditions**

(A) All development and redevelopment exceeding 2,500 square feet of land disturbance shall be subject to a site plan process, including the approval of a site plan in accordance with the provisions of this chapter or a subdivision plat in accordance with Chapter 250, Subdivision of Land.

(B) Development in RPAs may be allowed only if it:

1. Is water dependent. A new or expanded water dependent facility may be allowed provided that the following criteria are met: (a) It does not conflict with the Comprehensive Plan; (b) It complies with the performance criteria set forth in this chapter;
2. Any non water dependent component is located outside of the RPA; and
3. 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 in the RPAs only if

1. There is no increase in the amount of impervious cover and no further encroachment within the RPA, and it shall conform to applicable erosion and sediment control set forth in Chapter 241 and storm water management criteria set forth in Chapter 245 of the City Code.
2. The new use is subject to the provisions of Section 286-326.32.

3. The road or driveway crossing satisfies each of the following conditions:
  - a. The Director of Planning and Community Development makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
  - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
  - c. The design and construction of the road or driveway satisfy all applicable criteria of this chapter;
  - d. The Director of Planning and Community Development reviews the plan for the road or driveway proposed in or across the RPA in coordination with the requirements under City subdivision and site plan approvals.

(D) A water quality impact assessment shall be required for any proposed land disturbance, development or redevelopment within RPAs and for any development within RMAs when required by the Director of Planning and Community Development because of the unique characteristics of the site or intensity of development.

#### **Section 286-326.22 Conflicts with Other Provisions**

(A) In any case where the requirements of this chapter conflict with any other provision of the City of Colonial Heights Code or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.

#### **Section 286-326.24 Site-specific Refinement**

(A) The site-specific boundaries of the resource protection area and the resource management area shall be determined by the applicant through the performance of an environmental site assessment submitted as part of the site plan process, or water quality impact assessment, subject to approval by the Director of Planning and Community Development. The Chesapeake Bay Preservation Area Maps dated July 1, 1990, shall be used as a guide to the general location of resource protection areas.

(B) The site specific boundaries of all resource protection areas and resource management areas shall be shown on all preliminary and final site plans that are required by Section 286-506 of the Colonial Heights Zoning Ordinance

#### **Section 286-326.26 Conflicts Relating to Delineation**

(A) Where the applicant has provided a site-specific delineation of the RPA, the Director of Planning and Community Development will verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the Director of Planning and Community Development may render adjustments to the applicant's

boundary delineation. In the event that the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section 286-326.62.

### **Section 286-326.28 Performance Standards - Purpose**

(A) Performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxics and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters storm water runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces storm water runoff potential.

(B) The purpose and intent of these requirements are also to implement the following objectives: prevent a net increase in nonpoint source pollution from new development, achieve a ten-percent reduction in nonpoint source pollution from redevelopment and achieve a forty-percent reduction in nonpoint source pollution from agricultural uses.

### **Section 286-326.30 Performance Standards for Development and Redevelopment**

(A) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.

(B) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.

(C) Land development shall minimize impervious cover to promote the infiltration of stormwater into the ground consistent with the proposed use or development.

(D) Notwithstanding any other provisions of this chapter or exceptions or exemptions thereto, any land-disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks and drain fields, shall comply with the requirements of Chapter 241, Soil Erosion and Sediment Control.

(E) All on-site sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the City of Colonial Heights Health Code.

(F) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided, in accordance with the City of Colonial Heights Health Code. This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989, if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the Colonial Heights Health Department. The building or 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.

(G) For any development or redevelopment, 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.) and that achieve the following:

1. For development, the post-development nonpoint source pollution runoff load shall not exceed the predevelopment load, based on the default value of 0.45 pound of phosphorus per acre per year.
2. For isolated redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10%. The Director of Planning and Community Development may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for stormwater runoff quality control, provided that the following provisions are satisfied:
  - a. In no case may the post-development nonpoint source pollution runoff load exceed the predevelopment load.
  - b. Runoff pollution load must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution.
  - 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. The Director of Planning and Community Development may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance agreement may be required to ensure compliance with this chapter.
3. For redevelopment, both the pre-and post-development loadings shall be calculated by the same procedures. However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings.

(H) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state and local laws and regulations shall be obtained and evidence of such submitted to the Director of Planning and Community Development

(I) All required RPA<sup>2</sup>s shall be physically located and clearly marked on the site prior to initiating site grading or any other on-site activities. Once marked, the

condition of the RPA's shall be visually documented using digital photographs, video or other techniques acceptable to the Director of Public Works. This documentation shall be submitted to the Director of Public Works who shall retain the documentation. In addition, the limits of clearing and grading, as shown on any approved site plan, shall be physically located and clearly marked on the site prior to initiating site grading or any other on-site activities.

(J) For all new developments or redevelopments, all building setbacks shall be a minimum of ten (10) feet from any RPA.

### **Section 286-326.32 Buffer Area Requirements**

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

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

(C) The buffer area shall be maintained to meet the following additional performance standards:

1. In order to maintain the functional value of the buffer area, indigenous vegetation may be removed, subject to local approval, only to provide for reasonable sight lines, access paths, general woodlot management and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
  - a. Trees may be pruned or removed as necessary to provide 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.
  - b. Any path shall be constructed and surfaced so as to effectively control erosion with prior local approval.
  - c. Dead, diseased or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu, and multiflora rose) may be removed and thinning of trees may be allowed, pursuant to sound horticultural practice incorporated into City standards with prior local approval.

- d. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements with prior local approval.
2. 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 Director of Planning and Community Development may permit encroachments into the buffer area in accordance with provisions herein and the following criteria:
  - a. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
  - b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
  - c. The encroachment may not extend into the seaward 50 feet of the buffer area.

#### **Section 286-326.34 Water Quality Impact Assessment**

(A) The purpose of the water quality impact assessment is to:

1. Identify the impacts of proposed development on water quality and lands within RPAs and other environmentally sensitive lands;
2. Ensure that, where development does take place within RPAs and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disrupting to the natural resources 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 groundwater, erosion or vulnerability to flood and storm damage; and
4. Specify mitigation which will address water quality protection.

#### **Section 286-326.36 Water Quality Impact Assessment Required**

(A) A water quality impact assessment is required for any proposed land disturbance, development or redevelopment within an RPA, including any buffer area encroachment, and any development in an RMA as deemed necessary by the Director of Planning and

Community Development due to the unique characteristics of the site or intensity of the proposed development. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment.

### **Section 286-326.38 Minor Water Quality Impact Assessment**

(A) A minor water quality impact assessment pertains only to land disturbance, development or redevelopment with CBPAs which causes no more than 5,000 square feet of land disturbance and/or requires any encroachment of the landward 50 feet to the one-hundred-foot buffer area. A minor assessment must demonstrate through acceptable calculations that the undisturbed buffer area, enhanced vegetative plantings, and necessary best management practices will result in removal of no less than 75% of sediments and 40% of nutrients from post-development stormwater runoff and will retard runoff, prevent erosion, and filter nonpoint source pollution the equivalent of the full undisturbed one-hundred-foot buffer area. A minor assessment shall include a site drawing to scale, which shows the following:

1. Location of the components of the RPA, including the one-hundred-foot buffer area and location of any water body with perennial flow.
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 drain field sites.
3. Type and location of proposed best management practices to mitigate the proposed encroachment.
4. Location of existing vegetation on-site, including the number and type of trees and other vegetation to be removed in the buffer to accommodate the encroachment.
5. Revegetation plan that supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

### **Section 286-326.40 Major Water Quality Impact Assessment**

(A) A major water quality impact assessment shall be required for any land disturbance, development or redevelopment which exceeds 5,000 square feet of land disturbance within CBPAs and requires encroachment into the landward 50 feet of the one-hundred-foot buffer area; disturbs any portion of any other component of an RPA or disturbs any portion of the buffer area within 50 feet of any other component of an RPA; or is located in an RMA and is deemed necessary by the Director of Planning and Community Development. The information required in this section shall be considered a minimum, unless the Director of Planning and Community Development determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

(B) The following elements shall be included in the preparation and submission of a major water quality assessment:

1. All of the information required in a minor water quality impact assessment.
2. A hydro-geological element that:
  - a. Describes the existing topography, soils, hydrology and geology of the site and adjacent lands.
  - b. Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.
  - c. Indicates the following:
    - i. Disturbance or destruction of wetlands and justification for such action.
    - ii. Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies.
    - iii. Disruptions to existing hydrology, including wetland and stream circulation patterns.
    - iv. Source location and description of proposed fill material.
    - v. Location of dredge material and location of dumping area for such material.
    - vi. Estimation of pre-and post-development pollutant loads in runoff.
    - vii. Estimation of percent increase in impervious surface on site and type(s) or surfacing materials used.
    - viii. Percent of site to be cleared for project.
    - ix. Anticipated duration and phasing schedule of construction project.
    - x. Listing of all requisite permits from all applicable agencies necessary to develop project.
  - d. Describes the proposed mitigation measures for the potential hydro-geological impacts. Potential mitigation measures include:

- i. Proposed erosion and sediment control concepts; concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas and schedule and personnel for site inspections.
  - ii. Proposed stormwater management system.
  - iii. Creation of wetlands to replace those lost.
  - iv. Minimizing cut and fill.
3. A landscape element that:
  - a. Identifies and delineates the location of all significant plant material, including all trees on site six inches or greater diameter at breast height. Where there are groups of trees, stands may be outlined.
  - b. Describes the impacts the development or use will have on the existing vegetation. Information should include:
    - i. General limits of clearing, based on all anticipated improvements, including buildings, drives and utilities.
    - ii. Clear delineation of all trees which will be removed.
    - iii. Description of plant species to be disturbed or removed.
  - c. Describes the potential measures for mitigation. Possible mitigation measures include:
    - i. A replanting schedule for trees and other significant vegetation removed for construction, including a list of possible plants and trees to be used.
    - ii. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation.
    - iii. Demonstration that indigenous plants are to be used to the greatest extent possible.

### **Section 286-326.42 Submission and Review Requirements**

(A) Three copies of all site drawings and other applicable information as required by Section 286-326.38 and 286-326.40 above shall be submitted to the Director of Planning and Community Development for review.

(B) All information required in this section shall be certified as complete and accurate by a professional engineer or a certified land surveyor.

(C) A minor water quality impact assessment shall be prepared, submitted to, and reviewed by, the Director of Planning and Community Development.

(D) A major water quality impact assessment shall be prepared, submitted to, and reviewed by the Director of Planning and Community Development in conjunction with a request for rezoning or a special exception permit as deemed necessary by the Director of Planning and Community Development.

(E) As part of any major water quality impact assessment submittal, the Director of Planning and Community Development may require review by the Chesapeake Bay Local Assistance Division (CBLAD). Upon receipt of a major water quality impact assessment, the Director of Planning and Community Development will determine if such review is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated in the final review by the Director of Planning and Community Development, provided that such components are provided by CBLAD within 90 days of the request.

### **Section 286-326.44 Evaluation Procedures.**

(A) Upon the completed review of a minor water quality impact assessment, the Director of Planning and Community Development will determine if any proposed encroachment into the buffer area is consistent with the provisions of this chapter and make a finding based upon the following criteria:

1. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area.
2. Impervious surface is minimized.
3. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings.
4. The development, as proposed, meets the purpose and intent of this chapter.
5. 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.

6. Proposed mitigation measures, including the re-vegetation plan and site design, result in minimal disturbance to all components of the RPA, including the one-hundred-foot buffer area.
7. Proposed mitigation measures will work to retain all buffer area functions, pollutant removal, erosion and runoff control.

(B) Upon the completed review of a major water quality impact assessment, the Director of Planning and Community Development will determine if the proposed development is consistent with the purpose and intent of this chapter and make a finding based upon the following criteria in conjunction with Section 286-326.46 through 286-326..62.

1. Within any RPA, the proposed development is water-dependent or constitutes redevelopment.
2. The disturbance of wetlands will be minimized.
3. The development will not result in significant disruption of the hydrology of the site.
4. The development will not result in significant degradation to aquatic vegetation or life.
5. The development will not result in unnecessary destruction of plant materials on site.
6. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation.
7. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve the required standard for pollutant control.
8. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits, as well as runoff control and pollutant removal equivalent to the full 100-foot undisturbed buffer area.
9. The design and location of any proposed drain field will be in accordance with the requirements of Sections 286-326.28 through 286-326.32.
10. The development, as proposed, is consistent with the purpose and intent of the Overlay District.

11. 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.

(C) The Director of Planning and Community Development shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Director of Planning and Community Development based on the criteria listed above in Sections (A) and (B).

(D) The Director of Planning and Community Development shall find the proposal to be inconsistent with the purpose and intent of this chapter when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Director of Planning and Community Development based on the criteria listed above in Sections (A) and (B).

#### **Section 286-326.46 When Site Plan Process Required**

A. Except for single family and duplex dwellings, whenever the addition or modification of a development or redevelopment results in a 2,500 square foot or greater increase in impervious surface area of the site, it shall be accomplished through a site plan process prior to any clearing or grading of the site or the issuance of any building permit, to assure compliance with all applicable requirements of this chapter.

#### **Section 286-326.48 Contents of Site Plan Process**

(A) In addition to the requirements of Article II, Chapter 250, Subdivision of Land, the site plan process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the Director of Planning and Community Development. The Director of Planning and Community Development may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

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

1. A site plan or a subdivision plat in accordance with the provisions of Article II, Chapter 250, Subdivision of Land.
2. An environmental site assessment,
3. A landscape plan.
4. A stormwater management plan.
5. An erosion and sediment control plan in accordance with the provisions of Chapter 241, Soil Erosion and Sediment Control.

#### **Section 286-326.50 Environmental Site Assessment**

(A) An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

(B) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:

1. Tidal wetlands.
2. Tidal shores.
3. Non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
4. A one-hundred-foot buffer area located adjacent to and landward of the components listed in Section (B) 1 through 3 above and along both sides of any water bodies with perennial flow.
5. Other sensitive environment features as determined by the Director of Planning and Community Development.

(C) Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(D) The environmental site assessment shall delineate the site-specific geographic extent of the RPA.

(E) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat and shall be certified as complete by a land surveyor or a certified landscape architect. This requirement may be waived by the Director of Planning and Community Development when the proposed use or development would result in less than 5,000 square feet of disturbed area.

### **Section 286-326.52 Landscape Plan**

(A) A landscape plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval. No clearing or grading of any lot or parcel shall be permitted without an approved landscape plan.

(B) Landscape plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia. The landscape plan shall be prepared and implemented as follows:

1. The landscape plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. All existing trees on the site six inches or greater diameter at breast height (DBH) shall be shown on the landscape plan. Where there are groups of trees, stands may be outlined instead. The specific number of trees six

inches or greater DBH to be preserved outside of the construction footprint shall be indicated on the plan. Trees to be removed to create a desired construction footprint shall be clearly delineated on the landscape plan.

2. Any required buffer area shall be clearly delineated, and any plant material to be added to establish or supplement the buffer area, as required by this chapter, shall be shown on the landscape plan.
3. Within the buffer area, trees to be pruned or removed as necessary for sight lines and vistas, access paths and best management practices, as provided for in this chapter, shall be shown on the plan. Vegetation required by this chapter to replace any existing trees within the buffer area shall also be shown on the landscape plan, and subject to administrative approvals.
4. Trees to be removed for shoreline stabilization projects and any replacement vegetation required by this chapter shall be shown on the landscape plan.
5. 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.
6. The landscape plan will include specifications for the protection of existing trees during clearing, grading and all phases of construction.
7. 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.
8. 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.
9. Where areas to be preserved, as designated on an approved landscape plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three planted trees to one removed. Replacement trees shall be a minimum of 3 1/2 inches in diameter at breast height at the time of planting.
10. The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this chapter.

11. 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 this chapter.

#### **Section 286-326.54 Stormwater Management Plan**

(A) A stormwater management plan shall be submitted as part of the site plan process required by this chapter and in conjunction with site plan or subdivision plan approval.

(B) The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations and citations to supporting references as appropriate to communicate the information required by this chapter. At a minimum, the stormwater management plan must contain the following:

1. The location and design of all planned stormwater control devices.
2. Procedures for implementing nonstructural stormwater control practices and techniques.
3. Pre-and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations.
4. For facilities, verification of structural soundness, including a professional engineer or Class IIIB surveyor certification.

(C) Site-specific facilities shall be designed for the ultimate development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans or other similar planning documents.

(D) All engineering calculations must be performed in accordance with procedures outlined in the current edition of the Virginia Stormwater Management Handbook.

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

#### **Section 286-328.56 Erosion and Sediment Control Plan**

(A) An erosion and sediment control plan shall be submitted that satisfies the requirements of this chapter and in accordance with Chapter 241, Soil Erosion and Sediment Control, in conjunction with site plan or subdivision plan approval.

#### **Section 286-326.58 Final Plan**

(A) Final plans for property within CBPA's shall be final plats for land to be subdivided or site plans for land not to be subdivided as required.

(B) Final plans for all lands within CBPA's shall include the following additional information:

1. The delineation of the resource protection area boundary.
2. The delineation of required buffer areas.
3. All wetlands permits required by law.
4. A maintenance agreement as deemed necessary and appropriate by the Director of Planning and Community Development to ensure proper maintenance of best management practices in order to continue their functions.

#### **Section 286-326.60 Inspections and Bonding**

(A) Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.

(B) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the City of Colonial Heights a form of surety satisfactory to the Director of Planning and Community Development in amount equal to the remaining plant materials, related materials and installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities during the construction period.

(C) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the City of Colonial Heights.

(D) All required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the City of Colonial Heights. The City of Colonial Heights may collect from the applicant the amount by which the reasonable cost or required actions exceed the amount of the surety held.

(E) After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Director of Planning and

Community Development, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The Director of Planning and Community Development may require a certificate of substantial completion from a professional engineer or Class IIIB surveyor before making a final inspection.

#### **Section 286-326.62 Denial of Plan; Appeals**

(A) In the event that the final plan or any component of the site plan process is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission. In granting an appeal, the Planning Commission 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 find that such plan meets the purpose and intent of the performance standards in this chapter. If the Planning Commission finds that the applicants plan does not meet the above-stated criteria, it shall deny approval of the plan.

#### **Section 286-326.64 Exemptions**

(A) Construction, installation, operation and maintenance of water, sewer, 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 (Section 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (Section 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 will be deemed to constitute compliance with this chapter.

(B) Construction, installation and maintenance of water, sewer, natural gas, and underground telecommunications and cable television lines owned, permitted, or both, by the City or regional service authority shall be exempt from the criteria in this part, provided that:

1. To the degree possible, the location of such utilities and facilities should be outside RPA's;
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 all City of Colonial Heights erosion and sediment control requirements.

(C) The following land disturbances in resource protection areas may be exempted from the Overlay District: water wells; passive recreation facilities, such as boardwalks, trails and pathways; and historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Director of Planning and Community Development that:

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

## **ARTICLE IV USE AND DESIGN STANDARDS**

### **Section 286-400 Use and Design Standards**

(A) The standards contained in the district regulations in Article III shall apply to all of the following use types, unless specifically modified and/or superseded by the use and design standards below.

(B) The standards listed as general standards shall apply in all districts in which the use type is permitted by right or permitted subject to approval of a special exception permit, as indicated in Article III, District Regulations.

(C) Where a specific zoning district is indicated, the standards listed below shall apply to that zoning district, in addition to any general standards listed for that use.

### **Section 286-402 Agricultural Use Types**

#### ***Section 286-402.04 Stable, Private.***

(A) Private stables shall comply with the following requirements:

1. Minimum lot size: Two (2) acres.
2. On lots of less than five (5) acres, no more than one stable animal per acre shall be permitted.
3. Corrals shall comply with all the setback requirements for accessory buildings.
4. Stables shall properly manage animal waste so as to not create a nuisance or health hazard to adjoining or nearby property owners.

### **Section 286-404 Residential Use Types**

#### ***Section 286-404.04 Accessory Apartments***

(A) Intent. Accessory apartments afford an opportunity for the development of small dwelling units designed to meet the housing needs of single persons, persons with fixed or limited income, and/or extended families who live or desire to live with a degree of privacy and independence. Accessory apartments provide a degree of flexibility for home owners with changing economic conditions and/or family structure, while providing a reasonable degree of protection for existing property values and neighborhood character.

(B) General Standards.

1. Adequate parking, as determined by the Administrator, shall be provided.

(C) Additional standards in the RL, RM and RH districts.

1. An accessory apartment shall only be considered as an accessory use to a detached single family dwelling and no accessory apartment shall be located in any structure other than the principal structure on the lot, unless a special exception permit is approved for the accessory apartment.
2. Only one accessory apartment shall be allowed on any one lot or parcel, and the owner of the property shall reside on the premises, and only members of the owner's family shall reside in the accessory apartment.
3. No new exterior entrances to an accessory apartment within a detached single family dwelling shall be allowed. Access to the accessory apartment must be through an existing exterior entrance.
4. Upon completion of the construction, the accessory apartment shall not contain more than fifty (50) percent of the finished floor area of the principal dwelling unit located on the same lot, but in no case shall the accessory apartment exceed 1000 square feet.

(D) Additional standards in the RO district.

1. The accessory apartment shall be allowed only in the same structure as, and in conjunction with, an associated civic, office or commercial use type.
2. The civic, office or commercial use type must occupy at least fifty (50) percent of the gross floor area of the structure.

#### ***Section 286-404.08 Duplex***

(A) In the RO and BB district:

1. The duplex use shall be allowed only in the same structure as, and in conjunction with, an associated civic, office or commercial use type.
1. The civic, office or commercial use type must occupy at least fifty (50) percent of the gross floor area of the structure.

#### ***Section 286-404.12 Home Occupations***

(A) Intent. These provisions recognize that certain small-scaled commercial activities may be appropriate accessory uses within residential dwellings. The character and scale of such commercial activities must be subordinate and incidental to the principal use of the premises for dwelling purposes, and must be consistent with the predominant residential character of the property and/or surrounding neighborhood. In addition, these provisions are intended to limit the size of such home occupations so as to not create an unfair competitive advantage over businesses located in commercially zoned areas.

(B) General standards:

1. More than one home occupation shall be permitted provided the total floor area used for all home occupations does not exceed 20 percent of the principal dwellings gross floor area.
2. No dwelling or structure shall be altered, occupied or used in a manner which would cause the premises to differ from a character consistent with a residential use. The use of colors, materials, construction, lighting, or other means inconsistent with a residential use shall be prohibited.
3. There shall be no outside storage of goods, products, equipment, or other materials associated with the home occupation. No toxic, explosive, flammable, radioactive, or other hazardous materials used in conjunction with the home occupation shall be used, sold, or stored on the site.
4. The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area. In addition, the lot or property on which the home occupation is conducted shall not have any parking spaces added to it during the time the home occupation is being conducted, nor shall any parking space be used that was not customarily or regularly used prior to that time.
5. Notwithstanding delivery services such as UPS and FEDEX, the home occupation shall not involve the commercial delivery of materials or products to or from the premises.
6. The home occupation shall not increase demand on water, sewer, or garbage collection services to the extent that the combined demand for the dwelling and home occupation is significantly more than is normal to the use of the property for residential purposes.
7. No equipment or process shall be used in a home occupation which can be heard at the property line, or vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises or through common walls. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or through common walls.
8. No activity in conjunction with a home occupation shall be conducted before 7:00 a.m. or after 10:00 p.m. that adversely impacts or disturbs adjoining property owners.

9. Home occupations shall be confined to the primary dwelling. To conduct a home occupation in an on-site accessory building, a special exception permit shall be obtained pursuant to Section 286-622.
10. No one other than permanent residents of the dwelling shall be engaged or employed in such home occupation at the residential location.
11. The sale of goods or products produced on the premises, or providing services which involve the consumer coming to the premises shall be limited to no more than ten (10) customers or clients in any one week period. Child care for five (5) or less children shall be permitted.
12. Lessons in the applied arts shall be permitted, provided that no more than five (5) students per day shall be provided such lessons.
13. One attached sign, not exceeding one square foot, may be placed on the property advertising the one or more home occupations located on site.
14. No advertising through local media, including telephone books, and flyers shall list the residential address of the home occupation.

***Section 286-404.16 Manufactured Home, Emergency***

(A) Intent. These regulations are adopted in recognition that temporary emergency housing options may be necessitated by fire, flood, or other unforeseen and sudden acts of nature.

(B) General standards:

1. The Administrator may authorize the emergency use of a manufactured home on a lot if the building official certifies that the permanent dwelling on the lot has been lost or destroyed by a fire, flood, or other unforeseen and sudden act of nature, and as a result is uninhabitable.
2. Only one emergency manufactured home shall be permitted on any lot of record. It shall be located on the same lot as the destroyed dwelling, and must be occupied only by the person, persons, or family, whose dwelling was destroyed.
3. The emergency manufactured home shall be less than nineteen (19) feet in width.
4. To the extent feasible, the emergency manufactured home shall meet all setback and yard requirements for the district in which it is located. It shall be anchored and stabilized in accordance with the provisions of the Virginia Uniform Statewide Building Code.

5. The emergency manufactured home must be removed as soon as reconstruction or replacement of the uninhabitable dwelling is complete, or within a twelve-month period of its placement on the site, whichever is sooner. A one time extension of up to six (6) additional months may be granted by the Administrator if substantial reconstruction of the destroyed dwelling has occurred, and work has, and is continuing to progress. A final certificate of zoning compliance for the reconstructed dwelling shall not be issued until the emergency manufactured home is removed from the site.

(C) Federal Disasters.

1. Where the President of the United States has declared a Federal Disaster, the Administrator, upon consent of the City Manager, may authorize the placement of temporary manufactured homes supplied by the Federal Emergency Management Agency (FEMA) to disaster victims who lost their homes. In such cases, all zoning and building code requirements shall be waived in favor of FEMA standards. The period for temporary placement of manufactured homes shall be twelve (12) months, unless FEMA authorizes an extension for an additional twelve (12) months.

***Section 286-404.20 Multi-family Dwelling***

(A) Intent. The following minimum standards are intended to accommodate multi-family dwellings, ensuring adequate separation and other design characteristics to create a safe and healthy residential environment while protecting adjoining uses which are less intensive.

(B) General standards:

1. Minimum front yard setback: Thirty (30) feet from any street right-of-way for all structures.
2. Minimum side yard setback: Twenty (20) feet for principal structures.
3. Minimum rear yard setback: Twenty-five (25) feet for principal structures.
4. Additional setbacks in the form of a buffer yard shall be required in accordance with Section 286-512, where the property adjoins a less intensive zoning district.
5. Each multi-family building shall be separated by forty (40) feet between facing living areas. This separation may be reduced to twenty (20) feet when both multi-family buildings contain facing windowless walls.

6. Where buildings are placed at right angles (ninety (90) degrees) to one another and both interior walls are windowless, the minimum separation of buildings shall be twenty (20) feet.
7. Minimum standards for open space and recreational areas required below:
  - a. Shall be in addition to any buffer yard required under Section 286-512 of this chapter;
  - b. Shall be in addition to and not be located in any required front, side or rear yard setback;
  - c. Shall have a minimum width of fifty (50) feet or more, except that areas with a minimum width of at least twenty (20) feet or more shall be counted as open space provided such areas contain facilities such as, but not limited to, bikeways, exercise trails, tot lots, gazebos, picnic tables, etc.;
  - d. Shall not include proposed street rights-of-way, open parking areas, driveways, or sites reserved for other specific uses; and,
  - e. Shall be of an appropriate nature and location to serve the residents of the multi-family development.
8. Provisions must be made for vehicular access and turn around for regularly scheduled service vehicles such as trash collection.
9. All multifamily dwellings shall be served by public sewer and water.

(C) Additional standards in the RH District:

1. Minimum lot size: Twenty thousand (20,000) square feet for the first dwelling unit, plus two thousand five hundred (2,500) square feet for each additional unit.
2. When adjoining a lot containing a single family dwelling, a Type C buffer yard as described in Section 286-512 shall be provided.
3. Minimum common open space and recreational areas required: 10 percent of the total lot area for parcels up to five (5) acres, and 20 percent for parcels over five (5) acres.
4. The principal means of access to a multi-family dwelling development containing more than four dwelling units per acre shall be from a thoroughfare designated as a Collector, Minor Arterial or major Arterial by the most current Virginia Department of Transportation (VDOT)

Functional Classification system. Such access shall not be from a local street.

5. Secondary access to a local residential street may be permitted by the Administrator only in cases where there are overriding factors of health or safety for residents or where the arrangement and condition of local streets are such that the projected increase in traffic will not substantially affect the use and enjoyment of the street by residents.

(D) Additional standards in the BB and GB districts.

1. The multi-family use shall be allowed only in the same structure as, and in conjunction with, an associated civic, office or commercial use type.
2. The civic, office or commercial use type must occupy at least fifty (50) percent of the gross floor area of the structure.

***Section 286-404.24 Single Family, Attached***

(A) Intent. The following provisions are intended to offer greater flexibility in providing a variety of housing options to meet the changing demands and needs of the public. The standards below are intended to accommodate new developments of attached single family dwellings, as well as to allow attached single family dwellings as in-fill development on scattered sites in existing residential areas.

(B) General standards within a common development containing three (3) or more acres:

1. The minimum lot size, frontage and front and rear yard setbacks required in the district regulations may be reduced up to twenty (20) percent, however the normal front, rear, and side yard setback requirement must be maintained adjacent to any lot or public street or right-of-way not within the common development; or not otherwise designated for zero lot line use. The twenty (20) percent road frontage reduction does not apply to parcels with frontage in a cul-de-sac bulb.
2. Minimum side yard opposite the common lot line between two (2) attached dwellings: Ten (10) feet.
3. Maximum building coverage: Forty (40) percent of the lot.
4. A copy of the approved subdivision plat shall be submitted to the Administrator. The Administrator shall make the appropriate notation on the official zoning map that the affected lots have been approved for attached dwellings.

(C) General standards on existing lots or in new developments containing less than three (3) acres:

1. Minimum side yard opposite the common lot line between two (2) attached dwellings: Ten (10) feet.

(D) Public street frontage shall not be required for any proposed lot of record platted for single family attached development within R-H districts.

***Section 286-404.28 Single Family, Detached***

(A) In the RL District the following standard shall apply.

1. No single family dwelling shall be erected in an RL District having a floor area of less than 1,100 square feet. This minimum area shall be exclusive

***Section 286-404.32 Temporary Family Health Care Structures***

(A) In the RL District the following standards shall apply.

1. A zoning permit shall be required prior to locating any temporary family health care structure on the lot.
2. The temporary family health care structure shall be primarily assembled at a location other than its site of installation.
3. The construction of the temporary family health care structure shall comply with applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code.
4. The temporary family health care structure shall comply with all setback requirements that apply to the primary structure.
5. The temporary family health care structure shall be no more than 300 gross square feet in size.
6. The temporary family health care structure shall not have a permanent foundation.
7. Only one temporary family health care structure shall be allowed on a lot or parcel of land.

8. The temporary family health care structure shall only be located on property owned or occupied by the caregiver as his residence as a permitted accessory use to a single-family detached dwelling.
9. The temporary family health care structure shall be required to connect to public water, sewer, and electric utilities and shall comply with all applicable requirements of the Virginia Department of Health.
10. No signage advertising or otherwise promoting the existence of the temporary family health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
11. Occupancy of the temporary family health care structure shall be limited to one occupant who shall be a mentally or physically impaired person.
12. The temporary family health care structure shall be removed from the property within 30 days if is no longer occupied by a mentally or physically impaired person.

***Section 286-404.36 Townhouses***

(A) Intent. It is the intent of this section that townhouses be allowed in areas where they are or may be appropriately intermingled with other compatible types of housing. The purpose of the following design standards is to ensure the efficient, economical, comfortable and convenient use of land and open space and serve the public purposes of zoning by providing an alternative to conventional arrangements of yards and buildable areas.

(B) General standards.

1. All townhouse developments shall be served by public sewer and water.
2. The facades of townhouses in a group shall be varied by changed front yards and variations in design so that no more than four (4) abutting townhouses will have the same front yard setback and the same or essentially the same architectural treatment of facades and roof lines.
3. The minimum separation between any building containing a group of five (5) or more townhouse units shall be forty (40) feet from any other townhouse building. The minimum separation between any building containing a group of four (4) or less townhouse units shall be twenty (20) feet from any other building containing a group of four (4) or less townhouses.

4. The height of all townhouses shall be limited to forty-five (45) feet. Accessory buildings shall not exceed fifteen (15) feet.
5. Accessory structures for townhouse units shall be permitted only in rear yard areas and shall occupy no more than 20% of the rear yard area.
6. Only one yard, either the front yard or the rear yard, or in the case of an end unit, the side yard, shall be improved with a driveway or other impermeable surface intended for the storage of motor vehicles or for access to a garage, or other parking areas.
7. The maximum building and lot coverage requirements applying to townhouses shall be computed for the site of the entire development.
8. Public street frontage shall not be required for any proposed lot of record platted for townhouse development within RH districts.
9. Provisions shall be made for vehicular access and turn around for regularly scheduled service vehicles such as trash collection.

(C) Additional standards in the RM district:

1. Maximum gross density: Eight (8) townhouse units per acre.
2. Minimum parcel size: Twenty thousand (20,000) square feet for the first dwelling unit, plus five thousand five hundred forty-five (5,500) square feet for each additional unit.
3. Front yard setbacks for each group of townhouse units: an average of twenty (20) feet, and not be less than eighteen (18) feet for any individual townhouse unit. No common parking area, common driveway or street right-of-way shall be permitted within the required front yard area.
4. A side yard setback of fifteen (15) feet shall be provided for each end residence in any group of townhouses adjoining a property boundary of the development, or a street right-of-way, private drive, parking area or walkway intended for the common use of townhouse occupants.
5. Minimum rear yard setback: Twenty-five (25) feet.
6. Minimum lot size for individual townhouse lots: Two thousand (2,000) square feet for interior lots and two thousand five hundred (2,500) square feet for end lots.

7. Minimum width for individual townhouse lots: Twenty (20) feet, measured from center of wall to center of wall, or outside of end wall.
8. Maximum number in a group or block of townhouses: Four (4) townhouse units.
9. The maximum building and lot coverage shall comply with the requirements for the RM district.
10. When a townhouse development adjoins a single family dwelling, a Type C buffer yard as described more fully in Section 286-512 shall be provided.

(D) Additional standards in the RH district:

1. Maximum gross density: Twelve (12) townhouse units per acre.
2. Minimum parcel size: Seven thousand two hundred (7,200) square feet for the first dwelling unit, plus three thousand six hundred (3,600) square feet for each additional unit.
3. Front yard setbacks for each group of townhouse units: an average of twenty (20) feet, and not be less than eighteen (18) feet for any individual townhouse unit. No common parking area, common driveway or street right-of-way shall be permitted within the required front yard area.
4. A side yard setback of fifteen (15) feet shall be provided for each end residence in any group of townhouses adjoining a property boundary of the development. Where a group of townhouses adjoin a private drive or parking area or walkway intended for the common use of townhouse occupants, the side yard setback shall be ten (10) feet.
5. Minimum rear yard setback: Twenty-five (25) feet.
6. Minimum lot size for individual townhouse lots: Two thousand (2,000) square feet for interior lots and two thousand five hundred (2,500) square feet for end lots.
7. Minimum width for individual townhouse lots: Eighteen (18) feet, measured from center of wall to center of wall or outside end wall.
8. Maximum number in a group or block of townhouses: Eight (8) townhouse units.
9. Maximum coverage for townhouse developments:

- a. Building coverage: Thirty-five (35) percent.
- b. Lot coverage: Sixty (60) percent.

## **Section 286-406      Civic Use Types**

### ***Section 286-406.04 Cemetery***

#### **(A) General standards:**

1. Minimum parcel size: Ten (10) acres.
2. No internment shall occur within twenty-five (25) feet of the property line.

(B) Any cemetery associated with a place of religious assembly shall be exempt from the general standards above, and the necessity of obtaining a special exception permit provided the following:

1. The owners of any residence located within two hundred fifty (250) feet, excluding residences separated by a public street, consent in writing to the proposed cemetery; and
2. The cemetery is located at least three hundred (300) feet from any private well or any public property containing a well used in connection with a public water supply.
3. The location is legally recorded and, in the opinion of the Administrator, sufficiently documented to adequately inform prospective and future property owners of the presence and location of such cemetery.

### ***Section 286-406.08 Clubs***

#### **(A) General standards:**

1. When a club adjoins a residential use type, a Type C buffer yard in accordance with Section 286-512 shall be provided along the property line which adjoins the residential use type.

### ***Section 286-406.12 Community Recreation***

#### **(A) General standards:**

1. Any outdoor activity area, swimming pool, or ball field or court which adjoins a residential use type shall be landscaped with one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed, large evergreen trees shall be required.

**Section 286-406.16 Educational Facility College/University**

(A) General standards:

1. Any outdoor activity area, swimming pool, ball field or court which adjoins a residential use type shall be landscaped with one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed, large evergreen trees shall be required.
2. Any area constructed in conjunction with an educational facility intended for the overnight storage of buses, trucks, or large equipment or vehicles which adjoins a residential use type shall be landscaped with a minimum six foot high screen and one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed a minimum six foot high screen and large evergreen trees shall be provided along the property line adjoining the residential use type.

**Section 286-406.20 Educational Facility Primary/Secondary**

(A) General standards:

1. Any outdoor activity area, ball field or court, or stadium which adjoins a residential use type listed in Section 286-404 shall be landscaped with a minimum of one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed, large evergreen trees shall be required.
2. Any area constructed in conjunction with an educational facility intended for the overnight storage of buses, trucks, or large equipment which adjoins a residential use type listed in Section 286-404 shall be landscaped with a minimum of one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas adjoins residential use types listed in Section 286-404 the areas shall be landscaped with a Type C buffer yard as specified in Section 286-512 of this chapter with large evergreen trees.

**Section 286-406.24 Family Day Care Home**

(A) General standards:

1. Family day care homes, where applicable, shall comply with the Minimum Standards for Family Day Care Homes established by the Virginia Department of Social Services, as may be amended.

2. When a license is required, a copy of the license to operate a family day care home, approved by the Virginia Department of Social Services, shall be presented to the Administrator prior to the issuance of a business license or certificate of zoning compliance to operate a family day care home.

***Section 286-406.28 Public Parks and Recreational Areas***

(A) General standards:

1. Any outdoor activity area, ball field or court, or stadium which adjoins a residential use type shall be landscaped with a minimum of one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed large evergreen trees shall be required.

***Section 286-406.32 Religious Assembly***

(A) General standards:

1. Any outdoor activity area, swimming pool, ball field or court which adjoins a residential use type shall be landscaped with a minimum of one row of small evergreen trees in accordance with Section 286-512 along the property line adjoining the residential use type. Where night-time lighting of such areas is proposed large evergreen trees shall be required.
2. When a place of religious assembly adjoins a residential use type, a Type C buffer yard in accordance with Section 286-512 shall be provided between the parking area(s) and the residential use type.

(B) In the RL and RM districts, the following standards shall apply:

1. The minimum lot size shall be 2 acres
2. The maximum building coverage shall be twenty (20) percent and the maximum lot coverage fifty (50) percent of the total lot area.

***Section 286-406.36 Safety Service***

(A) General standards:

1. When a safety service establishment adjoins a residential use type, a Type C buffer yard in accordance with Section 286-512 shall be provided along the property line which adjoins the residential use type.

**Section 286-406.40 Utility Services, Major**

(A) General standards:

1. In considering an application for a special exception permit, the Planning Commission and City Council shall consider the justification for the location of the proposed utility service and any alternative locations which may be available.
2. The minimum district lot size may be reduced as part of approval of the special exception permit provided all setback and yard requirements are met and all other dimensional requirements are achieved.
3. The height limitation contained in each district may be increased as part of the approval of the special exception permit.
4. No major utility service shall be located within one hundred (100) feet of an existing residence.
5. Except in the IN districts, outdoor storage of materials and equipment, except during construction of the utility facility, shall be prohibited in association with a major utility service, unless specifically requested and approved as part of the special exception permit. In the IN districts outdoor storage areas shall comply with the screening provisions contained in Section 286-512.
6. Buildings and facilities shall be designed and constructed to be compatible with the surrounding area, so that these facilities or structures will not adversely affect nearby properties.
7. Type C screening and buffering consistent with Section 286-512 of this chapter shall be required, unless specifically modified as a part of the approved special exception permit.

**Section 286-408 Office Use Types (Reserved)**

**Section 286-410 Commercial Use Types**

**Section 286-410.04 Adult Use**

(A) General standards:

1. Sexually explicit material shall not be displayed in the windows of adult businesses. Further, adult merchandise as defined in Section 286-200, shall not be visible from any point outside the establishment.
2. Signs or attention-getting devices for the business shall not contain any words or graphics depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in Section 286-200.
3. All off-street parking areas of the adult use shall be illuminated from dusk to closing. Adequate lighting shall also be provided for all entrances and exits serving the adult use, and all areas of the establishment where the adult use is conducted, except for the private rooms of an adult motel or the movie viewing areas in an adult movie theater. "Adequate lighting" means sufficient lighting for clear visual and security camera surveillance.
4. No adult use shall be located within 1000 feet of any family day care home, educational facility, primary/secondary; educational facility, college/university; residential use type; nursing home; assisted care residence; public park and recreation area; cultural service; religious assembly; hotel/motel/motor lodge; or any other adult use.

***Section 286-410.08 Automobile Dealership, New***

**(A) General standards:**

1. Outdoor vehicle display areas in conjunction with automobile sales shall be constructed of the same materials required for off-street parking areas.
2. The storage and/or display of motor vehicles in the parking area planting strip required by Section 286.512 shall be prohibited.
3. Exterior display or storage of new or used automobile parts is prohibited.
4. Body and fender repair services are permitted as an accessory use provided:
  - a. The area devoted to such services do not exceed twenty (20) percent of the gross floor area.
  - b. The repair facilities are at least one hundred fifty (150) feet from any adjoining residential district.
  - c. Any spray painting takes place within a structure designed for that purpose and approved by the Colonial Heights Fire and EMS Department.

- d. Any vehicle awaiting body repair or painting, or missing major mechanical or body parts, or substantially damaged shall be placed in a storage yard. The storage yard shall be fully screened from public view and shall be set back at least one hundred (100) feet from any adjoining residential district.

***Section 286-410.12 Automobile Dealership, Used***

(A) General standards:

1. Outdoor display areas in conjunction with automobile sales shall be constructed of the same materials required as required for off-street parking areas.
2. The storage and/or display of motor vehicles in the parking area planting strip required by Section 286- 510.512 shall be prohibited.
3. Exterior display or storage of new or used automobile parts is prohibited.
4. Any vehicle which is missing major mechanical or body parts or has been substantially damaged shall be placed in a storage yard. The storage yard shall be fully screened from public view and shall be set back at least one hundred (100) feet from any adjoining residential district.

***Section 286-410.16 Automobile Repair Services, Major***

(A) General standards:

1. All vehicles stored on the premises shall be placed in a storage yard fully screened from public view and shall be set back at least one hundred (100) feet from any adjoining residential district.
2. Body and fender repair services shall be subject to the following:
  - a. The repair facilities are at least one hundred fifty (150) feet from any adjoining residential district.
  - b. Any spray painting takes place within a structure designed for that purpose and approved by the Colonial Heights Fire and EMS Department.
3. Exterior display or storage of new or used automobile parts is prohibited.

***Section 286-410.20 Automobile Repair Services, Minor***

(A) General standards:

1. Exterior display or storage of new or used automobile parts is prohibited.

2. Equipment and vehicles stored on the premises shall be behind the front building line or at least thirty-five (35) feet from the public right-of-way, whichever is greater.

***Section 286-410.24 Bed and Breakfast***

(A) General standards:

1. The owner or owner's family shall reside on the same parcel occupied by the bed and breakfast establishment.
2. No more than five (5) guest sleeping rooms shall be utilized for a bed and breakfast establishment. The maximum number of guest occupants shall not exceed sixteen (16) guests. These limits may be exceeded provided a special exception permit is approved by City Council.
3. Any building erected, enlarged or modified to accommodate a bed and breakfast shall maintain the appearance of a single family residence.
4. Guests may stay no more than thirty (30) consecutive nights in any one calendar year.
5. Meals shall be provided only to overnight guests and no cooking shall be permitted in guest rooms.
6. Required parking areas for guests and employees shall be provided on-site.

***Section 286-410.28 Car Wash***

(A) General standards:

1. All new car wash facilities, whether conveyor operated or self service, shall be equipped with a water recycling system for eighty-five (85) percent of the water used.

***Section 286-410.32 Construction Sales and Service***

(A) General standards:

1. The storage and/or display of goods and materials in the parking area planting strip required by Section 286-510.512 shall be prohibited.

***Section 286-410.36 Day Care Center***

(A) General standards:

1. All day care centers shall comply with the Minimum Standards for Day Care Centers established by the Virginia Department of Social Services, as

may be amended, unless specifically exempt from those minimum standards.

2. A business license or certificate of zoning compliance to operate a day care center shall be approved provided that a license to operate a day care center from the Virginia Department of Social Services is approved prior to beginning operation of the center. Failure to maintain a valid license approved by the Virginia Department of Social Services shall be considered a violation of this chapter.

***Section 286-410.40 Equipment Sales and Rentals***

(A) General standards:

1. The storage and/or display of goods and materials in the parking area planting strip required by Section 286.510.12 shall be prohibited.

***Section 286-410.44 Garden Center***

(A) General standards:

1. The storage and/or display of goods and materials in the parking area planting strip required by Section 286-510.512 shall be prohibited.

***Section 286-410.48 Itinerant Merchant***

(A) General Standards

1. The property owner shall grant written permission for the itinerant merchant to conduct business on his property;
2. Only one itinerant merchant per property is allowed at any one time;
3. The Commissioner of the Revenue shall issue each itinerant merchant only one business license per calendar year pursuant to Section 187-3 of the City Code, and 30 consecutive days shall be the maximum time for each transient use per calendar year;
4. Any time period for which a merchant receives a business license shall be counted in consecutive days;
5. Temporary offices, trailers, tents, or trucks are permitted, provided they do not disrupt traffic flow on the property or interfere with visibility for vehicle access to the site or vehicle movements on the site;

6. All business activities shall take place on private property;
7. Signage and lighting shall comply with the provisions of this chapter;
8. A concept plan showing the location of all activities shall be submitted to and approved by the Administrator before a business license is issued; and
9. All fixtures, equipment or any other structural elements of the business shall be immediately removed from the site once the license expires.

***Section 286-410.52    Kennel, Commercial***

(A) General standards:

1. Each commercial kennel shall install and operate a kennel silencer.
2. Animal waste shall be disposed of in a manner acceptable to the Health Department
3. Crematoria or land burial of animals in association with a commercial kennel shall be prohibited.
4. All outdoor runs, training areas and pens associated with a commercial kennel shall be set back a minimum of one hundred (100) feet from any property line.

***Section 286-410.56    Manufactured Home Sales***

(A) General standards:

1. The storage and/or display of manufactured homes in the parking area planting strip required by Section 286-510.512 shall be prohibited.
2. The storage of manufactured homes on the premises which are not suitable for occupancy shall be prohibited.

***Section 286-410.60    Mini-warehouse***

(A) General standards:

1. The minimum front yard setback shall be thirty-five (35) feet.
2. No security fencing, security gate or other obstruction to vehicle access shall be permitted in the required front yard setback or in any buffer yard required pursuant to Section 286- 512.

3. All interior driveways shall be at least twenty-six (26) feet wide when cubicles open onto one side only and at least thirty (30) feet wide when cubicles open onto both sides to accommodate loading and unloading at individual cubicles. Adequate turning radiiuses shall be provided, where appropriate, for a thirty-foot long single unit truck or moving van. All driveways and any other vehicle use or storage area shall be constructed of a hard surface such as asphalt bituminous concrete.
4. No door openings for any cubicle shall be constructed facing any residentially zoned property or any public right of way.
5. The following uses shall be prohibited:
  - a. The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment.
  - b. The operation of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment.
  - c. The storage of flammable, highly combustible, explosive or hazardous materials shall be prohibited.
6. Outdoor storage areas shall be used for the storage of motor vehicles, trailers, and recreational vehicles only. All outdoor storage areas shall be thoroughly screened from adjoining properties.
7. Accommodations for a live-in manager shall be permitted.

***Section 286-410.64 Personal Services***

(A) General Standards:

1. Massage Clinics/Massage Therapists shall comply with the procedures and standards contained in Chapter 193 of the City Code.

***Section 286-410.68 Recreational Vehicle Sales and Service***

(A) General standards:

1. The storage and/or display of recreational vehicles in the parking area planting strip required by Section 286.510.512 shall be prohibited.
2. Any recreational vehicle which is missing major mechanical or body parts or has been substantially damaged shall be placed in a storage yard. The storage yard shall be fully screened from public view and shall be set back at least one hundred (100) feet from any adjoining residential district.
- 3.

***Section 286-410.72 Studio, Tattoo***

(A) General Standards

1. A tattoo studio shall be licensed pursuant to City Code § 187-18.
2. Anyone engaging in tattooing, and the operator of a tattoo studio, shall be a member in good standing of the Alliance of Professional Tattooists, Inc. (APT).
3. No tattoo studio shall be located within 500 feet of any other tattoo studio, private or public school, family day care home, public park and recreational area, religious assembly, governmental service, or any property zoned or used for residential purposes.
4. Any special exception permit granted for a tattoo studio shall be valid only for the applicant to whom it is granted, and such permit shall not run with the land or be transferable.

***Section 286-412 Industrial Use Types***

***Section 286-412.04 Construction Yard***

(A) General standards

1. All materials stored on the premises shall be placed in a storage yard. The storage yard shall be fully screened from surrounding views in accordance with Section 286 -512 and shall be set back at least one hundred (100) feet from any adjoining residential district.

***Section 286-412.08 Custom Manufacturing***

(A) General standards:

1. All activities associated with a custom manufacturing establishment, other than loading and unloading, shall be conducted within an enclosed building.

***Section 286-412.12 Recycling Centers and Stations***

(A) General standards:

1. Where receptacles for recyclable materials are located outside of a building, they shall be located so as to not disrupt or interfere with on site traffic circulation, required fire lanes or required parking or stacking areas.
2. A specific circulation pattern shall be established to provide safe and easy access to recycling receptacles. Adequate space shall be provided for the unloading of recyclable materials.

3. A regular schedule for picking up recycled materials shall be established and maintained.
4. The site shall be maintained free of litter.
5. Where receptacles for recyclable materials are located outside of a building, they shall be screened from public view in accordance with Section 286-512

## **Section 286-414      Miscellaneous Use Types**

### ***Section 286-414.04 Amateur Radio Tower.***

#### **(A) General standards:**

1. An amateur radio tower shall be considered an accessory structure and shall comply with the minimum setback requirements for the respective zoning district.
2. The minimum setback requirement from the base of the tower to any residential structure on an adjoining lot shall be at least equal to forty (40) percent of the height of the tower, measured from the closest structural member of the tower (excluding guy wires). Guy lines shall be exempt from the minimum setback requirements in side and rear yards for the respective zoning district, but shall comply with the setback requirements for the front yard.
3. More than one tower shall be permitted provided all setback requirements have been met.
4. Towers shall be illuminated as required by the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC), but no lighting shall be incorporated if not required by either agency.

#### **(B) In all residential, commercial and industrial zoning districts where amateur radio towers are permitted the following additional standards shall apply:**

1. The maximum height permitted for an amateur radio tower shall be seventy-five (75) feet. Any tower which exceeds this height may be permitted only after obtaining a special exception permit in accordance with Section 286-622 of this chapter and the additional criteria established under (C) for such permits below.

#### **(C) Where a special exception permit is requested, the following criteria shall be considered:**

1. In accordance with the FCC's Memorandum Opinion and Order in PRB-1 also known as "Amateur Radio Preemption," 101 FCC2d 952 (1985), local regulation of amateur radio towers shall consider the following:
  - a. The FCC, in regulating and licensing amateur radio stations and operators, is operating under basic federal objectives which preempt certain local regulations which preclude amateur communications;
  - b. Restrictions on the placement, screening, or height of towers based on health, safety or aesthetic considerations must reasonably accommodate amateur communications.
  - c. Restrictions must represent the minimum practicable regulation to accomplish the purpose of the district in which the tower is proposed, as well as the purpose of this chapter as contained in Section 286-104.
2. The specific height of the amateur radio tower shall be established as a condition of the special exception permit.

***Section 286-414.08 Park and Ride Facility***

(A) General standards:

"A park and ride facility containing fifteen (15) or more spaces shall include landscaped medians, peninsulas or planter islands. Such landscaped areas shall constitute no less than ten (10) percent of the total paved area. They shall be planned, designed and located to channel traffic flow, facilitate storm water management, and define and separate parking areas and aisles. Each landscaped area shall be planted with a deciduous tree with a minimum caliper of one inch at the time of planting in accordance with Section 286-512."

***Section 286-414.12 Parking Facility, Surface/Structure***

(A) General standards:

"A parking facility, surface/structure containing fifteen (15) or more spaces shall include landscaped medians, peninsulas or planter islands. Such landscaped areas shall constitute no less than ten (10) percent of the total paved area. They shall be planned, designed and located to channel traffic flow, facilitate storm water management, and define and separate parking areas and aisles. Each landscaped area shall be planted with a deciduous tree with

a minimum caliper of one inch at the time of planting in accordance with Section 286-512.”

***Section 286-414.16 Tower***

**(A) General Standards**

1. The intent of these provisions is to regulate the placement of new and replacement towers within Colonial Heights. These policies and standards shall be used by applicants as a guide when selecting alternative tower sites and tower designs within the City. In addition, the City staff, Planning Commission and City Council shall use these policies and standards, plan and the general special exception permit criteria found in Section 286-622 as a guide for evaluating any future requests for towers.

It is the official policy of the City to encourage and promote the collocation of antennas on existing public and private structures. To achieve this end, the City encourages all wireless communication providers to locate new antennas on existing structures. Permits for new towers shall only be requested when no other reasonable alternative exists for locating needed antennas. The use of stealth designs shall be considered for any new tower.

2. The maximum height of any proposed tower and associated antenna shall be made as a condition of the special exception permit, but in no case shall any tower and antenna exceed one hundred ninety-nine (199) feet in height.
3. The setback for any proposed tower shall, at a minimum, conform to the requirements for principal structures for the proposed zoning district. However, in no case shall the minimum setback from the base of the tower to any residential structure on an adjoining lot be less than forty (40) percent of the height of the tower, measured from the closest structural member of the tower (excluding guy lines). Guy lines shall be exempt from the minimum setback requirements in side and rear yards for the respective zoning district, but shall comply with the setback requirements for the front yard.
4. The minimum setback from any property line abutting a road right-of-way for any other building or structure associated with a tower shall be fifty (50) feet. Such buildings or structures shall be located a minimum of twenty-five (25) feet from any other property line.
5. More than one (1) tower shall be permitted on a lot provided all applicable requirements have been met including setback requirements.

6. Towers shall not be illuminated with any type of lighting apparatus, unless such lighting is a requirement of the FAA or FCC. Security lighting, of a "down lighting" design may be installed on buildings and structures associated with a tower. In no case shall any lighting violate Section 286-530.02 of this chapter.
7. Any tower approved shall be structurally designed to carry sufficient loading, and the site approved shall be sized to accommodate the additional equipment necessary for at least three (3) other vendors/providers of communications services in order to minimize the proliferation of new towers in the vicinity of the requested site. In addition, by applying for and being granted the special exception permit, the applicant and the owner of the land agree to make the tower and tower site available for additional leases within the structural capacity of the tower and at reasonable costs adequate to recover the capital, operating and maintenance costs of the tower location required for the additional capacity.
8. A monopole tower design is recommended. The City Council may approve an alternative tower design if it finds that an alternative type of structure has less of a visual impact, and/or based upon accepted technical and engineering data a monopole design is not technically feasible. Cost shall not be a criterion for determining tower design.
9. By applying and being granted the special exception permit, the applicant and the owner of the land agree to dismantle and remove the tower and associated facilities from the site within ninety days of the tower no longer being used for wireless communications. Dismantling and removal from the site shall only be required after notice by the City. If antennas on any approved tower are relocated to a lower elevation, the tower shall be shortened to the height of the highest antenna. A bond or similar performance guarantee may be required as part of the special exception permit approval. Such guarantee will be in an amount sufficient to ensure removal of the tower and all associated facilities and restore the property, road, and access and utility corridors to a condition that existed prior to tower construction.
10. All tower structures and associated hardware, antennas, and facilities shall be a flat matted finish so as to reduce visibility and light reflection unless otherwise required by the FCC or FAA.
11. No business signs shall be allowed on the property identifying the name of, or services offered by, any business associated with the tower

(B) Applicability.

1. These standards shall apply to all new and replacement towers within Colonial Heights with the exception that new and replacement towers and associated antenna not exceeding thirty (30) feet in height and located within any commercial or industrial zoning district shall be permitted by right provided:
  - a. The proposed tower is a monopole type design;
  - b. The general area of the proposed tower is currently served by above ground utilities including electric power and telephone poles; and
  - c. All other use and design standards for the construction of the tower and associated facilities are met.
2. No modification to increase the height, size, type or location of any existing tower or associated facilities, excluding antennas, shall be made unless such modification results in the full compliance of the tower and facilities with all of the requirements of this chapter.
3. Antennas may be installed on any existing structure within the City, without the necessity of obtaining a special exception permit, provided said antenna does not meet the definition of a tower, does not increase the height of the existing structure more than ten (10) feet, and does not result in the structure and antenna exceeding the maximum structure height for that zoning district.
4. These provisions shall not apply to any temporary tower erected for the purpose of system design or testing provided the temporary tower is erected for a period not to exceed twenty-one (21) days. In addition, in declared local emergency situations, the Administrator shall be authorized to allow the temporary installation of a tower for the duration of the local emergency. A zoning permit pursuant to Section 286 – 606 of this chapter shall be applied for and approved prior to erecting any temporary or emergency tower.

(C) Application requirements:

1. A tower maybe approved only pursuant to a special exception permit granted by the City Council pursuant to Section 286-622.
2. All potential applicants for towers shall consult with City planning staff at least thirty (30) days prior to submitting an application for a proposed

tower. During this consultation the applicant shall present information to the staff on system objectives, proposed coverage areas, and alternative sites considered and rejected. The staff shall provide the potential applicant information on Colonial Heights policies and standards for towers, and shall discuss with the applicant possible alternatives to tower construction.

3. In addition to the application requirements contained in Section 286-622 of this chapter, all applicants for towers shall provide the following at the time of application:
  - a. The location of all other proposed tower sites considered and rejected, and the specific technical, legal or other reasons for the rejection.
  - b. The location of all other possible collocation sites considered and rejected, and the specific technical, legal or other reasons for the rejection.
  - c. Accurate, to scale, photographic simulations showing the relationship of the proposed tower and associated antenna to the surroundings.
  - d. A computerized terrain analysis or other information showing the visibility of the proposed tower and antenna at the requested height and location. If new or modified road, access or utility corridors are proposed, the terrain analysis shall also show the visibility of these new or modified features.
  - e. Information on how the proposed site relates to the applicants existing communication system, including number of other sites within the Tri-Cities area and the location of the antenna at each site.
  - f. All tower applicants shall be required, at their expense to conduct an on-site "balloon" or comparable test prior to the Planning Commission and City Council hearings on the special exception permit. The purpose of this test shall be to demonstrate for any interested party the potential visual impact of the proposed tower. The dates and periods of these tests shall be established with the applicant at the pre-application consultation.
  - g. Written verification that all required submittals to the FAA have been submitted.

4. The applicant shall be responsible for all fees imposed by the City associated with the filing of the application and the reasonable cost of any independent analysis deemed necessary by the City to verify the need for the new tower.

## ARTICLE V

## DEVELOPMENT STANDARDS

### **Section 286-500 Accessory Uses and Structures**

(A) As defined in Section 286-200, accessory uses and structures may be associated with principal use types. Principal uses which are allowed by right or by special exception may include accessory uses and activities, provided such accessory uses and activities are appropriate and incidental to the principal use, and provided they are designed and located in accord with the intent and provisions of this chapter.

### **Section 286-500.02 Accessory Uses: Agricultural Use Types**

(A) Agricultural use types may include uses and activities necessarily and customarily associated with the purpose and function of permitted agricultural use types, as determined by the Administrator.

### **Section 286-500.04 Accessory Uses: Residential Use Types**

(A) Residential use types may include the following accessory uses, activities or structures on the same site or lot:

1. Private garages and parking for the principal use.
2. Recreational activities and uses used by residents, including structures necessary for such uses.
3. Playhouses, gazebos, incidental household storage buildings, swimming pools, and other similar accessory structures.
4. Other uses and activities necessarily and customarily associated with purpose and function of residential use types, as determined by the Administrator.
5. Construction trailer associated with active construction on a site. A construction ~~or~~ trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

### **Section 286-500.06 Accessory Uses: Civic Use Types**

(A) Civic use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory dwellings commonly associated with or necessitated by the location and operation of the principal use.

3. Food services operated incidental to the principal use and operated primarily for the convenience of employees, residents or users of the principal use. Typical examples include cafeterias, and dining halls.
4. Convenience commercial facilities clearly incidental to the principal use and operated primarily for the convenience of employees, residents, and users of the principal use. Typical examples include museum gift shops, college bookstores, or snack bars clearly incidental to the principal use.
5. Other uses and activities necessarily and customarily associated with purpose or function of civic use types, as determined by the Administrator.
6. A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

#### **Section 286-500.08 Accessory Uses: Office Use Types**

(A) Office use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the office use type.
3. Day care facilities available only to the employees of the office use type.
4. Other uses and activities necessarily and customarily associated with purpose or function of office use types, as determined by the Administrator.
5. A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

#### **Section 286-500.10 Accessory Uses: Commercial Use Types**

(A) Commercial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Accessory storage buildings or areas.

3. Other uses and activities necessarily and customarily associated with purpose or function of commercial use types, as determined by the Administrator.
4. Construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

**Section 286-500.12 Accessory Uses: Industrial Use Types**

(A) Industrial use types may include the following accessory uses, activities or structures on the same site or lot:

1. Parking for the principal use.
2. Recreational facilities available only to the employees of the industrial use type.
3. Day care facilities available only to the employees of the industrial use type.
4. Cafeterias and sandwich shops available only to the employees of the industrial use type.
5. Incidental retail sale of goods associated with the industrial use type, provided the square footage does not exceed ten (10) percent of the gross floor area or three thousand (3,000) square feet, whichever is less.
6. Other uses and activities necessarily and customarily associated with purpose or function of industrial use types, as determined by the Administrator.
7. A construction office or trailer associated with active construction on a site. A construction office or trailer shall be removed from an active construction site within 30 days of issuance of the final certificate of occupancy for the project.

## **Section 286-506      Site Plan Review**

(A) The purpose of this section is to provide for the submission of appropriate site plans and to enable adequate opportunity for administrative review of such to ensure compliance with the provisions of this chapter.

(B) A site plan shall be required and shall be submitted to the City for each of the following:

1. All new development in every zoning district except for single family and duplex dwellings.
2. Additions or modifications to buildings or sites, except single-family and duplex dwellings, if the addition or modification results in twenty five hundred 2,500 square foot or greater increase in impervious surface area of the site.
3. The conversion of any property from fee simple ownership to a condominium form of ownership.

(C) All required site plans shall be prepared and sealed by a professional engineer, architect, landscape architect, or land surveyor B, who is registered by the Commonwealth of Virginia.

(D) A plot plan that meets the standards contained in Section 286-530.04 shall be required for all uses or development not requiring a site plan.

## **Section 286-506.02   Pre-Application Conference**

(A) A preliminary site plan applicant shall schedule a pre-application conference with the Administrator. The purpose of the pre-application conference is to informally review the proposed preliminary site plan to determine ways to minimize the environmental and natural resource impacts of the proposed development and any other issues and concerns that may emerge as part of the formal review of the site plan. The Administrator's and other staff comments on the proposed preliminary site plan shall be informal, and shall not constitute a formal action on the application. Also, the time period for preliminary site plan approval shall not commence until after the pre-application conference, when the applicant files, and the City accepts, a completed preliminary site plan application

## **Section 286-506.04   Preliminary Site Plan Administrative Procedures and Requirements**

(A) The Administrator shall establish City procedures for preliminary site plan review and approval.

(B) The Administrator shall send written notice of the preliminary site plan submission to adjacent property owners by first class mail five (5) days prior to the Planning Commission meeting at which the site plan shall be considered.

(C) The Administrator shall coordinate the City review of any preliminary site plan submitted in accordance with City administrative procedures, and shall have the authority to request opinions or decisions from other City departments, agencies or authorities of the Commonwealth of Virginia, or from other persons as may from time to time be consulted.

(D) Complete sets of preliminary site plans shall be submitted for review. A review fee of \$300 shall be required for any preliminary site plan submitted. The City shall establish procedures for the collection of this fee and the Administrator shall establish the number of complete sets of plans the applicant shall submit.

(E) Applicants for preliminary site plan approval shall submit a preliminary site plan to the Administrator for review and approval prior to preparing a final site plan. The preliminary site plan shall show the general location of all existing and proposed land uses and site features. The Administrator shall prepare a check list of the minimum information and format that is to be required on a preliminary site plan and the applicant shall provide all information required by the checklist.

(F) The City staff shall review the preliminary site plan and shall advise the applicant whether or not the features and uses shown on the preliminary site plan conform to the provisions of this chapter and any other applicable City ordinance and requirements. If the features and uses shown on the preliminary site plan conform to the provisions of this chapter, the Administrator shall refer the preliminary plan to the Planning Commission for its review and approval. If the features and uses shown on the preliminary site plan do not conform to the provisions of this chapter, the Administrator shall advise the applicant in writing, and shall advise the applicant on what changes to the preliminary site plan are necessary prior to referral to the Planning Commission.

(G) The Planning Commission shall review, and approve or disapprove, any complete preliminary site plan submitted for its review within 60 days of the filing of the plan with the Planning Commission and the Planning Commission's acceptance of the plan. If the Planning Commission disapproves a preliminary plan, it shall notify the applicant of what changes must be made on the preliminary site plan before re-submittal to the Planning Commission for approval. If a plan must be reviewed by a state agency or other public authority, approval or denial shall occur within forty-five (45) days from the date of receipt of any agency response.

### **Section 286-506.06 Final Site Plan**

(A) Every final site plan shall be submitted in accordance with the requirements of this chapter. The final site plan shall show the location of all existing and proposed land uses and site features. The Director of Public Works shall prepare a check list of the minimum information and format that is to be required, and the applicant shall provide all information required by the checklist and by the Director of Public Works to insure conformance with City ordinances and standards. Plans which lack required information shall be deemed to be incomplete and shall be denied by the Director of Public Works or

his designees within 5 work days after initial submission. The developer may request reinstatement of review.

(B) A final site plan shall be submitted for approval within one (1) year of the approved preliminary site plan. Thereafter, the preliminary site plan shall expire.

(C) A final site plan applicant shall submit a review fee of \$750 plus \$35 per acre of the proposed development, not to exceed \$1,100. If such a plan is rejected or not approved by the Director of Public Works, the applicant need not submit an additional fee upon the first resubmittal of the plan. However, for a second or subsequent resubmittal, the applicant shall pay a fee of \$250 per resubmittal.

#### **Section 286-506.08 Format of Final Site Plans and Technical Information**

(A) Final site plans shall be prepared on such materials and format as the Director of Public Works may specify, with the number of copies that he prescribes.

(B) The final site plan shall reflect all those elements approved on the preliminary site plan. In addition, it shall include those specific construction plans and other technical information as determined by the Director of Public Works, and it shall provide for all improvements required pursuant to this code or other applicable laws.

#### **Section 286-506.10 Final Site Plan Administrative Procedures and Requirements**

(A) The Director of Public Works shall have the administrative authority to establish City standards and procedures for final site plan review and approval and shall have the authority to request opinions or decisions from other City departments, agencies or authorities of the Commonwealth of Virginia or from other persons as may from time to time be consulted.

(B) Complete sets of final site plans and other information shall be submitted on approved media for review. The Director of Public Works shall establish the number of complete sets of plans and other information the applicant shall submit.

(C) The Director of Public Works shall review, and approve or disapprove, any complete final site plan submitted for its review within 60 days of the filing of the final site plan with him and his acceptance of the plan. If a plan must be reviewed by a state agency or other public authority, approval or denial shall occur within forty-five (45) days from the date of receipt of any agency response.

(D) Approval of the final site plan pursuant to the provisions of this chapter shall expire five years from the date of approval in accordance with Section 15.2-2261 of the Code of Virginia, unless building and/or zoning permits have been obtained for the development.

(E) No building or zoning permit shall be issued by any City official for any building, structure or use depicted on a required final site plan, until such time as the plan is approved by the Director of Public Works.

(F) No change, revision, or erasure shall be made on any pending or approved final site plan, nor on any accompanying information where approval has been endorsed on the plan or sheets, unless authorization for such changes is granted in writing by the Director of Public Works prior to approving the change.

#### **Section 286-506.12 Minimum Standards and Improvements Required**

(A) Any improvement or dedication required by this chapter any other ordinance of the City shall be made at the sole cost of the property owner unless other agreements have been reached between him, the City, and/or any other governmental agency. In the City's sole discretion, the City may require payment equivalent to the cost of required improvements rather than actual construction of said improvements. In such cases, the City shall provide the required improvements within a specified time period.

(B) Prior to the approval of a final site plan, the applicant shall execute a development agreement to construct required or proposed improvements located within public rights-of-way or easements, or any such improvement connected to any public facility.

(C) Prior to issuance of a land disturbance permit, the applicant shall file a performance guarantee with surety acceptable to the City Attorney in the amount of the estimated cost of the improvements plus ten percent contingency, as determined by the Director of Public Works. The owner's performance guarantee shall not be released until the construction has been inspected and accepted by the Director of Public Works.

(D) Proposed lot sizes, buildings or uses shall conform to the provisions of this chapter. Nonconforming lots of record, buildings or uses may be developed in accordance with Section 286-624 of this chapter.

(E) Proposed private parking areas, travel lanes and access driveways shall be designed, located and constructed in accordance with Section 286- 518 of this chapter.

(F) Wastewater (sanitary) and water utilities shall be required and conform to Chapters 238 and 277 of the City Code and applicable City standards and specifications, as determined by the Director of Public Works. All utility plans shall be approved by the Director of Public Works ~~City~~ prior to any land disturbance activities. To the extent feasible, all new public utilities shall be located within public rights of way.

(G) Drainage and stormwater management facilities shall be required and conform to Chapter 245 of the City Code, and applicable City standards and specifications as determined by the Director of Public Works.

(H) Erosion and sedimentation control plans shall be designed and implemented in accordance with the provisions of Chapter 241 of the City Code. All areas proposed for clearing and or grading shall be limited in size and location to the minimum necessary to achieve the development proposed. The Director of Public Works shall have the authority

to determine and establish the limits of clearing and grading and to require that the limits of clearing and grading be shown on the final site plan and the final erosion and sedimentation control plan required by Chapter 241 of the City Code. All disturbed areas, including areas within temporary construction easements, shall be replanted and stabilized.

(I) Proposed private, exterior site lighting shall be designed and implemented in accordance with Section 286-530.02 of this chapter.

(J) Required buffer yards, screening and/or landscaping shall be designed and implemented in accordance with Section 286-512 of this chapter.

(K) All off-street parking shall be designed and implemented in accordance with Section 286-518 of this chapter.

(L) All private signage shall be designed and implemented in accordance with Section 286-524 of this chapter.

(M) Fire protection facilities and emergency access provisions shall be required and conform to the City fire code and standards as determined by the Fire Chief or his designee.

(N) Private bridges, retaining walls, handrails and other structures shall conform to the Uniform Statewide Building Code as determined by the Building Official.

(O) Police protection facilities and provisions shall conform to City safety codes and standards as determined by the Police Chief or his designee.

(P) Private wastewater and water systems shall conform to regulations promulgated by the Virginia Department of Health.

(Q) Transportation facilities shall be required and conform to applicable standards and specifications of the City as determined by the Director of Public Works.

(R) Traffic control measures and devices shall be required and conform to applicable standards and specifications of the City as determined by the Director of Public Works.

(S) Highway and street illumination shall be required and conform to applicable standards and specifications of the City as determined by the Director of Public Works.

(T) Rights-of-way for roads, streets, alleys and other facilities for public use (e.g., utilities and park areas), and easements necessary for their construction and maintenance, shall be dedicated to the City, or proof thereof shall be required to develop or use property.

(U) Private solid waste and recycling facilities, HVAC equipment and other mechanical systems shall be screened in accordance with Section 286-512.08.

(V) Private receptacles or dumpsters for collection and disposal of solid waste and recycling shall be located on paved pads of sufficient size to accommodate loading and unloading.

(W) Private landscaping shall conform to Section 286-512 of this ordinance and the provisions of the Boulevard Overlay District of this Chapter.

(X) A Phase I environmental site shall be required when the development involves any land disturbance for residential, assembly, day care, group home, recreation, school, library or similar use where exposure to contaminated soils or water would pose a threat to the public health, safety or welfare. The Phase I environmental site assessment shall conform to ASTM E1527 – 05 and subsequent revisions. Where deemed necessary, the Director of Public Works or designee shall require a Phase II environmental site assessment in accordance with ASTM E1903 - 97(2002) and subsequent revisions. The Phase I and Phase II reports shall include recommendations to address any and all environmental conditions of the property adverse to the public health, safety and welfare, including without limitation, contaminated soil, surface water or groundwater. In the event a Phase I and/or Phase II environmental site assessment has been previously submitted to the city for the same property, such environmental site assessment may suffice.

#### **Section 286-506.14 Construction to be in Accordance with Approved Final Site Plan**

(A) It shall be a violation of this zoning ordinance for any person to construct or structurally alter any building or structure or to develop or modify land for which a site plan is required, except in accordance with an approved final site plan.

#### **Section 286-506.16 Supervision by Developer and Prosecution of Work**

(A) The developer shall provide adequate supervision on the site during the installation of all required improvements and shall have a responsible superintendent or foreman, together with one set of approved plans and specifications, available at the site at all times when work is being performed.

(B) Any excavation, grading or other disturbance within the City right of way will only be allowed as a part of a continuous, timely operation toward completion of the entire improvement shown on the approved final site plans.

#### **Section 286-506.18 Inspection by the City**

(A) Inspections may be made by the Director of Public Works, or designee and other agencies, both on site and off site, to ensure general conformance of the construction with the requirements of the approved final site plan.

(B) In the event that inspection reveals that the construction does not conform to the requirements of the approved final site plan or if inspections made find that unapproved materials or substandard workmanship are being used, or if the Director of Public Works finds that a hazard to public safety exists, he shall stop the work from proceeding by providing verbal and written directions to stop work until any public safety hazard or noncompliance is remedied, such written notice shall be hand carried or mailed by certified letter to either the developer or his superintendent.

(C) The developer shall request that a final inspection be made by the Director of Public Works.

**Section 286-506.20 Site Plan Approval Required Prior to Issuance of Building Permit.**

(A) Where a final site plan is required under this zoning ordinance for the construction or structural alteration of any building or structure, or the development or modification of any land, no building permit shall be issued for such activity until the required final site plan has been approved.

**Section 286-506.22 Site Plan Requirements for Certificates of Occupancy.**

(A) No certificate of occupancy shall be issued for a building constructed on a site which is subject to the final site plan requirements of this ordinance until a written certification has been submitted to the Director of Public Works certifying that the site construction substantially conforms to the approved final site plan and all approved plan revisions. The certification shall be made by a professional engineer, licensed by the Commonwealth of Virginia, in a form acceptable to the Director of Public Works. After such certification is submitted to the Director of Public Works, he shall conduct an on-site inspection of the work determining which aspects of the approved final site plan have been completed satisfactorily, and which aspects are deficit or lacking and need correction.

## **Section 286-512      Buffer Yards, Screening and Landscaping**

(A) It is the intent of these provisions to promote the public health, safety and welfare by reducing common conflicts associated with incompatible abutting land uses. It is also the intent of these provisions to promote the protection of the natural environment through plantings that absorb gaseous emissions and improve air and water quality. To these ends, these requirements seek to ease transition among different uses by reducing noise, glare, dust and overcrowding, redirecting emissions, confining litter, maintaining property values, protecting neighborhood character, promoting visual harmony, restricting passage, promoting peaceful enjoyment and privacy and enhancing the natural environment. Further, the requirements seek to encourage innovation in landscape and architectural design.

### **Section 286-512.02   General Requirements**

(A) These provisions shall apply to all developments requiring a site plan as specified by this chapter. All required landscaped plans shall be prepared by an AICP certified planner or a licensed professional knowledgeable of plant materials and landscape design.

### **Section 286-512.04   Buffer Yards**

(A) Buffer yards containing specified screening and plantings shall be required between zoning districts of different intensities as shown in Table 1. For each required buffer type, the developer of the site shall choose which option to install.

(B) Required buffer yards shall be located such that they provide a visual and physical barrier between abutting zoning districts of different intensities and shall buffer and screen all exterior storage, service, refuse, maintenance, repair, processing, salvage, parking, and other similar areas. No use of the site may be extended into or beyond the required buffer yard.

(C) Required buffer yards shall not be located on any portion of any existing or dedicated public or private street or right-of-way, shall not obstruct the visibility of traffic circulation, and shall not interfere with the use of adjoining properties.

Table 1

Adjoining Zoning <sup>1</sup>							
	RL	RM	RH	RO	BB	GB	IN
Site Zoning <sup>1</sup>							
RL	*	*	*	*	*	*	*
RM	*	*	*	*	*	*	*
RH	C	B	*	*	*	*	*
RO	B	B	A	*	*	*	*
BB	B	C	B	A	*	*	*
GB	C	C	C	B	*	*	*
IN	C	C	C	C	B	B	*

Type of Buffer Yard	Option 1	Option 2
A	Six-foot screening	Eight -foot buffer yard, one row of evergreen shrubs
B	Eight-foot buffer yard, one row of small evergreen trees, one row of evergreen shrubs	15-foot buffer yard, one row of small evergreen trees
C	15-foot buffer yard, one row of large evergreen trees, one row of small evergreen trees	25-foot buffer yard, one row of large evergreen trees

\* No Buffer Yard Required

1. Buffer yard and screening requirements within a proposed PUD zoning district shall be determined as a part of the PUD approval process. For Standards for Buffer Yard Planting and Screening see Section 286-512.6

(D) Required buffer yards, including screening and plantings shall be in place at the time of any occupancy or use of the property.

(E) The buffer yard shall be reserved solely for screening and plantings, except for required pedestrian or vehicular access driveways to the property, passive recreation areas, or pedestrian or bicycle trails, which can be accommodated in a manner that preserve the intended screening function between abutting zoning districts of different intensities. In no case shall any portion of a required buffer yard be used for parking, service, refuse, storage, maintenance, or any other use that impairs the intended buffer function.

(F) The property owner or lessee shall have the responsibility to continuously maintain the required buffer yards, screening and plantings such that they continue to meet the specified standards and intent of this section. All materials shall present an attractive appearance and be of durable construction.

### **Section 286-512.06 Standards for Buffer Yard Planting and Screening**

(A) Plantings required by this section shall be provided in accordance with the following standards:

1. Where required, all evergreen shrubs shall have a minimum height of at least 24 inches at the time of planting and an ultimate height of six feet or more. One such shrub shall be planted for each three linear feet of buffer yard. Evergreen shrubs that meet these standards include various types of hollies, yews, and junipers.
2. Where required, each small evergreen tree shall have a minimum height of at least six feet at time of planting and an ultimate height of 15 feet or greater. One such tree shall be planted for each five linear feet of buffer yard. Small evergreen trees that meet these standards include various types of pines, hollies, upright arborvitae and junipers.
3. Where required, each large evergreen tree shall have a minimum height of at least eight feet at the time of planting and an ultimate height of 50 feet or greater. One such tree shall be planted for each 15 linear feet of buffer yard. Large evergreen trees that meet these standards include various types of pines, firs and hemlocks.
4. Existing evergreen trees and shrubs which meet the requirements of this section may be counted as contributing to total planting requirements.
5. All portions of buffer yard areas not containing plantings shall be seeded with lawn grass or other approved vegetative ground cover.

6. No landscaping plantings shall be located in easements, wherever possible.

(B). Screening required by this section shall be provided in accordance with the following standards:

1. Screening shall be visually opaque and shall be constructed of a durable material. It shall be installed within the required buffer yard, and shall be continuously maintained.
2. Acceptable screening materials shall include stockade fences, decorative masonry walls, brick walls, and earth berms. Alternate materials may be approved, if in the opinion of the Administrator, their characteristic and design meet the intent and standards of this section.

#### **Section 286-512.08 Requirements For Exterior Storage, HVAC Equipment, Refuse Disposal, Etc.**

(A) Any exterior area used for storage, service, maintenance, repair, processing, manufacturing, fabrication, salvage, refuse disposal, or other similar use that is visible from a public street right-of-way, shall be screened with a buffer yard, screening and plantings meeting Type A standards listed in this section, and shall be provided in a manner which screens the use from view. Any area so used shall also be similarly screened from view of adjoining residences and businesses.

(B) All commercial and industrial use types shall screen from surrounding views all articles and materials being stored, maintained, repaired, processed, erected, fabricated, dismantled or salvaged.

(C) All dumpsters and refuse storage areas shall be screened on all sides by an opaque enclosure that has a minimum height of six (6) feet.

(D) All HVAC equipment located in a Commercial or Industrial District, including roof located equipment shall be screened on all sides by an opaque enclosure.

#### **Section 286-512.10 Additional Requirements for Outdoor Recreation Uses**

(A) Where any area used for active outdoor recreation use, playground, tennis courts, swimming pool, or other similar use is located in a residential district, such use shall be screened from any adjoining residences with buffer yards, screening and plantings meeting Type B standards listed in this section.

#### **Section 286-512.12 Perimeter Landscaping Standards for Parking Areas**

(A) When a new, expanded, or reconfigured parking area is required or proposed adjacent to a public street right-of-way, a landscaped planting strip shall be established

between the parking area and the adjacent street right-of-way. This required landscaped planting strip shall have a minimum width of eight feet, if the depth of any portion of the parking area is sixty feet or less when measured at a right angle to the street right-of-way. The width of the required landscaped planting strip shall be increased by one foot for each additional five foot depth of parking area provided. No required landscaped planting strip shall be required to exceed a width of fifty feet. Landscape strips adjacent to other property lines shall be a minimum of eight feet.

(B) Within the required landscaped planting area, one deciduous tree shall be planted for each 320 square feet of landscaped area. All shade trees shall have a minimum caliper of 2 inches at the time of planting. Lower limbs shall be removed to a clear trunk height of 6 foot as tree growth allows. Smaller ornamental/flowering trees may be used with the permission of the Administrator. When used, these trees may retain their lower limbs, but must be planted with consideration of visibility and traffic flow.

(C) When buffer yards as specified in this section are not required, an eight foot wide landscaped planting strip shall be provided between all parking areas and adjacent properties. Within the required landscaped planting area, one deciduous tree shall be planted for each 160 square feet of landscaped area. All shade trees shall have a minimum caliper of 2 inches at the time of planting. Lower limbs shall be removed to a clear trunk height of 6 foot as tree growth allows. Smaller ornamental/flowering trees may be used with the permission of the Administrator. When used, these trees may retain their lower limbs, but must be planted with consideration of visibility and traffic flow.

#### **Section 286-512.14 Trees Required Along Property Lines**

(A) A minimum of one tree shall be provided for every 50 feet of the property line, or part thereof, that abuts public rights-of-way; i.e., 60 feet of property line requires two trees.

(B) The placement of trees shall be evenly spaced and coordinated with existing conditions and proposed improvements as provided herein and shall be in addition to any other screening that may be required. Each tree shall be located in the landscape strip provided by the above-mentioned requirements. The preferred tree species to be used to fulfill this requirement shall include, but not be limited to, Eastern Red Bud, Crepe Myrtle, Pear (any variety), Dogwood, Yoshino or Kwanzan Cherry and Golden Rain Tree.

#### **Section 286-512.16 Landscaping of Front Setback Areas**

(A) All front setback areas located between a building and a public street shall be professionally landscaped with a combination of trees, shrubs and groundcover.

(B) Front setback areas within the Boulevard Design Overlay District shall be landscaped as required by Section 286-314.

### **Section 286-512.18 Use of Existing Woodland Areas**

(A) In cases where quality indigenous vegetation or woodlands exist, preservation of existing quality indigenous vegetation or woodlands is encouraged. Preserving quality indigenous vegetation and woodlands between the parking area and the adjoining right-of-way or property is encouraged and may be substituted for landscaping requirements at the discretion of the Administrator.

### **Section 286-512.20 Interior Landscaping Standards for Parking Areas**

(A) The following minimum standards for interior parking area landscaping shall be met for all new, expanded or reconfigured parking areas:

1. At least one deciduous shade tree shall be installed for every ten parking spaces provided. All shade trees shall have a minimum caliper of 2 inches at the time of planting. Lower limbs shall be removed to a clear trunk height of 6 foot as tree growth allows. Smaller ornamental/ flowering trees may be used with the permission of the Administrator. When used, these trees may retain their lower limbs, but must be planted with consideration of visibility and traffic flow.
2. A continuous landscape strip shall be installed between every four rows of parking. This strip shall be a minimum of eight feet in width to accommodate required trees and shrubs.
3. Large planting islands (over 200 square feet) shall be located throughout the parking area at the end of parking rows. Eighty (80) percent of these islands shall be planted with shade trees, low shrubs and/or ground cover.
4. Planting islands, with a minimum width of nine feet and a minimum depth of 18 feet, shall be provided between every 15 parking spaces to avoid long rows of parked cars. One deciduous shade tree, minimum 2 inches caliper at time of planting, shall be provided within each of these planting islands.
5. Within the interior of the parking area, landscaping shall be used to delineate vehicular and pedestrian circulation patterns, improve stormwater quality and promote stormwater management objectives. Clear and legible signs and other techniques shall be used to further direct the flow of both vehicular and pedestrian traffic within the parking area.

### **Section 286-512.22 Landscaping Standards around Buildings and Structures**

(A) Between parking areas and buildings, there shall be a minimum of 10 feet to allow for a five-foot wide sidewalk and a five-foot wide landscape area immediately adjacent to the building.

#### **Section 286-512.24 Planting and Design Guidelines**

(A) Deciduous urban shade trees with ground cover or low shrubs shall be the primary landscape material. Tall shrubs or low-branching trees that will restrict visibility shall be avoided.

(B) For planting islands that are parallel to spaces, islands shall be a minimum of nine feet wide to allow doors to open.

(C) For planting islands that are perpendicular to spaces, islands shall be a minimum of eight feet wide to allow for overhang of parked cars. If parking is only on one side of the island, an eight-foot width is still required.

#### **Section 286-512.26 Maintenance of Landscaping**

(A) The owner, tenant and their agents, if any, shall be jointly and severally responsible for the maintenance of all required and provided landscaping in good condition so as to present a healthy, neat and orderly appearance. All landscaped areas shall be kept free from refuse and debris.

(B) All landscaped areas shall be provided with a readily available water supply.

(C) All required or provided trees, shrubs, ground covers and other plant materials must be replaced during the first opportune planting season if they die or become unhealthy because of accidents, drainage problems, disease or other causes.

(D) Trees shall not be trimmed or topped so that advertisement signs may be visible. Trees shall instead be allowed to grow and at the appropriate time, the crown may be lifted.

(E) An adequate preservation and maintenance surety in effect during construction shall be required. The surety shall guarantee that all indigenous vegetation required to be maintained at the ~~in~~ site is maintained in its natural undisturbed state and that all new vegetation planted on site remains healthy and in good condition.

#### **Section 286-512.28 Modifications**

(A) The requirements of this section shall be applied equally to all similarly classified and situated properties but may be modified or waived by the Administrator where the intent of this section is preserved and where the proposed developments of the new use meets any of the following guidelines:

1. Natural land characteristics and/or existing vegetation would achieve the same intent of this section, provided such natural features are maintained and not modified by the development or use of the site;
2. Innovative landscape design, staggering of planting, screenings or architectural design would achieve the intent of this section;
3. The amount of required buffer yard would occupy more than fifteen percent of the total lot, parcel of land or development site, and proportional increases of planting and screening are added which are determined by the Administrator to offset any reductions of the required buffer yard, or
4. The subject uses are separated by an alley, public utility right-of-way, water body or other physical separation. In such case, the width of the separating feature may replace the buffer yard requirements on a foot-for-foot basis, provided the intent of the applicable screening and planting requirements is met. Where such separating feature is wider than the applicable buffer yard requirements, one row of the applicable planting requirements may be waived for every five feet of separation in excess of the required buffer yard; provided, however, that a minimum of one row of plantings or screening may be required.
5. When property lines abut an adjacent jurisdiction, the Administrator shall determine the specific screening and buffering requirements along the property lines after consideration of the zoning designation and or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated property within the City.
6. If site characteristics do not permit the compliance with these parking lot landscaping regulations and the requirements of Section 286-518 (Off Street Parking Requirements), then the Administrator shall have the authority to determine which standards shall apply to the site.
7. The location and design of any required landscaped area may be modified by the Administrator to achieve local stormwater management and/or water quality objectives. The use of low impact development (LID) techniques is encouraged to meet these objectives.

#### **Section 286-512.30 Conflicting Requirements**

(A) When buffering, screening or planting requirements are required by a conditional rezoning, or a Special Exception Permit approved after the effective date of this chapter,

and such requirements are in conflict with the requirements contained herein, the more restrictive requirements shall apply.

## **Section 286-518 Off-Street Parking Requirements**

(A) These provisions for off-street parking are intended to address the off-street parking demands created by various land uses within the City. The standards established in this section are designed to protect the health safety and welfare of the Colonial Heights community by accommodating parked vehicles in a safe and functional manner with consideration given to the stormwater quality and quantity impacts of impervious parking areas.

### **Section 286-518.02 Applicability**

(A) These provisions shall apply equally for all use types listed in this section.

### **Section 286-518.04 General Regulations**

(A) Vehicles greater than 10,000 pounds, gross vehicle weight capacity, or any tractor-trailer combinations, tractors, or trailers shall not be placed, parked, or stored in residentially zoned districts. Trucks used, or intended for use, for commercial purposes, less than 10,000 pounds gross vehicle weight capacity shall be limited to no more than one per lot in residentially zoned districts and shall be located in the side or rear yard, behind the principal building.

(B) No recreational vehicle shall be used as a dwelling or for businesses purposes, except that itinerant merchants as defined in Section 286-202 may use a recreational vehicle as a temporary office in accord with the standards contained in Section 286-410.

(C) Trailers and portable storage containers of any size used for any purpose are prohibited in the front yard of any commercial or residential zoning district, provided however that a portable storage container is allowed in the front yard if it cannot be located elsewhere on the lot.

(D) All required off-street parking shall be located on the same lot as the use requiring the parking, except under the following conditions:

1. Required parking spaces are on a contiguous lot under the same ownership or in a permanent parking easement on contiguous property. Contiguous lots providing parking for more than one use shall provide sufficient spaces to comply with the parking requirements for all uses.
2. For use types other than residential, required parking spaces may be located up to 600 feet away from the use that requires the parking spaces.
3. Off-site spaces must be subject to a written agreement between the parties involved in such use.

### **Section 286-518.06 Disabled Parking**

(A) Site plans, as required by Section 286-506 shall provide for parking spaces reserved for the disabled. The number of spaces provided shall be as required by the Virginia Uniform Statewide Building Code.

### **Section 286-518.08 Permitted Locations**

(A) All required or provided off-street parking spaces located on the ground and not within a parking structure, may be located within any required yard unless the yard is required for screening, buffering, or landscaping as provided by this chapter.

(B) All parking structures and carports shall comply with the minimum yard and setback requirements applicable in the zoning district where the structure is located.

### **Section 286-518.10 Vehicle and Pedestrian Access**

(A) All off-street parking areas shall be designed to provide safe and convenient vehicle access to a street and safe, convenient and delineated pedestrian access from parking spaces to the use or structure being served by the parking area.

(B) Aisles between rows of parking, and aisles providing access to parking areas shall comply with the design standards established by this chapter.

(C) If any parking spaces are contiguous to a public street, perimeter landscaping shall be provided as required by Section. 286-512. In addition, the public street side of such space shall be curbed.

(D) Cross-easements shall be established in all new parking areas. These cross easements shall permit the connection or eventual connection of parking areas on adjoining lots.

(E) Whenever a development, for which a site plan is submitted, abuts a public street, the access points shall meet City standards.

(F) Parking lot access driveways leading to and from the street where no parking is provided on either side shall meet the following width guidelines subject to final approval by the Director of Public Works:

1. For driveways serving thirty (30) or less parking spaces, the minimum width shall be eighteen (18) feet, exclusive of curbs.
2. For driveways serving more than thirty (30) parking spaces, the minimum width shall be twenty (20) feet, exclusive of curbs.

3. For one-way drives specifically designed for only one-way use, the minimum width shall be ten (10) feet, exclusive of curbs.

(G) Whenever parking is proposed adjacent to a structure, an emergency access aisle shall be properly marked in accordance with City standards.

### **Section 286-518.12 Construction Standards**

(A) All off-street parking areas, on new sites as of the effective date of this chapter, shall be constructed of a hard surface consisting of asphalt or concrete. Gravel parking areas shall not be permitted.

(B) Notwithstanding (A) above, off-street parking areas may be constructed using durable pervious materials such as porous pavement, or grid/block pavers. The Administrator shall have authority to approve specific materials. Any off-street parking areas constructed of these materials, shall not be considered as part of lot coverage limitations as may be specified in this chapter.

### **Section 286-518.14 Parking Space Dimensions and Aisle Widths**

(A) All required or provided parking spaces and aisles adjacent to parking spaces shall have the following minimum dimensions:

Parking Angle	Space Width	Space Depth	Aisle Width 2-Way Traffic	Aisle Width 1-Way Traffic
Parallel	9	22	22	11
45 Degrees	9	18	22	11
60 Degrees	9	18	24	12
90 Degrees	9	18	24	12

1. When parking spaces are adjacent to landscaped areas, the paved depth of such spaces may be decreased by two feet to provide for vehicle overhang area.
2. Spaces for compact vehicles may comprise up to twenty percent of required spaces. Compact spaces shall be located in groups of five or more contiguous spaces and may have a minimum width of eight and one-half feet and a minimum depth of sixteen feet. These spaces shall be clearly marked as reserved for compact vehicles

### **Section 286-518.16 Criteria for Determining Required Parking**

(A) When a building includes a combination of uses, the required parking will be the sum of the required parking for each use, except that a reduction in the required number of parking spaces based on shared use by activities having different time demands for spaces and/or pedestrian connections between uses may be granted by the Planning

Commission. A plan of this shared use shall be presented by the applicant at the time of the site plan review.

(B) Where the parking requirement for a use is not defined in this section, and no similar use is listed, the Administrator shall determine the number of spaces to be provided.

(C) All references to square feet in the parking requirements below shall refer to net square feet.

(D) All references to maximum occupancy shall refer to maximum occupancy as defined by the Virginia Uniform Statewide Building Code.

### **Section 286-518.18 Minimum Parking Required**

USE TYPE	PARKING REQUIRED
Agricultural Use Types	
Agriculture	No Requirement
Stable, Private	No Requirement
Residential Use Types	
Accessory Apartment	Schedule B
Duplex	2 spaces per dwelling unit
Family Day Care Home	No Requirement
Group Home	2 spaces per facility
Home Occupation	No Requirement
Kennel, Private	No Requirement
Manufactured Home, Emergency	No Requirement
Multi-Family Dwelling:	
Studio	1 space per dwelling unit
One Bedroom	1.5 spaces per dwelling unit
Two Bedrooms	1.5 spaces per dwelling unit
Three and Four Bedrooms	2.0 spaces per dwelling unit
More than Four Bedrooms	1.0 space per each additional bedroom
Single Family Dwelling	2 spaces per dwelling unit
Townhouse:	
One Bedroom	1.5 spaces per dwelling unit
Two or More Bedrooms	2.0 spaces per dwelling unit
Civic Use Types	

USE TYPE	PARKING REQUIRED
Assisted Care Residence	1 space per employee on shift plus 1 space per 3 residents
Cemetery	Schedule B
Club	1 space per 3 persons based on maximum occupancy
Community Recreation	Schedule B
Correction Facilities	Schedule B
Crises Center	1 space per employee on shift plus 1 space per 3 persons based on maximum occupancy
Cultural Services	1 space per 400 square feet
Educational Facilities, College/University	Schedule B
Educational Facilities, Primary/Secondary	1 space per employee plus 1 space per 4 students in 11th and 12th grades.
Government Services	1 space per employee plus 3 spaces per 1000 square feet
Guidance Services	1 space per 300 square feet
Halfway House	1 space per 2 persons of residential capacity, plus 1 space per employee on shift
Life Care Facility	Schedule B
Nursing Home	1 space per 4 beds
Park and Ride Facility	No Requirement
Post Office	Schedule A
Public Assembly	1 space per 5 seats
Public Maintenance and Service Facilities	Schedule A
Public Parks and Recreation Areas	Schedule B
Religious Assembly	1 space per 6 seats in principal place of worship
Safety Services	2 spaces per emergency vehicle based at facility
Utility Services, Major	Schedule A
Utility Services, Minor	Schedule B
Office Use Types	

USE TYPE	PARKING REQUIRED
Financial Institution	3 spaces per 1000 square feet plus required stacking spaces
General Offices	3.5 spaces per 1000 square feet
Laboratories	1 space per employee plus 1 space per company vehicle based on site
Medical Office	7 spaces per practitioner or 1 space per 200 square feet, whichever is greater
Substance Abuse Clinic	7 spaces per practitioner or 1 space per 200 square feet, whichever is greater
<b>Commercial Use Types</b>	
Adult Use	Schedule B
Agricultural Services	Schedule A
Antique Shop	1 space per 400 square feet
Assembly Hall	1 space per 5 seats
Automobile Dealership, New	Schedule A
Automobile Dealership, Used	Schedule A
Automobile/Parts Supply, Retail	Schedule A
Automobile Repair Services, Major	2 spaces per repair bay plus 1 space per employee on shift
Automobile Repair Services, Minor	3 spaces per repair bay plus 1 space per employee on shift
Automobile Rental/Leasing	Schedule A
Bed and Breakfast	1 space per sleeping room available for guests
Business Support Services	1 space per 200 square feet
Business or Trade Schools	Schedule B
Car Wash	1 space per employee on shift plus stacking spaces
Commercial Indoor Amusement	1 space per 3 persons based on maximum occupancy
Commercial Indoor Entertainment	1 space per 4 seats
Commercial Indoor Sports and Recreation	1 space per 3 persons based on maximum occupancy plus 1 space per employee on shift
Commercial Outdoor Entertainment	1 space per 3 persons based on

USE TYPE	PARKING REQUIRED
	maximum occupancy plus 1 space per employee on shift
Commercial Outdoor Sports and Recreation:	
Miniature Golf	1.5 space per hole
Swimming Pool	Schedule B
Tennis/Court Games	2 spaces per court
Other Outdoor Sports	Schedule B
Communications Services	1 space per 300 square feet plus 1 space per company vehicle based on site
Construction Sales and Services	Schedule A
Consumer Repair Services	1 space per 300 square feet
Convenience Store	5 spaces plus 1 space per 200 square feet plus 1 space per gas dispenser.
Dance Hall	1 space per 3 persons based upon maximum occupancy
Day Care Center	1 space per 20 persons receiving care plus 1 space per employee.
Equipment Sales and Rental	Schedule A
Flea Market	1 space per 100 square feet of sales area accessible to the public
Funeral Services	1 space per 2 employees on shift plus 1 space per 5 seats in main chapel
Garden Center	Schedule A
Gasoline Station	1 space per employee plus required stacking spaces
Golf Course	36 spaces per 9 holes
Hospital	1 space per employee on shift plus 1 space per 2 beds
Hotel/Motel/Motor Lodge	1 space per guest room plus 1 space per employee, plus spaces as may be required for other uses on site
Kennel, Commercial	Schedule B
Laundry	1 space per 300 square feet
Manufactured Home Sales	Schedule B
Mini-Warehouse	0.2 spaces per 1,000 square feet

USE TYPE	PARKING REQUIRED
Modular Home Sales	Schedule B
Pawn Shop	1 space per 300 square feet
Personal Improvement Services	1 space per 300 square feet
Personal Services	1 space per 300 square feet
Recreational Vehicle Sales and Service	Schedule A
Restaurant, Family	1 space per 3 seats plus 2 spaces per employee on shift
Restaurant Fast Food or Drive-In	1 space per 4 seats plus 1 space per employee on shift, plus required stacking spaces
Restaurant, General	1 space per 2 seats plus 2 spaces per employee on shift
Retail Sales	
Shopping Center	1 space per 250 square feet of Gross Leasable Area
Other Retail	1 space per 200 square feet
Studio, Fine Arts	Schedule B
Travel Center	Schedule B
Veterinary Hospital/Clinic	1 space per 625 square feet
Industrial Use Types	
Asphalt Plant	Schedule B
Composting	Schedule B
Construction Yard	Schedule A
Custom Manufacturing	Schedule A
Industry, Heavy	1 space per 1,000 square feet
Industry, Light	1 space per 1,000 square feet
Industry, Medium	1 space per 1,000 square feet
Intermodal Facility	Schedule A
Landfill, Construction Debris	Schedule B
Landfill, Rubble	Schedule B
Landfill, Sanitary	Schedule B
Meat Packing and Related Industries	1 space per employee on shift
Railroad Facilities	Schedule B

USE TYPE	PARKING REQUIRED
Recycling Centers and Stations	Schedule B
Resource Extraction	1 space per employee on shift
Sawmill	Schedule A
Scrap and Salvage Services	Schedule A
Transfer Station	Schedule B
Transportation Terminal	Schedule B
Truck Terminal	Schedule B
Warehousing and Distribution	0.5 spaces per 1,000 square feet
Miscellaneous Use Types	
Amateur Radio Tower	Schedule A
Aviation Facilities, General	Schedule B
Aviation Facilities, Private	Schedule B
Tower	2 spaces per tower
Shooting Range, Outdoor	Schedule B

### Schedule A

The following table contains minimum parking requirements for uses with elements having different functions or operating characteristics. The Administrator shall consider and decide the minimum parking required for uses containing a mixture of these elements:

Element	Parking Required for Element
Office or Administrative Activity	3.5 spaces per 1000 square feet
Indoor Sales, Display or Service Area	1 space per 500 square feet
Motor Vehicle Service Bays	2 spaces per service bays
Outdoor Sales, Display or Service Area	1 space per 2000 square feet
General Equipment Servicing or Manufacturing	1 space per 1000 square feet
Indoor or Outdoor Storage or Warehousing	1 space per 5000 square feet

## **Schedule B**

Specific minimum parking requirements shall be determined by the Administrator, based on requirements for similar uses, location of the proposed use, expected demand and traffic generated by the proposed use.

### **Section 286-518.20 Maximum Parking Allowed**

(A) All parking areas or spaces provided that exceed the minimum parking requirements contained in Section 286-518.18 by more than twenty (20) percent shall be constructed of a porous pavement or grid/block paver type of material as specified in Section 286-518.12 (B)

### **Section 286-518.22 Stacking Spaces and Drive-Through Facilities**

(A) Stacking spaces shall be provided for any use having a drive-through facility or areas having a drop-off and pick up areas. The following general standards shall apply:

1. Stacking spaces shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create potentially unsafe conditions.
2. Drive-through lanes shall be separated from off-street parking areas. Individual lanes shall be striped, marked, or otherwise delineated.
3. Each stacking space shall be a minimum of eight feet by 20 feet.

(B) Stacking spaces shall be provided as follows:

1. Financial institutions shall provide four stacking spaces for the first drive-through window, and two stacking spaces for each additional window.
2. Car washes shall provide three stacking spaces per bay or stall.
3. Restaurants shall provide six stacking spaces per drive-through window, measured from the order station.
4. All other uses containing drive-through facilities shall provide a minimum of three stacking spaces for each window.

## **Section 286-524 Signs**

### **Section 286-524.02 Purpose and Intent.**

(A) Control of all signs and advertising displays is required to protect property values, including the character and the economic stability of property, to encourage the most appropriate use of land, to secure safety on the streets, to achieve a more desirable living environment and, to protect and enhance the desirability of the City as a place of residence, employment and civic activity.

(B) The intent of these provisions is to place controls on the display of all signs necessary to assure that they will be appropriate to the land, water, building or use to which they are appurtenant and not be excessive for the intended purpose of identification, protection or advertisement. These provisions encourage competition toward attractiveness in signs as a contribution to the City's economic vitality and discourage that type of competition which produces signs of ever-increasing size, brightness and garishness.

(C) Variances of maximum sign area, size, and number of signs or height of signs or removal of prohibited signs are not deemed to be in harmony with the intent, spirit or purpose of these provisions

### **Section 286-524.04 Signs Permitted Without a Sign Permit.**

(A) No permit shall be required for any of the following signs, provided that they comply with all other regulations; however, nothing in this section shall be construed as providing an exemption from any Building Code requirement:

1. One plaque or nameplate for each dwelling unit not to exceed 1 1/2 square feet in area.
2. Signs warning the public against trespassing, dangerous animals, swimming or the like, not to exceed 1 1/2 square feet in area per sign.
3. Any flag, badge or insignia customarily displayed by any charitable, civic, fraternal, patriotic, religious or similar organization.
4. Signs warning the public of the existence of danger, to be removed upon subsidence of danger.
5. Any information or directional sign or official notice erected by a public agency.
6. Historical markers.

7. Signs placed by a public or private utility showing the location of underground facilities.
8. Signs indicating nonresidential off-street parking areas, not to exceed three square feet in area for each sign. Such signs shall contain no advertising, shall not exceed three feet in height and shall be placed adjacent to the respective entrance or exit of the parking area.
9. Signs displayed for the direction or convenience of the public, including signs which identify rest rooms, public telephones, freight entrances or the like, not to exceed one square foot in area for each sign.
10. One lighted or unlighted bulletin board for each church, educational institution, hospital or clinic, not to exceed 32 square feet in area.
11. One sign for each church, educational institution, hospital or clinic, not to exceed 32 square feet in area, indicating only the name and location of such facility.
12. Show window signs or displays, only for commercial uses.
13. Any sign not visible from a public right-of-way or from adjoining property.

#### **Section 286-524.06 Fees**

(A) A fee shall be charged by the City for each sign permit and temporary sign permit. The fee required shall be paid to the City prior to the issuance of a sign permit.

#### **Section 286-524.08 Revocation of Permit**

(A) The Administrator may, after ten (10) days' notice in writing to the permittee, revoke any permit issued under these provisions, when it shall appear that the application for the permit contains knowingly false or misleading information, or when the permittee has failed to keep in a good general condition and in a reasonable state of repair the sign for which such permit was issued, or when the permittee has violated any provision of this section, unless such permittee shall, before the expiration of ten (10) days, correct the violation and offer proof of compliance.

#### **Section 286-524.10 Liability for Damages**

(A) The provisions of this chapter or the issuance of any sign permit shall not relieve or limit the liability of any person erecting, owning or maintaining any sign from personal injury or property damage resulting there from or work relating thereto, nor shall it be construed that either such provisions or issuance impose upon the City, its officials or its employees any responsibility or liability by reason of the approval of any sign under this chapter.

### **Section 286-524.12 Administration**

(A) The Administrator is authorized to obtain such information, as he may deem necessary for the proper administration of this chapter, including but not limited to information on all signs erected prior to the adoption of these provisions.

### **Section 286-524.14 Inspections**

(A) The Administrator shall make inspections and tests necessary to enforce these provisions.

### **Section 286-524.16 Maintenance**

(A) All signs, together with all of their supports, braces, guys, connections, anchors and electrical equipment, shall be kept in good repair and maintained in safe, neat, clean and attractive condition. Such routine maintenance shall include the replacement of defective parts, painting, repainting, cleaning and other similar acts. Upon written notification by the Administrator and within 14 days there from, any defective bulbs, lamps, lights, fluorescent lamps, neon tubes, sockets and faulty signs' interior wiring shall be repaired or replaced. The painted display surfaces, structure and supports of all signs shall be painted or otherwise treated at least once every two years unless the same are aluminum, stainless steel, galvanized, plastic or permanently treated to retard weathering by the elements.

(B) . The ground area around any freestanding sign shall be kept free and clean of weeds, trash and other debris.

### **Section 286-524.18 Removal of Unlawful Signs**

(A) Any permanent sign which is found by the Administrator to be unsafe, insecure or hazardous, or which has an expired permit, has had its permit revoked, has been placed unlawfully upon or projects over public right-of-way, property or space, has been constructed, erected or maintained in violation of these provisions or is otherwise an unlawful or prohibited sign, shall be deemed a public nuisance, and the Administrator shall give five days' written violation notice to the owner or permittee thereof. If the owner or permittee fails to remove or alter the sign to comply with the applicable requirements of these provisions within the five days, the Administrator shall cause such sign to be removed.

(B) . Any temporary sign which is found by the Administrator to be unsafe, insecure or hazardous, or which has an expired permit, has had its permit revoked, has been placed unlawfully upon or projects over public right-of-way, property or space, has been constructed, erected or maintained in violation of these provisions or is otherwise an unlawful or prohibited sign, shall be deemed a public nuisance; and the Administrator shall cause such sign to be removed immediately and without prior notice.

### **Section 286-524.20 Removal of Abandoned Signs**

(A) Any sign, structure and/or advertising copy which no longer advertises a bona fide business conducted or a product sold on the premises shall be removed by the owner, agent or person having the beneficial use of the premises where the sign is located within 60 days after the use is discontinued. Any sign not so removed within this period may be removed by the Administrator as a public nuisance.

### **Section 286-524.22 Costs of Removal by City**

(A) The Administrator shall levy the cost of removing a sign against any of the following, each of which shall be jointly and severally liable for such charges:

1. The permittee.
2. The owner of the sign.
3. The owner of the premises on which the sign is located.
4. The occupant of the premises on which the sign is located.
5. The person responsible for its erection.

### **Section 286-524.24 Storage of Removed Permanent Signs**

(A) A sign removed by the Administrator shall be held not less than 30 days by the City, during which period it may be recovered by the owner upon paying the City for the cost of removal and storage and upon payment of any imposed fine. If not recovered within the thirty-day period, the sign shall be considered abandoned, and title thereto shall vest in the City for disposal in any manner permitted by law.

### **Section 286-524.26 Abatement of Nuisances.**

(A) Every sign declared to be a public nuisance may be abated, enjoined, restrained or removed by the City in any available legal proceeding or court action in addition to the other remedies specified by these provisions.

### **Section 286-524.28 Removal by City; Costs to Become Lien**

(A) Whenever the City incurs any expense, the City may collect the cost thereof from the owners or tenants of the property affected in any manner provided by law for the collection of state and local taxes.

### **Section 286-524.30 Delivery of Notice and Order**

(A) The notice and order required herein shall be given to the persons specified and/or to the owner or occupant of the premises on which the sign is located as shown on the City tax assessment records or on the sign permit. Such notice, in writing, may be served in person or by first-class mail, or certified mail return receipt requested. The time for compliance shall start from the date mailed or served in person, whichever is applicable.

### **Section 286-524.32 Violations and Penalties**

(A) Any violation of any provision or requirement of this chapter shall be subject to the penalty specified in Section 286-616. A fine as required by law may be imposed in addition to the charge for cost or removing or storing signs by the City.

### **Section 286-524.34 Nonconforming Signs**

(A) All signs or sign illuminations not otherwise prohibited which do not wholly conform to all applicable provisions of this chapter but which were erected in compliance with all applicable regulations in effect at the time of their erection may continue to exist as lawful nonconforming signs, provided that the following sections of this chapter shall be applicable and shall be complied with: Section 286-524.16, Maintenance; Section 286-524.18, Removal of Unlawful Signs; Section 286-524.20, Removal of Abandoned Signs; and Section 286-524.46, General Requirements.

### **Section 286-524.36 Reconstruction of Nonconforming Signs**

(A) Nonconforming signs shall not be enlarged or reconstructed and may be altered only for routine maintenance which does not materially alter the character of the sign and does not alter the advertisement thereon.

### **Section 286-524.38 Alteration of Nonconforming Signs**

(A) Whenever any lawfully existing nonconforming sign is in need of repairs or alterations such that the sign is deemed by the Administrator to be unsafe, insecure or a public nuisance, the sign shall be altered to conform to all provisions of this chapter or shall be removed.

### **Section 286-524.40 Damage to Nonconforming Signs**

(A) Whenever any lawfully existing nonconforming sign is damaged by any cause to an extent in excess of fifty (50) percent of its replacement cost, the sign shall be altered or repaired to conform to all provisions of this chapter or shall be removed.

### **Section 286-524.42 Prohibited Signs; Removal**

(A) Every sign or display which is prohibited by this section is deemed a public nuisance. No such sign or display shall be erected, maintained or permitted which:

1. Bears or contains statements, words or pictures of an obscene, pornographic or immoral character as defined by Title 18.2 of the Code of Virginia.
2. Is a public nuisance because of amplified sound, smoke emission, emitted visible vapor particles or objectionable odors,
3. Is attached to or maintained upon any public utility pole or structure(s), light pole or tree or projects onto any public right-of-way or property,

4. Uses motion projections or similar media in conjunction with any advertisements or has visible moving parts or any portion of which moves, rotates or gives the illusion of motion. This shall not apply to the hands of a clock or a weather vane or to a street clock,
5. By reason of its location, position, size, shape, color, design or means of illumination, may be construed as, confused with or may interfere with, obstruct or obscure all or any portion of a traffic control sign, signal or device erected by a governmental authority or which bears the words "Stop," "Go," "Slow," "Yield," "Caution," "Danger," "Warning" or similar words which imply any official warning or command or which may imply the need for special actions on the part of any vehicle operator or pedestrian,
6. Violates any provision of the Building Code,
7. Obstructs any door, fire escape, stairway, ladder, opening or access intended for light, air, ingress to or egress from any building,
8. Is a sandwich sign,
9. Is located in the sight distance triangle, or
10. Is not expressly permitted by these provisions, or violates or advertises activities which violate City, state or federal law.

#### **Section 286-524.44 Prohibited Sign Illumination**

(A) The following illuminated signs or means of sign illumination are deemed a public nuisance and are prohibited in all zoning districts:

1. Any sign that is wholly or partially illuminated by unshielded floodlights, or spotlights, or uses exposed incandescent bulbs, lamps, or mirrors reflecting such a direct light source.
2. Any sign that is wholly or partially illuminated by means of lighting by a decorative chain or strip hanging between two points outlining its structure, shape, design or advertisement.
3. Any sign that uses the colors red, amber and green either in direct illumination or in high reflection by the use of special preparations such as fluorescent paint or glass and which may be confused with traffic control devices.

4. Any sign which uses exposed reflective-type bulbs or strobe lights unless a louvered screen is placed in front of the lighting source. If the light source is used for illumination of the display surface of the sign, it may not be exposed to view from a public thoroughfare.
5. Any sign, with the exception of an electronic message board, which uses or displays intermittent, flashing or moving lights or lights of changing degrees of intensity of color, except signs indicating date, time, temperature, barometric pressure, air pollution index and other public service information.
6. Any sign or means of sign illumination which causes direct glare into or upon any building other than the building to which the sign may be related.

#### **Section 286-524.46 Generally**

(A) The applicable provisions of the laws of Virginia relating to outdoor advertising, and specifically Section 33.1-370 et seq. of the Code of Virginia, are hereby incorporated into this Code; however, nothing in this provision shall be construed to lessen any requirement or regulation enumerated herein.

(B) No sign shall be erected, constructed, placed or maintained which blocks any fire escape, required exit way, window or door opening used as an exit or which prevents free passage from one part of a roof to another part.

(C) No sign shall interfere with any opening required for ventilation.

(D) No sign shall project into any public street, right-of-way, alley, easement or space.

(E) Signs shall be located not less than three feet horizontally or eight feet vertically from overhead electrical conductors.

#### **Section 286-524.48 Temporary Signs.**

(A) Temporary signs requiring a permit are:

1. Advertising signs.
2. Special event signs, except as provided in Section 286-524.50 (J) 6 of this section.
3. Wind-driven signs.
4. Yard sale signs.

(B) No person shall erect any temporary sign without having first obtained any permit required under this chapter.

(C) All temporary sign applications for yard sale signs shall be created by the Commissioner of Revenue; and all such applications shall be submitted to the Commissioner of Revenue for review and subsequent approval or disapproval.

(D) A temporary sign application for advertising, special event or wind driven signs shall be created by the Administrator; and all such applications shall be submitted to the Administrator for review and subsequent approval or disapproval.

(E) The Administrator shall issue a decal for each temporary advertising, special events, or wind-driven sign when a permit application for such sign is approved. The decal shall be placed on the lower left front corner of each sign and be conspicuously marked with both the date of permit approval and the expiration date. The display of any such sign without the required decal shall constitute a violation of this chapter.

(F) With the exception of yard sale signs, any temporary sign for which a permit is required shall only be placed in a location approved by the Administrator, who shall give due consideration to the location of permanently erected signs, parking lot arrangement, traffic flow and other safety considerations.

(G) No temporary sign shall be erected or maintained in any location where it prevents or impedes free ingress or egress from any door, window or fire escape.

(H) No temporary sign shall be erected, installed or placed within any public right-of-way or in any required sight distance triangle.

(J) Every temporary sign shall be securely anchored to the ground or to a permanent structure in a safe manner.

(K) No temporary sign shall be located within eight (8) feet of the edge of paving.

(L) Temporary advertising signs are allowed in all zoning districts subject to the following regulations:

1. The total amount of temporary advertising signage allowed per business shall not exceed 32 square feet per sign in commercial districts and eight square feet per sign in all other districts.
2. In commercial zoning districts the following standards shall apply:

- a. Free standing single occupancy commercial buildings with 100 or less feet of road frontage shall be allowed a maximum of one temporary advertising sign.
  - b. Free standing single occupancy commercial buildings with road frontage greater than 100 feet shall be allowed no more than two temporary advertising signs.
  - c. Multi-tenant commercial buildings shall be allowed no more than one 32 square foot temporary advertising sign per 100 feet of frontage, with a maximum of three per property. A multi-tenant commercial building is a building that contains three or more independent businesses or uses.
3. In all other zoning districts a maximum of one temporary advertising sign shall be allowed per establishment.
4. Temporary advertising signs may be located on the building wall or as a freestanding sign. No temporary freestanding signs shall exceed 10 feet in height from the finished grade or be located within five feet of a property line. Wall signs shall not be placed above the existing roofline.
5. Temporary advertising signs shall be allowed for the following time periods:
  - a. In any commercial zoning district:
    - (i) Per event: 45 consecutive day maximum.
    - (ii) Per year: 180 days maximum, with a minimum 30 day interval between events.
  - b. All other districts: 45 consecutive day maximum.
6. No off-site temporary advertising signs are allowed in any zoning district

(M) Construction Signs

1. Construction signs shall be allowed in all zoning districts.
2. Construction signs shall not exceed 15 square feet per sign.
3. No more than three construction signs shall be allowed per lot.

4. Construction signs shall be erected no more than five days prior to the beginning of construction for which a valid building permit has been issued, shall be confined to the site of construction and shall be removed within 10 days following completion of construction.

(N) Real Estate Signs

1. Real estate signs shall be allowed in all zoning districts.
2. Real estate signs shall not exceed six square feet per sign in residential zoning districts, 12 square feet per sign in commercial zoning districts, or 200 square feet per sign in industrial zoning districts.
3. No more than four real estate signs shall be allowed per lot.
4. Real estate signs shall not be illuminated in residential and commercial zoning districts.. Real estate signs may be illuminated in industrial zoning districts provided such illumination does not violate Section 286-530.02 of this chapter,

(O) Special Event Signs

1. Special event signs shall be allowed in all zoning districts.
2. A maximum of two special event signs shall be allowed per lot
3. Special event signs shall not exceed 32 square feet per sign
4. Special event signs may be located on the building wall or as a freestanding sign. No temporary freestanding special event sign shall exceed 10 feet in height from the finished grade or be located within five feet of a property line. Wall signs shall not be placed above the existing roofline.
5. Special event signs may be displayed for a maximum of 30 consecutive days.
6. Special event signs shall not require a permit if erected and removed on the same date.

(P) Yard Sale Signs

1. Yard sale signs shall be allowed in all zoning districts.

2. Yard sale signage shall not exceed six square feet per sign.
3. No more than three yard sale signs shall be allowed per event.
4. All yard sale signs shall be located on private property either on the property where the yard sale is being held or on property on which permission has been granted to display such signs.
5. Yard sale signs may be displayed 2 days prior to the yard sale event and on the day of the yard sale event until 7:00 P.M.

(Q). Wind-Driven Signs

1. Wind driven signs shall be allowed in all commercial and industrial zoning districts.
2. Only one wind driven sign shall be permitted per lot except that banners that are attached to light poles or buildings may have multiple locations.
3. No banner shall exceed 16 square feet. Commercial messages on banners may not exceed 25% of the sign area.
4. Wind driven signs including banners may be displayed for a maximum of 45 consecutive days per event, 180 days maximum per year, with a 30 day interval between events
5. No off-site temporary wind-driven signs are allowed.

**Section 286-524.50 Sign Permit Exceptions**

(A) The following shall not require the issuance of a sign permit:

1. Changing the advertising copy or message on an approved sign, which is designed for the use of replaceable copy or lettering.
2. Painting, repainting, cleaning or normal maintenance of a sign not involving structural changes or changes in the advertisement thereon.
3. Changes in show window displays.
4. Seasonal displays and decorations not advertising a product, service or entertainment.

### **Section 286-524.52 Sign Permit Requirements**

(A) No sign, unless excepted in Section 286-524.50 of this chapter, shall be erected, relocated, placed, posted or painted, except for routine maintenance which does not materially alter the character of the sign and does not alter the advertisement thereon, by any person without first obtaining, in writing, a permit from the Administrator.

### **Section 286-524.54 Sign Permit Applications**

(A) Prior to the alteration, erection, installation or placement of any sign, a permit application shall be submitted to the Administrator and shall contain the following information:

1. A drawing to scale, showing the composition of each sign face and advertising structure. The drawing shall show exact dimensions, sign area, height above grade level and lighting features.
2. A plan, drawn to scale, showing the proposed location of the sign. The plan shall show property lines, rights-of-way, streets, sidewalks, buildings and existing signs on the premises.
3. Any electrical permit required and issued under the Building Code. (A separate application for the electrical permit is required.)
4. Permission of the owner, lessee or his authorized agent of the building or land on which the sign is to be erected or placed.
5. Consent in writing that City officials may enter upon the premises to enforce the provisions of this chapter, including inspection.
6. All sign permit applications shall be signed by the applicant or his authorized agent.

### **Section 286-524.56 Permit Issuance**

(A) The Administrator shall examine all sign permit applications. If the proposed sign is in compliance with all applicable City requirements and has been reviewed and approved by the Planning Commission, when required, the Administrator shall then issue the sign permit.

(B) If the work authorized under a sign permit has not been completed within six months after date of issuance, such permit shall become null and void and there shall be no refund of any fee required by this chapter.

### **Section 286-524.58 Planning Commission Review of Sign Permits**

(A) Notwithstanding any other provisions of this chapter, sign permits do not require review and/or approval from the Commission, except as required in this chapter for subdivision identification signs.

### **Section 286-524.60 Freestanding Signs**

(A) No portion of a freestanding sign shall be constructed to a height greater than 25 feet above the grade level of the ground on which the sign is erected or 25 feet above the grade level of the center line of the street to which it is oriented at the nearest point, whichever is greater.

(B) Notwithstanding any other provision of this chapter, the setback line for buildings and other structures shall not affect the placement of freestanding signs; however, no freestanding sign or any projection thereof shall be erected or maintained within any public right-of-way or within 10 feet of any side lot, parcel or property line.

(C) No freestanding sign shall be erected in any rear yard, in any side yard directly adjoining or across from a residential zoning district or within 100 feet, on the same side, along any street, in a residential zoning district in the instance of bulletin boards and subdivision identification signs where permitted.

(D) Every pole sign shall be supported by a structure protected by a raised curb, which shall provide for a bumper overhang of not less than 2 1/2 feet. The raised curbing shall be a minimum of six inches above grade.

(E) No sign shall be erected or maintained on any freestanding sign structure other than the principal sign(s) for which the structure was designed.

(F) No freestanding sign shall be erected or maintained in the sight-distance triangle as defined in Section 286-200 of this chapter, except that a pole sign, with a pole diameter not exceeding 12 inches in thickness or a height of the bottom of the sign of less than 10 feet from the finished grade shall be allowed. The Administrator shall review and approve the location to insure that minimum sight-distance requirements have been met.

(G) For the purpose of interpretation of this chapter, freestanding signs located on City rights-of-way by permit issued pursuant to Section 247-2 of the Streets and Sidewalks Chapter of this Code shall be deemed to be located on the premises which they advertise

### **Section 286-524.62 Building Signs**

(A) No building sign shall be erected upon or derive its principal support from any other sign or sign structure.

(B) No building sign shall project above the roofline or cornice or parapet wall of a building, whichever allows the greatest height, nor shall any building sign be erected wholly on the roof of any building.

(C) The lower edge of the sign face of a projecting sign shall be at least nine feet above the grade level of the ground, pavement or sidewalk immediately below such sign.

#### **Section 286-524.64 Incidental Signs**

(A) No incidental sign, not otherwise classified, shall exceed a height of four feet above grade level.

#### **Section 286-524.66 Signs Accessory to Residential Single-Family Uses**

(A) The following regulations shall apply to all signs, which are located on unused lands in any residential district or are accessory to any single-family residential use:

1. One sign for each subdivision or development as approved under Chapter [250](#) of this Code, Subdivision of Land, not to exceed 32 square feet in area (sign may also be two individual signs of not more than 16 square feet each) or eight feet in height, may be displayed at each entrance thereto. Such sign shall be of a permanent construction and shall bear only the approved name of the subdivision. Such sign may be permitted on City right-of-way upon review and approval of the sign permit by the Planning Commission.
2. Illumination, if used, shall be only by white light and shall shine only on the sign.

#### **Section 286-524.68 Signs Accessory to Residential Multiple-family Uses**

(A) The following regulations shall apply to all signs which are accessory to any multiple-family residential use:

1. One sign per building, not to exceed 12 square feet in area for each sign, indicating only the name of the building and the address.
2. One sign, not to exceed 32 square feet in area (sign may also be two individual signs of not more than 16 square feet each), to identify only the name of a development or apartment complex. Such sign shall be of a permanent construction.
3. No sign shall project beyond a property line. .
4. All building-mounted signs shall be flush against the building and shall not project above the roofline.

5. No freestanding sign shall extend more than 10 feet above grade level.
6. Illumination, if used, shall be only by white light and shall shine only on the sign.

**Section 286-524.70 Signs Accessory to Commercial Uses**

(A) The following table contains regulations which shall apply to signs which are accessory to any commercial use in any commercial zoning district.

See Next Page

Commercial Sign Regulations Summary			
Freestanding Signs	Ground or Pole	Ground-Pole-Multi-tenant	Ground-Pole Shopping Center
Max no. allowed per zoned lot	1	1	1/major rd. entrance
Max. sign area (sq. ft.)	48	80	96
Maximum height	Ground-8' Pole-25'	Ground-8' Pole-25'	Ground-8' Pole-25'
Minimum setbacks	10' side yd.	10' side yd.	10' side yd.

  

Building Signs	Wall
Max. no. allowed per zoned lot	N/A
Max. sign area (sq. ft.)	350
Minimum sign area per business	32
Sign area calculation	2 sq. ft./lineal ft.
Maximum height	Roofline

  

Building Signs	Arcade	Awnings/Canopies	Marquee
Max no. allowed per building	1/business	1/building	1/building
Max. sign area (sq. ft.)		25% of canopy area	
Sign area calculation	Part of wall sign calculation	Part of wall sign calculation	Part of wall sign calculation

<b>Building Signs</b>	<b>Arcade</b>	<b>Awnings/ Canopies</b>	<b>Marquee</b>
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Maximum height	Roofline	Roofline	Roofline
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Minimum vertical clearance	9'	9'	9'
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<b>Building Signs</b>	<b>Plaque</b>	<b>Projecting</b>	<b>Window</b>
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Max. no. allowed per zoned lot	1/business	1/business
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Max. sign area (sq. ft.)	2	20	25% of window area
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Minimum sign area per business
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Sign area calculation	Part of wall sign calculation	Part of wall sign calculation
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Maximum height	Roofline	Roofline
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Minimum vertical clearance	9
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<b>Incidental Signs</b>	<b>Directional</b>	<b>Historical Markers</b>
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Max. no. allowed per building	As needed	As needed
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Max. sign area (sq. ft.)	3	3
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Maximum height	4 feet	4 feet
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## **Section 286-524.72 Additional Regulations for Signs Accessory to Commercial Uses**

(A) In addition to the regulations listed in the table in the preceding section, signs accessory to commercial uses shall comply with the following regulations:

1. Any building sign shall not exceed in aggregate two square feet in area per linear foot of building frontage; such frontage shall be measured as the longest horizontal dimension of the building; however, no such sign or signs shall exceed an aggregate total of 350 square feet in area. A minimum aggregate total of 32 square feet in area shall be permitted regardless of building size.
2. Any allowed freestanding sign shall not exceed 48 square feet in area except as provided for multi-tenant and shopping centers. Additional sign area totaling a maximum of 32 square feet and which is designed for and is structurally a part of the permitted freestanding sign shall be allowed, provided that such additional area shall be used exclusively for a sign or signs designed for the use of replaceable copy or lettering or an emblem, logo or figure or an electronic message board. No such sign shall impede sight distance along a roadway or at an intersection. Each freestanding sign shall be designated so as to be architecturally compatible with the main building(s) on the site.
3. Electronic Message Boards shall comply with the following minimum standards:
  - a. Any movement including flashing and scrolling is prohibited.
  - b. The minimum interval between messages is no less than 10 seconds.
  - c. The maximum brightness allowed is 5,000nits –day and 500 nits – night.
  - d. Signs must be programmed to dim and brighten automatically in response to changes in ambient light.
  - e. Signs must either freeze or go blank if there is a malfunction.
4. Permitted building and freestanding pole signs shall identify only the property, individual enterprises, products of a general nature, services or entertainment available on the premises where the sign is located; however, 50% of the area of such signs may be devoted to the advertisement of specific products.
5. No sign shall project beyond any property line.
6. Illumination of signs is permitted.

7. Master Sign Plans. Multi-tenant business centers, shopping centers, and other buildings and structure(s) where multiple tenants will be located shall submit an overall sign program which addresses size, height, design, lighting, color, materials, and type and method of construction to insure that all signage within the center is designed in a harmonious, consistent and compatible manner.
8. No freestanding ground sign shall be located within eight feet of any curbing or road pavement, regardless of other setback requirements in this section.

#### **Section 286-524.74 Automobile Service Stations**

(A) All other sections of this chapter notwithstanding, a permitted pole sign for an automobile service station shall only display the principal trademark, symbol, slogan, name or other identifying design, the words "gas" or "gasoline" and/or prices and grades of gasoline.

(B) No temporary signs or any other form of advertising, except as provided above, shall be erected or maintained on any automobile service station premises, with the exception of the following types:

1. A single sign identifying the name of the owner, proprietor or manager, the address of the property, and the telephone number, not to exceed a total area of 2 1/2 square feet.
2. One or more building signs utilizing the principal trademark, symbol, slogan, name or other identifying design, not to exceed the size limitations for building signs.
3. Placards or posters displayed on the outside surface of gasoline pumps, or signs attached to a structure adjacent to and designed in conjunction with gasoline pumps, which may advertise only prices and grades of gasoline or oil, type of service and credit cards honored.

(C) The following customary advertisements and identifications shall not be considered a sign for the purpose of this section:

1. Vending machines provided that such machines are grouped together.
2. Signs identifying the special functions of various service bays or areas, which signs shall be erected on the building facade above the bay doorways.

(D) There shall be no banners, displays anchored by chain, rope, string, wire or any other not-rigid support, flywheels, propellers or streamers.

(E) There shall be no display or light source in or near any vehicle passageway or vehicle doorway unless supported by a structure protected by a raised curb which shall provide for a bumper overhang of not less than 2 1/2 feet. The raised curbing shall be a minimum of six inches above grade.

#### **Section 286-524.76 Commercial Development Near Interstate Highways**

(A) In addition to other signs permitted by this chapter, one additional freestanding pole sign shall be permitted for commercial uses located within 500 feet of interstate highway right-of-way lines

(B) Such additional freestanding pole sign shall not exceed a height of 60 feet above the finished grade on the center line of the interstate highway the sign is intended to address. The maximum size of the sign shall be as follows and shall display only a principal trademark, symbol, design, slogan, name or other identifying design.

1. Height is 26-35 feet: maximum size - 96 square feet.
2. Height is 36-45 feet: maximum size -192 square feet.
3. Height is 46-55 feet: maximum size - 288 square feet.
4. Height is greater than 56 feet: maximum size- 400 square feet.

(C) An added sign area which is designed for and is structurally a part of the permitted freestanding pole sign shall be allowed, provided that such additional area is used exclusively for a sign designed for the use of replaceable copy or lettering. The maximum size of the sign shall be as follows:

1. Height is 26-35 feet: maximum size - 60 square feet.
2. Height is 36-45 feet: maximum size -120 square feet.
3. Height is 46-55 feet: maximum size- 180 square feet.
4. Height is greater than 56 feet: maximum size- 240 square feet.

#### **Section 286-524.78 Shopping Centers**

(A) Each shopping center greater than 500,000 square feet shall be permitted freestanding signage as follows:

1. At each arterial roadway entranceway, one sign identifying the shopping center by name and location, bearing no other advertising and not exceeding 96 square feet in area or 25 feet in height.
2. One freestanding sign identifying the shopping center by name and location, bearing no other advertising and not exceeding 225 square feet in area or 60 feet in height; however, an additional sign not exceeding 48 square feet in area and which is designed as a changeable letter board and is structurally a part of the freestanding shopping center identification sign shall be permitted. Such signs shall be the only freestanding signs permitted in the shopping center.

(B) Each shopping center less than 500,000 square feet shall be permitted freestanding signage as follows:

1. One freestanding sign at each arterial roadway entrance identifying the shopping center by name and location, bearing no other advertising and not exceeding 96 square feet in area or 25 feet in height; however, an additional sign not exceeding 48 square feet in area and which is designed as a changeable letter board and is structurally a part of the freestanding shopping center identification sign shall be permitted. Such signs shall be the only freestanding signs permitted in the shopping center.

(C) Building-mounted signs for individual businesses shall conform to the general size requirements for commercial uses; however, the special regulations pertaining to building signs for multiple-tenancy structures shall apply when applicable.

(D) No other signs, permanent or temporary, are permitted for shopping centers or the individual businesses within such centers.

#### **Section 286-524.80 Signs in RO Zoning Districts**

(A) The following table contains regulations which shall apply to signs which are accessory to any use in the RO District:

<b>Residential Office Sign Regulations Summary</b>		
<b>Freestanding Signs</b>	<b>Ground</b>	<b>Ground-Multi-tenant</b>
Max no. allowed per zoned lot	1	1
Max. sign area (sq. ft.)	4 sq. ft./office	4 sq. ft./office
	222	City of Colonial Heights Zoning Ordinance Revised August 2012

Maximum height	Ground-8'	Ground-8'
Minimum setbacks	10' side yd.	10' side yd.

Building Signs	Wall
Max sign area (sq. ft.)	10 sq. ft./office
Maximum height	Roofline

<b>Building Signs</b>	<b>Arcade</b>	<b>Awnings/Canopies</b>	<b>Marquee</b>
Max no. allowed per building	1/business	1/business	1/building
Max. sign area (sq. ft.)		25% of canopy area	
Sign area calculation	Part of wall sign calculation	Part of wall sign calculation	Part of wall sign calculation
Maximum height	Roofline	Roofline	Roofline
Minimum vertical clearance	9'	9'	9'

<b>Building Signs</b>	<b>Plaque</b>	<b>Projecting</b>	<b>Window</b>
Max. no. allowed per zoned lot	1/business	1/business	
Max. sign area (sq. ft.)	2	2	None
Sign area calculation	Part of wall sign calculation	Part of wall sign calculation	

<b>Building Signs</b>	<b>Plaque</b>	<b>Projecting</b>	<b>Window</b>
Maximum height	Roofline	Roofline	
Minimum vertical clearance		9 feet	
Incidental Signs	Directional		
Max. no. allowed per zoned lot		As needed	
Max. sign area (sq. ft.)		4	
Maximum height		4 feet	

#### **Section 286-524.82 Additional Regulations for Signs Accessory to Residential Office Uses**

(A) In addition to the regulations listed in the table in the preceding section, signs accessory to residential- office uses shall comply with the following regulations;

1. All signs shall be located on the property to which they refer and shall not extend out over public rights-of-way or onto any adjacent lot.
2. No structure shall be constructed with or altered to produce a display window for a business use, and there shall be no business display from windows.
3. One additional sign shall be permitted per lot, which directs traffic to a parking area on the lot where such sign and use are located. Such sign shall not exceed four square feet in size.
4. No freestanding sign shall be illuminated if it is located adjacent to a residentially zoned district.

#### **Section 286-524-84 Entrance Canopies and Awnings**

(A) Entrance canopies and awnings shall bear only the name of the business, the name of the owner or proprietor of the business, and its street address.

#### **Section 286-524.86 Industrial Uses**

(A) The following table contains regulations which shall apply to signs which are accessory to any use in industrial zoning districts.

Industrial Sign Regulations Summary		
Freestanding Signs	Ground/ Pole	Ground/Pole Multi- tenant

Max. no. allowed per zoned lot	1	1
Max. sign area (sq. ft.)	48	80
Maximum height	Ground-8' Pole-25'	Ground-8' Pole-25'
Minimum setbacks	15' side yd.	15' side yd.

Building Signs	Wall
Max. sign area (sq. ft.)	350
Maximum height	Roofline
Sign area calculation	2 sq. ft./lineal ft.

Incidental Signs	Directional
Max. no. allowed per zoned lot	2
Max. sign area (sq. ft.)	4
Maximum height	4 feet

### **Section 286-524.88 Additional Regulations for Signs Accessory to Industrial Uses**

(A) In addition to the regulations listed in the table in the preceding section, signs accessory to industrial uses shall comply with the following regulations:

1. One or more building signs not to exceed, in the aggregate, 2.0 square feet in area per linear foot of building frontage; such frontage shall be measured as the longest horizontal dimension of the building which does not pass through or between any adjacent elements of the same; however, no such sign or signs shall exceed an aggregate total of 350 square feet in area. Such sign or signs may indicate only the name and location of the

industry, the principal trademark, symbol, slogan or other identifying design and in general terms the product or products manufactured or assembled on the premises.

2. One freestanding sign shall be permitted for each industrial lot within an industrial district. The height of any such freestanding sign shall be no more than 25 feet. There shall be a fifteen-foot setback from each side property line. All such signs shall meet all requirements of this chapter not in conflict with the provisions of this section.
3. Illumination of signs is permitted.

#### **Section 286-524-90 Billboards**

(A) All other sections of this chapter notwithstanding, billboards shall not be permitted in any district.

#### **Section 286-524-92 Nonconforming Billboards**

(A) All other sections of this chapter notwithstanding, the following regulations shall apply to all nonconforming billboards:

1. Lawfully existing nonconforming billboards shall not be enlarged or reconstructed, except as permitted herein; however, they may be altered for routine maintenance which does not materially alter the character of the billboard. Changes in the advertisements thereon are permitted and shall not require a sign permit.

#### **Section 286-530 Miscellaneous Provisions**

##### **Section 286-530.02 Site Lighting**

(A) All exterior site lighting fixtures shall be designed located and arranged so as not to direct glare on adjoining streets or residential properties. All exterior fixtures shall be shielded so that light is directed towards the ground only

(B) Except for publicly owned fixtures, no freestanding light fixture shall exceed 20 feet in height above grade.

(C) Lighting intensity at the property line of any civic, office, commercial, or industrial use type shall not exceed one foot-candle.

##### **Section 286-530.04 Plot Plans**

(A) A plot plan shall be submitted, prior to the approval of a zoning permit, for any new or expanded use or development not requiring a site plan. Plot plans shall be legibly drawn and shall clearly indicate the area, shape and dimensions of the property proposed for development. All existing easements, natural water courses, and existing and

proposed improvements shall also be shown on the plan. The plan shall clearly indicate the minimum distances between existing and proposed uses and all property lines. Proposed access to the property shall also be shown.

### **Section 286-530.06 Yard, Height and Setback Requirements**

(A) The lot area and yards required for any use or structure shall be permanently maintained, and shall not be counted as the required lot area or yards for any other use or structure.

(B) Required yards shall remain free of all uses or structures except for the following:

1. Fences, walls and landscaping shall be allowed in yards provided that sight triangles are maintained per Section 286-530.18. Driveways and parking areas shall also be allowed.
2. Patios and steps shall be allowed within all required setback areas. Decks shall comply with the following setback requirements:
  - a. Minimum Side Yard: 5 feet
  - b. Minimum Rear Yard: 10 feet
3. Accessory structures shall be allowed in accordance with the regulations for such structures.

(C) Height limitations contained in this chapter shall not apply to church spires, belfries, residential chimneys, flag poles, or residential television antennae.

### **Section 286-530.08 Frontage Requirements on Cul-de-Sacs**

(A) The minimum lot frontage on the arc of a cul-de-sac shall be no less than 30 feet in all zoning districts.

### **Section 286-530.10 Flag lots; Prohibition of Irregular Lots**

(A) Flag lots, shall have a minimum lot frontage as defined in this chapter

(B) The creation of irregular lots, as defined in this chapter, shall be prohibited. No lot shall be platted or modified pursuant to the provisions of the Colonial Heights Subdivision Ordinance that due to its geometric characteristics, results in the creation of an irregular lot.

### **Section 286-530.12 Single Family Detached Dwellings; Number Permitted on a Single Lot**

(A) Only one single family detached dwelling shall be permitted on any lot. Any existing lot that has two or more single family detached dwellings shall be subdivided in accordance with this chapter, and the subdivision ordinance.

#### **Section 286-530.14 Public Utility Lots**

(A) Well lots, tank lots, stormwater detention area lots, utility pumping station lots, and similar types of public utility lots may be created in compliance with the terms of this chapter and the subdivision ordinance, notwithstanding the frontage, width, area, and other design standards for lots found in Article III of this chapter. Any such lot proposed for platting, shall be clearly designated on a subdivision plat reviewed and approved by the City. This plat shall contain notations and covenants that clearly restrict the use of the lot for the above cited purposes. Further, the plat shall clearly indicate that no employment shall be allowed at these lots except for the routine and necessary maintenance of the public facilities.

#### **Section 286-530.16 Corner and Double Frontage Lots, Orientation of Yards**

(A) On corner lots and double frontage lots, the front shall be determined by the Administrator. A rear yard shall always be opposite a front yard.

#### **Section 286-530.18 Establishment of Sight Triangles**

(A) To promote visibility for pedestrians and the operators of motor vehicles, a clear sight triangle shall be established at the intersecting right-of-ways of any two public streets. The legs of this sight triangle shall be twenty-five (25) feet in length. They shall begin at the point of intersection of the two street right-of-ways, and shall extend twenty-five (25) feet along each right-of-way line. The triangle shall be formed by connecting the endpoints of these two lines.

(B) Within this sight triangle nothing in excess of three feet in height shall be constructed, placed, or permanently parked. In addition, no vegetative plantings within the triangle shall be allowed to grow to a height of greater than three feet.

(C) Nothing in this section shall imply the necessity of removing obstructions within this sight triangle, provided that these obstructions were installed or planted prior to the effective date of this chapter. Routine trimming of shrubbery violating this height requirement shall be required, if the trimming will not endanger the health of the species.

#### **Section 286-530.20 Location and Design of Fences**

(A) No fence shall be erected by any person without first obtaining in writing a permit from the Administrator.

(B) Except as provided for in Section 286-530.18, fences may be constructed in any location, on any lot. The maximum height of a fence shall not exceed 7' in the side and rear yard.

(C) On any lot, fences located in front of the building line shall not exceed forty-two (42) inches in height. No solid/privacy or chain link or other wire type fencing shall be permitted in the front yard.

(D) Use of barbed wire or electrified fencing is prohibited

#### **Section 286-530.22 Standards and Procedures for Review of Condominiums**

(A) A subdivision plat shall be submitted to the City for any new residential, commercial or industrial condominium development, including the conversion of any existing development to the condominium form of ownership. This plat shall meet all standards for subdivision plats. Plats shall be reviewed by the subdivision agent who shall approve the plat provided it meets the provisions of this chapter and the City subdivision ordinance.

(B) An approved owners' association shall be established for all condominium projects having individually owned structures or units, and common areas and facilities. The purpose of this association is for the provision of upkeep and maintenance of the common areas, roads and facilities. The subdivision agent shall review the provisions of the association to insure compliance with this section.

#### **Section 286-530.24 Storage Containers and Buildings**

(A) Storage containers and buildings shall be considered accessory structures and shall be located in accordance with the standards for accessory structures found in Article III of this chapter.

(B) No vehicle, truck body, manufactured home, mobile home, bus, trailer, recreational vehicle, shipping container or similar equipment shall be used as a storage container of building in any zoning district, except that:

1. Temporary mobile storage containers designed for site delivery and pickup may be placed and used on any residentially or commercially zoned property for a period not to exceed 45 days per calendar year. Such a container may be placed in the front yard of a residentially zoned property only if it is not possible to locate it elsewhere on the property.
2. Commercial and industrial use types may use shipping containers for storage provided that:
  - a. All containers are maintained in suitable condition (no rust, deterioration, graffiti, etc.)
  - b. All containers are placed in an approved location that does not utilize existing parking spaces, fire lines, etc.

- c. All containers are placed in the rear of the property where feasible and shielded from public views.
- d. Such containers shall not be allowed for more than 90 consecutive days in any one year period.

## **ARTICLE VI                    ADMINISTRATION**

### **Section 286-602            Zoning Administrator; Powers and Duties**

**(A)     The Administrator, or a designee, shall have the following powers and duties:**

1.     Zoning permit. To issue or deny a zoning permit for the erection, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use. The Administrator shall also have the authority to revoke any zoning permit if violations of the provisions of this chapter occur.
2.     Certificate of zoning compliance. To issue or deny a certificate of zoning compliance certifying construction and use in accordance with this chapter.
3.     Collect fees. To collect any fees required or set forth in this chapter.
4.     Making and keeping records. To make and keep all records required by state law or necessary and appropriate for the administration of this chapter.
5.     Inspection of buildings or land. To inspect any building or land to determine if violations of this chapter have been committed or exist.
6.     Enforcement. To enforce this chapter and take all necessary steps to remedy any condition found in violation of the provisions of this chapter.
7.     Request assistance. To request the assistance of other local and state officials or agencies in the administration and enforcement of this chapter.
8.     Interpretation. To interpret the official zoning map and provisions of this chapter, and offer written opinions on their meaning and applicability.

**(B)     The Administrator shall have all necessary authority on behalf of the City Council to administer and enforce this chapter including;**

1.     Ordering in writing the remedying of any condition found in violation of this chapter;
2.     Insuring compliance with this chapter, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to an appeal pursuant to Section 15.2-2311 of the Code of Virginia; and,

3. In specific cases, making findings of fact, and, with the concurrence of the City Attorney, conclusions of law regarding determinations of rights accruing under Section 15.2-2307 of the Code of Virginia.

(C) The Administrator may be authorized to grant a maximum of a ten (10) percent or a maximum of a one (1) foot variance (whichever is less) from any building setback requirement contained in this chapter if the Administrator finds in writing that:

1. The strict application of this chapter would produce undue hardship;
2. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
3. 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.

(D) Prior to the granting of a variance, the Administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within 21 days of the date of the notice. If any adjoining property owner objects to such request in writing within the time specified above, the request shall be transferred to the Board of Zoning Appeals for decision pursuant to Section 286-626 of chapter.

#### **Section 286-604 Planning Commission Powers, Duties, Composition**

(A) The Planning Commission shall have the right to exercise all of the powers and duties authorized by Section 17.12 of the Charter of the City of Colonial Heights and Title 15.2, Chapter 22 of the Code of Virginia.

(B) Consistent with the City Charter, the Planning Commission shall be composed of seven members, who shall be appointed by the City Council. One member of the Planning Commission shall be a member of City Council, and one shall be a member of the Board of Zoning Appeals. In addition to the seven members appointed by the City Council, the City Manager, or a designee, shall be a nonvoting member of the Planning Commission. All members shall be qualified by knowledge and experience to make decisions on questions of community growth and development.

(C) The Planning Commission shall develop, adopt and maintain bylaws or rules of procedure that govern its operation.

#### **Section 286-606 Zoning Permits**

(A) The Administrator shall issue a zoning permit for the erection, construction, reconstruction, moving, adding to, or alteration of any structure, or the establishment of any land use.

(B) It shall be the responsibility of the applicant to provide any information necessary for the Administrator to determine that the proposed use, building, or structure complies with all provisions of this chapter.

(C) For any use, building, or structure requiring an approved site plan, no zoning permit shall be issued, until such time as a site plan is submitted, reviewed and approved in accordance with Section 286-506 of this chapter.

(D) For uses or structures not requiring an approved site plan, the Administrator shall determine, in accordance with this chapter, the type of information necessary to review the permit.

(E) All zoning permits issued shall be valid for a period of six months, unless the structure, use or activity for which the permit was issued has commenced. The Administrator may reissue any expired permit provided the structure, use and or activity complies with all applicable provisions of the chapter at the time of reissuance.

(F) The Administrator shall have the authority to approve the form and content of zoning permit applications.

### **Section 286-608 Building Permits; Relation to Zoning**

(A) No building permit for the extension, erection, or alteration of any building or structure shall be issued before an application has been made and a zoning permit has been issued. No new or modified building or structure shall be occupied or used, or any new land use established until a certificate of zoning compliance has been issued by the City.

### **Section 286-610 Certificates of Zoning Compliance**

(A) A certificate of zoning compliance shall be required for any of the following:

1. Occupancy or use of a building that has been hereafter erected, enlarged, or structurally altered;
2. Change in the use of an existing building;
3. Occupancy or change in the use of vacant land except for agricultural uses not involving structures; and,
4. Any change in a nonconforming use, or any alteration of a nonconforming building or structure.

(B) A certificate of Zoning Compliance shall certify that the building or the proposed use, or the use of land, complies with the provisions of this chapter.

(C) If a certificate of zoning compliance is denied by the City, the City shall notify the owner or owner's agent of the denial. Such notice shall state the reasons for the denial, and the specific actions required on the part of the owner before the certificate of zoning compliance can be issued.

**Section 286-612 Fees**

(A) Administrative review fees for all permits and procedures specified in this chapter shall be as follows:

Permit or Procedure	Fee Amount
Zoning Map Amendment	\$ 900
Zoning Text Amendment	\$ 900
Special Exception Permit	\$ 900
Site Plan Review	
Conditional Approval	\$ 300
Final Approval	\$ 750 + \$ 35 per acre not to exceed \$ 1100
Third and Subsequent Resubmittals	\$ 250 per Submittal
Variance	\$ 450
Fence Permit	\$ 10
Sign permit	
Permanent Signs-per sign	\$ 50
Temporary signs- 45 days	\$ 20
Temporary signs-180 day	\$ 75
Wetland Development	\$ 350
Zoning Opinion	\$ 25
Zoning Permit	\$ 25
Certificate of Zoning Compliance	\$ 25

**Section 286-614 Enforcement**

(A) The Administrator shall have the responsibility for enforcing the provisions of this chapter and may, as necessary, solicit the assistance of other local and state officials and agencies to assist with this enforcement.

(B) Violators of the provisions of this chapter shall be notified in writing of observed violations. The Administrator shall state in the written notice the nature of the violation, the date the violation was observed, and the remedy or remedies necessary to correct the violation. The Administrator shall establish a reasonable time period, of not less than ten business days, for the correction of the violation.

(C) If the Administrator is not able to obtain compliance with these provisions criminal procedures may be initiated in accordance with City law and procedures.

### **Section 286-616      Penalties**

(A) A violation of this chapter shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1000. If the violation is uncorrected at the time of the conviction the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1000. The continued failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than \$100 nor more than \$1500.

(B) However, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single family residential dwellings shall be punishable by a fine of up to \$2000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$5000; and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to \$7500.

### **Section 286-618      Amendments to Chapter**

(A) Whenever the public necessity, convenience, general welfare, or good zoning practice require, the City Council may, by ordinance, amend, supplement, or change these regulations, district boundaries, or classifications of property. Any such amendments may be initiated by:

1. Resolution of the City Council, or
2. Motion of the Planning Commission, or
3. Petition or application of the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property which is the subject of the proposed zoning map amendment. Any petition submitted shall be in writing and shall be addressed to the City Council.

(B) The Administrator shall establish a schedule for the receipt of amendment applications. The Administrator shall also establish and maintain the amendment

application materials. These application materials shall, at a minimum, include any information the Administrator deems necessary for the City staff, Planning Commission and City Council to adequately evaluate the amendment request. A concept plan shall accompany all map amendment requests. The Administrator shall establish minimum standards for concept plans.

(C) The Administrator may require a pre-application conference with the prospective applicant. The purpose of the pre-application conference is to informally review the proposed amendment application to determine any issues and concerns that may emerge as part of the formal review of the application. The Administrator's comments on the proposed application shall be informal and shall not constitute a formal recommendation on the application.

(D) If the City Council denies any amendment application submitted for its review, or the application is withdrawn after City Council consideration, the City shall not consider substantially the same application for the same property within one year of the City Council action. The Administrator shall have the sole authority to determine whether new applications submitted within this one year period are substantially the same. In making any such determination the Administrator shall have the authority to consider any items pertaining to the proposed use or development of the site such as, but not limited to, the uses proposed, densities, access, building locations, and overall site design.

### **Section 286-618.02 Planning Commission Study and Action**

(A) The Planning Commission shall study proposals to amend this chapter and determine:

1. Whether the proposed amendment conforms to the general guidelines and policies contained in the City's comprehensive plan;
2. The relationship of the proposed amendment to the purposes of the general planning program of the City, with appropriate consideration as to whether the change will further the purposes of this chapter and the general welfare of the entire community;
3. The need and justification for the change; and
4. When pertaining to a change in the district classification of property, the effect of the change, if any, on the property, surrounding property, and on public services and facilities. In addition, the Planning Commission shall consider the appropriateness of the property for the proposed change as related to the purposes set forth at the beginning of each district classification.

(B) Prior to making any recommendation to the City Council on a proposed amendment to this chapter, the Planning Commission shall advertise and hold a public hearing in accordance with the provisions of Section 15.2-2204 of the Code of Virginia.

(C) The Planning Commission shall review the proposed amendment and report its findings and recommendations to the City Council along with any appropriate explanatory materials within 100 days after the first Planning Commission meeting after the proposed amendment is referred to the Planning Commission. Failure of the Planning Commission to report to the City Council shall be deemed a recommendation of approval. If the Planning Commission does not report within the prescribed time, the City Council may act on the amendment without the recommendation of the Planning Commission.

(D) Any recommendation of the Planning Commission shall be deemed advisory, and shall not be binding on the City Council.

#### **Section 286-618.04 City Council Study and Action**

(A) The City Council shall hold a public hearing with public notice as required by Section 15.2-2204 and Section 15.2-2285 of the Code of Virginia. The City Council may hold a joint public hearing with the Planning Commission. After holding this hearing, the City Council may make appropriate changes to the proposed amendment; provided however that no land may be zoned to a more intensive use classification than was contained in the public notice without an additional public notice as required by Section 15.2-2204 of the Code of Virginia.

(B) The City Council shall transmit to the Administrator official notice of any City Council action modifying this chapter. The Administrator shall thereafter have the responsibility to make any necessary and appropriate changes to the zoning text or map.

#### **Section 286-620 Conditional Zoning; Purpose**

(A) Any owner of a property being considered as part of a rezoning or amendment to the Zoning Map may voluntarily proffer, in writing, any reasonable conditions prior to the public hearing before the City Council, in addition to the regulations provided for the zoning district by this chapter.

(B) In such written proffer, the owner of the property shall state:

1. The manner in which the proposed rezoning itself gives rise to the need for the additional conditions and the reasonable relationship of such additional conditions to the rezoning.
2. The manner in which the conditions proffered are related to the physical development or physical operation of the property.

3. The fact that no cash contribution to the City has been solicited or offered as part of the proffer, as has no mandatory dedication of real or personal property, on or off site, for open space, parks, schools, fire departments or other public facilities.
4. The fact that, to the owner's best knowledge, such conditions are in conformity with the Comprehensive Plan of the City of Colonial Heights.

(C) Upon consideration of the proposed rezoning, the City Council shall consider the factors required to be addressed by Subsection B, above and shall concur therein before acceptance of any of the additional conditions proffered.

(D) No provision of this chapter shall be taken, however, to prohibit the proffer or requirement of dedications of real or personal property to a public purpose, either on or off site, to the extent otherwise permitted by law.

(E) No provisions of this section shall be construed to prohibit consultation concerning conditional zoning with the Administrator.

#### **Section 286-620.02 Enforcement Guarantees**

(A) The Administrator shall be vested with all authority provided by law to administer and enforce conditions attached to a rezoning or amendment to the zoning map pursuant to this chapter.

(B) The Administrator may require, with the approval of City Council and approval as to form by the City Attorney, a guaranty, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions approved hereby; or a contract for the construction of such improvements and the contractor's guaranty, in like amount and so conditioned, which guaranty shall be reduced or released by the Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy or building permits.

#### **Section 286-620.04 Records To Be Kept**

(A) The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

#### **Section 286-620.06 Amendment of Conditions**

(A) The City Council shall have the authority to amend such conditions in the same manner provided for amendment of zoning regulations generally. No amendment of

conditions created pursuant to this chapter shall be granted until after a public hearing before City Council advertised pursuant to Section 15.2-2204 of the Code of Virginia.

### **Section 286-620.08 Procedural Requirements**

(A) All property owners submitting applications for review under conditional zoning shall comply with all other applicable procedural requirements of the Code of the City of Colonial Heights.

### **Section 286-622 Special Exception Permits**

(A) The procedures and standards contained in this section shall apply to all uses specifically permitted as Special Exceptions in the district regulations found elsewhere in this chapter.

(B) Special Exceptions are hereby established in recognition that in addition to uses permitted by right, certain uses may, depending on their scale, design, location and conditions imposed by the City Council, be compatible with existing and future land uses in the district.

(C) The review and subsequent approval or disapproval of a Special Exception shall be considered a legislative act, and shall be governed by the procedures thereof.

### **Section 286-622.02 General Standards**

(A) The Administrator may require a pre-application conference with the applicant for a special exception permit. The purpose of the pre-application conference is to informally review the proposed permit application to determine any issues and concerns that may emerge as part of the formal review of the application. The Administrator's comments on the proposed application shall be informal, and shall not constitute a formal recommendation on the application.

(B) No Special Exception Permit shall be issued by the City Council unless the City Council shall find that in addition to conformity with any standards contained in Article IV Use and Design Standards, the proposed Special Exception shall conform to the following general standards. These standards shall be met either by the proposal as submitted and thereafter revised by the applicant, or by the proposal as modified or amended as part of the review of the application by the Planning Commission or the City Council:

1. The proposal as submitted or modified shall generally conform to the City comprehensive plan; and,

2. The proposal as submitted or modified shall have a minimum adverse impact on the surrounding neighborhood or community. Adverse impacts shall be evaluated with consideration to items such as, but not limited to, traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes and vibrations. In considering impacts, consideration shall be given to the timing of the operation, site design, access, screening, and other matters that might be regulated to mitigate adverse impacts.

#### **Section 286-622.04 Application Requirements**

(A) An application for a Special Exception Permit may be initiated by:

1. Motion of the City Council;
2. Motion of the Planning Commission; or,
3. Petition of the owner, owner's, agent, or contract purchaser with the owner's written approval.

(B) Applicants shall provide at the time of application, information and/or data to demonstrate that the proposed use will be in harmony with the purposes of the specific zoning district in which it will be located. The applicant shall also have the responsibility to demonstrate that the proposed use will have minimum adverse impact on adjoining property and the surrounding neighborhood.

(C) All applications shall show the nature and extent of the proposed use and development. If phased development is envisioned, all phases shall be shown at the time of the original application.

(D) The Administrator shall establish and maintain Special Exception Permit application materials. At a minimum, these materials shall require the submittal of a concept plan. Concept plans shall be developed to standards established by the Administrator.

#### **Section 286-622.06 Review and Action**

(A) City staff shall review all applications submitted. This review shall evaluate the proposal against the City's comprehensive plan and any specific or general standards for the use. The staff shall make a report of its findings and recommendations and transmit the report to the Planning Commission within 30 days of receiving a complete application.

(B) The Planning Commission shall review and make recommendations to the City Council concerning the approval or disapproval of any Special Exception Permit. No such recommendation shall be made until after a public hearing is held in accordance with Section 15.2- 2204 of the Code of Virginia

(C) The Planning Commission shall base its recommendation upon the review of submitted application materials, specific and general criteria contained in this chapter, comment received at the public hearing, and the evaluation and recommendation of the City staff. In making a recommendation to the City Council, the Planning Commission may recommend any conditions necessary to insure that the proposal is compatible with the surrounding neighborhood and community. However, any such conditions shall relate to the design, scale, use or operation of the proposed Special Exception. Where warranted, any such conditions may exceed specific standards found elsewhere in this chapter.

(D) The City Council shall grant or deny any application for a Special Exception Permit. No such action shall be taken until the City Council receives the recommendation of the Planning Commission and a City Council public hearing is held in accordance with Section 15.2- 2204 of the Code of Virginia.

(E) In approving any Special Exception Permit, the City Council may require and attach any conditions necessary to insure that the proposal is compatible with the surrounding neighborhood and community. However, any such conditions shall relate to the design, scale, use or operation of the proposed Special Exception. Where warranted, any such conditions may exceed specific standards found elsewhere in this chapter.

#### **Section 286-622.08 Time Limitations**

(A) The Planning Commission shall make a recommendation and report its findings to the City Council within 100 days from the date that the proposed Special Exception Permit application is referred to the Planning Commission. Failure of the Planning Commission to report to the City Council within 100 days shall be deemed a recommendation of approval, and the City Council may act on the application without a recommendation from the Planning Commission.

#### **Section 286-624 Non-Conforming Uses and Structures**

(A) Within the zoning districts established by this chapter, by future amendments which may be adopted, by legitimate and legal actions taken by the City Council, or other governmental agency, there exist lots, parcels, structures, uses of land and structures, and characteristics of site design and/or use which were lawful before this chapter was adopted or amended, but which would be prohibited under the terms of this chapter or future amendment. Such structures, uses and characteristics, or any combination thereof, are considered nonconformities, and are hereby declared by the City Council to be inconsistent with the character of the districts in which they occur.

(B) Nonconformities are permitted to remain until removed, discontinued, or changed to conform to the provisions of this chapter. It is the intent of this chapter that the continuance of nonconformities shall not be indefinite, and that the nonconforming structures, uses, or characteristics shall gradually be removed.

(C) Nothing shall be construed to grant conforming status to uses or structures that existed as legal nonconforming uses prior to the adoption of this chapter, or amendment thereto, unless such uses or structures conform to all applicable provisions of this chapter.

**Section 286-624.02 Nonconformities; Relationship to Vested Rights**

(A) Nothing in this chapter shall impair any vested right. Pursuant to Section 15.2-2307 of the Code of Virginia, a landowner's rights shall be deemed vested and shall not be affected by the subsequent amendment of this chapter if all of the following occur:

1. The landowner obtains or is the beneficiary of a significant affirmative governmental act;
2. The landowner relies in good faith on a significant affirmative governmental act; and,
3. The landowner incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

**Section 286-624.04 Nonconforming Uses of Buildings, Structures or Land**

(A) Where at the effective date of this chapter or amendments thereto, lawful use exists of buildings, structures, or land, individually or in combination, which use is no longer permissible under the terms of this chapter as enacted or amended, such use may be continued provided:

1. The use is not discontinued for more than two years.
2. The use is not converted or replaced, in whole or in part, by a use permitted in the district regulations; and
3. The building or structures containing the nonconforming use are maintained in their then structural condition.

(B) If buildings or structures containing a nonconforming use are enlarged, extended, reconstructed, or structurally altered, or if a nonconforming use of land is enlarged, or expanded in area, the use of the building, structure or land shall legally conform to the regulations of the zoning district in which they are located.

(C) No nonconforming use shall be enlarged, intensified, or increased, nor intensified to occupy a larger structure or building, than was occupied at the effective date of this chapter.

(D) No nonconforming use shall be moved in whole or in part to any portion of the lot or acreage unoccupied by such use at the time of the adoption or subsequent amendment of this chapter.

(E) No building or structure conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(F) Where nonconforming use status applies to a building or structure, removal of the building or structure, or damage from any cause to an extent of more than fifty percent of replacement cost at the time of damage, shall eliminate the nonconforming status of the building, structure or land.

#### **Section 286-624.06 Nonconforming Buildings and Structures**

(A) Where a lawful building or structure exists at the time of the adoption or amendment of this chapter, which could not be built under the terms of this chapter, by reasons of restrictions on area, bulk, lot coverage, height, yards, or other characteristics of the building or structure, or its location on a lot, such building may be continued so long as it remains otherwise lawful provided:

1. No building or structure shall be enlarged in any way which increases or extends its nonconformity.
2. Any building or structure which is damaged by any means to an extent of more than fifty percent of its replacement cost at the time of damage shall be reconstructed only in complete conformity with the provisions of this chapter.
3. Any building or structure which is moved for any reason, for any distance, shall thereafter conform to the regulations of the district in which it is located after it is moved.

#### **Section 286-624.08 Nonconforming Site Designs**

(A) If a zoning permit is requested for any type of modification to an existing structure or site, no legal nonconforming site design planned, approved, and constructed prior to the adoption of this chapter shall be required to comply in full with the provisions of this chapter. Only those site improvements directly related to, or affected by the modified use, structure or activity, shall be required to comply in full with the provisions of this chapter.

#### **Section 286-626 Board of Zoning Appeals**

(A) The Colonial Heights Board of Zoning Appeals (BZA) shall consist of 5 regular members and one alternate, who shall be appointed by the City Council for terms of 4 years. The composition of the BZA, qualifications of members and the operation of the BZA, shall be in accordance with the City Charter.

(B) One member of the BZA shall be a member of the Planning Commission.

**Section 286-626.02 Powers and Duties**

(A) The BZA shall have the power and duty:

1. To hear and decide appeals from any written order, requirement, decision, or determination made by any administrative officer in the administration or enforcement of this chapter. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia.
2. The BZA shall have the power and duty to authorize upon appeal or original application in specific cases a variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of this chapter will result in unnecessary hardship. No such variance shall be granted unless the spirit of the chapter shall be observed and substantial justice done. To legally grant a variance, the BZA must be presented evidence and make a finding that:
  - a. A property owner acquired the property in good faith and whereby reason of the exceptional narrowness, shallowness, size or shape of the property at the time of the adoption of this chapter, or whereby reason of exceptional topographic conditions or other extraordinary situation or condition of the property, the strict application of this chapter would effectively prohibit, or unreasonably restrict the use of the property; and,
  - b. Due to the condition, situation, or development of immediately adjacent property, the strict application of this chapter would effectively prohibit, or unreasonably restrict the use of the property; and
  - c. That the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.

(B) All variances granted must be in harmony with the intended spirit and purpose of this chapter. Specifically, the BZA must find that the strict application of the chapter would produce undue hardship. This hardship must not be shared by other properties in the same zoning district and in the same vicinity. The BZA must find that the granting 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. Finally, the

BZA must not grant a variance unless it finds that the condition or situation of the property is not so general or recurring in nature as to make reasonably practical the formulation of a general regulation to be adopted as an amendment to this chapter.

(C) No variance request shall be evaluated by the BZA until after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia.

(D) In granting a variance, the BZA may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

(E) The BZA shall have the power and duty to hear and decide appeals from any written decision of the Administrator. No such appeal shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia.

(F) The BZA shall have the power and duty to hear and decide applications for interpretation of the official zoning map where the Administrator believes there is uncertainty as to the location of a district boundary. No such determination shall be made except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia.

(G) Any property owner affected by a determination of the location of the boundary must be notified by first class mail prior to any such determination. After notice and hearing the BZA may interpret the map in such a way to carry out the intent and purpose of this chapter. However, the BZA shall not have the power to change substantially the locations of the district boundaries as established by this chapter. This authority of the BZA to determine the location of district boundaries shall not be construed as the power to rezone property.

#### **Section 286-626.04 Applications for Variances**

(A) Applications for variances may be made by any property owner, tenant (with owner's permission), government official, department, or board or bureau of the City. All applications shall be submitted to the Administrator in accordance with rules adopted by the BZA. All applications and accompanying maps, plans or other information shall be transmitted promptly placed on the agenda to be acted upon by the BZA, within ninety (90) days of the filing of the application. No such application shall be heard except after notice and hearing as provided by Section 15.2-2204 of the Code of Virginia.

#### **Section 286-626.06 Applications for Appeals**

(A) Appeals to the BZA may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Administrator, or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this chapter. Appeals must be made within thirty (30) days after the entry of the decision appealed from by filing with the Administrator and with the BZA, a notice of appeal, specifying the grounds thereof. The

Administrator shall forthwith transmit to the BZA all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrator certifies to the BZA that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed unless a restraining order is granted by the BZA, or by a court of record, on application and on notice to the Administrator and for good cause shown.

### **Section 286-626.08 Procedures for Variances and Appeals**

(A) The BZA shall fix a reasonable time for the hearing of an appeal, give public notice thereof, as well as due notice to all parties of interest, and decide the same within ninety (90) days of the filing of the appeal. In exercising its power, the BZA may reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination appealed from.

(B) The concurring vote of the majority of the BZA shall be necessary to reverse any order, decision, requirement, or determination of an administrative officer, or to decide in favor of the applicant on any matter upon which the BZA is required to pass under the terms of this chapter, or to effect any variance from this chapter.

(C) The BZA shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Administrator. All records shall be public records. The chairman of the BZA, or in the absence of the chairman, the acting chairman, may administer oaths, and compel the attendance of witnesses.

### **Section 286-626.10 Certiorari to Review Decision of BZA**

(A) Any person jointly or separately aggrieved by any decision of the BZA, or any taxpayer or any officer, department, board or bureau of the City, may present to the circuit court a petition specifying the grounds on which aggrieved. This petition must be filed within thirty (30) days of the BZA's decision.

(B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the BZA and shall prescribe therein the time within which a return thereto must be made and served upon the relater's attorney, 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 BZA and on due cause shown, grant a restraining order.

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

(D) If upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct, and report the same to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

(E) Costs shall not be allowed against the BZA, 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 BZA 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 a return of the record pursuant to the writ of certiorari.