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NEW KENT COUNTY

ZONING ORDINANCE

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Prepared by
Richmond Regional Planning District Commission

December, 1992

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CHAPTER 9

ZONING ORDINANCE

ARTICLE III. Zoning.

The original New Kent County Zoning Ordinance was adopted on January 3, 1967, and amended on August 8, 1967, September 9, 1969, February 9, 1971, August 10, 1972, June 26, 1972, October 9, 1972, July 10, 1973, February 10, 1975, April 1, 1975, August 2, 1977, October 13, 1980, November 24, 1980, December 8, 1980, December 22, 1980, February 8, 1982, and October 10, 1983. The ordinances contained in this article are a recodification of these previous ordinances with grammatical changes and amendments. This article also includes additions to the former zoning provisions. The current ordinance was adopted on July 20, 1987, and amended on September 14, 1987, October 19, 1987 November 15, 1991, and **ADD DATE.**

Division 1. General Administrative Provisions.

Sec. 9-35. Purpose and intent.

Be it ordained that for the purpose of promoting the health, safety, and general welfare of the public and of further accomplishing the objectives of Section 15.1-427 of the Code of Virginia, that this article be adopted as the zoning ordinance of New Kent County, Virginia, together with the accompanying official zoning map. This article has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks, forest, playgrounds, recreational facilities, airports and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to 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) to encourage economic development activities that provide desirable employment and enlarge the tax base; and (8) to provide for the preservation of agricultural and forestal lands.

Sec. 9-36 General rules of construction.

The following general rules of construction shall apply to the regulations of this article:

A. The singular number includes the plural, and the plural the singular unless the context clearly indicates otherwise.

B. Words used in the present tense include the past and future tenses, and the future tense includes the present.

C. The word "shall" is always mandatory. The word "may" is permissive.

D. The word "building" or "structure" includes any part thereof and the word "building" includes the word "structure".

E. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.

F. The terms "main" and "principal" as used herein are synonymous.

Sec. 9-37. Definitions.

For the purposes of this article, the following words and terms shall have the meanings respectively ascribed to them by this section:

ACCELERATION LANE. An added roadway lane which permits integration and merging of slower moving vehicles into the main vehicular stream.

ACCESSORY APARTMENT. A dwelling unit either in or added to a structure used for business or commercial purposes, for use as a complete, independent living facility with facilities for cooking, eating, sanitation, and sleeping.

ACCESSORY BUILDING. A subordinate structure which is clearly incidental to or customarily found in connection with and (except as otherwise provided in this article) located on the same lot as the main building or principal use of land.

(See Section 9-45)

ACCESSORY USE. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and (except as otherwise provided in this article) located on the same lot with such principal use.

(See Section 9-45)

ACREAGE. A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

ADDITION. A structure added to the original structure at sometime after the completion of the original.

ADMINISTRATOR. (See Zoning Administrator).

AGRICULTURE (AND FARMING). The production, keeping or maintenance for sale, lease or personal use of plants and animals useful to man including but not limited to forages and solid crops, grains, and seed crops, dairy animals and dairy products, poultry and poultry products, livestock including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutations or highbreds thereof including the breeding and grazing of any or all of such animals, bees and aviary products, fur animals, trees and forest products, fruits of all kinds including grapes, nuts, berries, vegetables, nursery, floral, ornamental, and greenhouse products or lands devoted to a soil conservation or forestry management program. **This definition shall also include aquacultural activities.** The term shall not include home gardens nor shall it include those activities specifically listed under animal husbandry in Section 9-243 of this chapter.

AIR PARK. A complex of uses such as offices, stores, hotels and manufacturers that join or are part of an airport and requiring or desiring close access thereto.

AIRPORT. A place where aircraft can land or take off usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

~~AIRPORT ELEVATION. The highest point of an airport's usable landing area measured in feet from mean sea level.~~

~~AIRPORT HAZARD. Any structure or object of natural growth located on or in the vicinity of a public airport, or any use of land near such airport, which obstructs the airspace required for the flight of aircraft in landing or takeoff at such airport or is otherwise hazardous to such landing or takeoff of aircraft.~~

AISLE. The traveled way by which cars enter into parking spaces.

ALTERATION. A change or rearrangement in the supporting members of an existing building such as bearing walls, columns, beams, girders, or interior petitions, as well as any change in doors or windows or any enlargement to or diminution of a building or structure whether horizontally or vertically or the moving of a building or structure from one location to another,

AMUSEMENT FACILITIES AND GAME ROOMS. Public billiard parlors and pool rooms, video arcades, bowling alleys, and similar forms of public amusement.

AMUSEMENT PARK. An outdoor commercial facility which may include structures or buildings where there are various devices for entertainment including rides, booths for the conduct of games or sale of items and buildings for shows and entertainment including baseball diamonds, football stadiums, auto sports complexes and outdoor amphitheaters.

ANIMAL HOSPITAL. A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the hospital use.

ANIMAL HUSBANDRY. The scientific control and management of animals used for agricultural and domestic purposes.

APARTMENT. A part of a building containing cooking and housekeeping facilities consisting of a room or suite of rooms intended, designed or used for residence by an individual or a single family.

APARTMENT HOUSE. A structure containing three (3) or more apartments.

~~APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES. These zones apply to the area under the approach, transitional, horizontal and conical surfaces defined in the FAA regulations which apply to the type of facility involved.~~

AQUACULTURE. Land devoted to the hatching, raising, and breeding of aquatic and marine fish, plants or animals for sale or personal use.

ASPHALT MIXING. A facility engaged in the production of an asphaltic compound primarily used for paving, roads, parking lots, and sidewalks.

ASSEMBLY HALL. An enclosed structure primarily used to accommodate groups of people gathered for the purpose of deliberation, legislation, worship, or entertainment.

AUTOMOBILE. A self-propelled, free-moving vehicle with four or more wheels primarily for conveyance on a street or roadway.

AUTOMOBILE REPAIR. A business engaged in the maintenance, repair, or restoration of automobiles, including repairs to the engine and other mechanical components, and the body and interior.

AUTOMOBILE GRAVEYARD OR WRECKING YARD. A junkyard consisting of that part of a lot not enclosed by a building which is used for the storage or dismantling of damaged, inoperative or obsolete vehicles or for the sale of such vehicles or of the salvaged parts therefrom. The term also includes any lot or place which is exposed to the weather upon which more than five (5) motor vehicles of any kind incapable of being operated are placed.

AUTOMOBILE SALES. A business engaged in the display and sale of new or used automobiles, trucks, and vans with a gross vehicle weight not to exceed ten thousand (10,000) pounds and the installation of batteries, lubricants, tires, and other similar accessories, and the cleaning of vehicles for display purposes only.

AUTOMOBILE SERVICE GARAGE. A business engaged in the maintenance and repair of engines and other mechanical components of automobiles, excluding the repair or restoration of the body and interior.

AUTOMOBILE SERVICE STATION ~~(OR FILLING STATION) WITH MINOR REPAIR UNDER COVER~~. Any place of business with pumps and underground storage tanks having as its purpose the dispensing of motor vehicle fuels and lubricants and/or the servicing of motor vehicles, including minor repairs and inspections incidental thereto but not including a general repair shop, paint or body shop, machine shop, vulcanizing shop, or any operation requiring the removal or installation of radiators, engines, cylinder heads, crankcases, transmissions, differentials, fenders, doors, bumpers, grills, glass or other body parts or any body repairing or painting. The term shall not include truck stops.

~~AUTOMOBILE REPAIR SERVICES AND GARAGES. Establishments primarily engaged in furnishing automotive repair of an intensive nature such as general repairs, paint, or body shops, machine shops, vulcanizing shops, radiator repair shops, and engine and transmission repair shops.~~

BANK. An establishment regulated by federal and state laws and engaged in the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds.

BASEMENT. A story partly underground having more than one half (1/2) of its height above ground. A basement shall be counted as a story for the purpose of height regulations. (See definition for Cellar.)

BASE FLOOD/ONE HUNDRED YEAR FLOOD. A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one (1) percent chance of occurring each year, although the flood may occur in any year).

BED AND BREAKFAST/HOME STAY ESTABLISHMENT. A single-family dwelling in which the principal use is permanent residential quarters; and in which, as an accessory use, no more than five bedrooms are made available for transient occupancy, generally for not more than seven days, by no more than ten guests for compensation.

BLOCK. That property fronting on one side of a street or road lying between two (2) intersecting streets or roads or otherwise limited by a railroad right-of-way, a live stream, or unsubdivided tract or physical barriers of such nature as to interrupt the continuity of the development.

BOARD. The board of zoning appeals of New Kent County.

BOARDING HOUSE. A dwelling or part thereof where for compensation lodging and meals are provided for at least three (3) and for not more than fourteen (14) persons.

BOAT BUILDING. A business engaged in the construction, repair, and maintenance of hulls, cabins, and other structures on waterborne vessels

not to exceed a displacement of 100 hundred tons, and the installation, repair, or replacement of engines, spars, and other mechanic devices and accessories required for propulsion or the production of electricity, or any other equipment and accessory appurtenant thereto on such vessels.

BOAT SALES. A business engaged in the display and sale of new or used boats not to exceed a displacement of 100 tons, and the installation and sale of batteries, lubricants, and other accessories and equipment appurtenant thereto.

BRICK MANUFACTURING. A business engaged in the production of clay or concrete blocks used for building or paving.

BROADCAST STUDIOS. A facility used to transmit wavelengths within the electromagnetic spectrum in frequencies required for their reception by radio or television.

BUILDABLE AREA. The area of that part of the lot not included within the yards or open spaces required by this article.

BUILDABLE WIDTH. The width of that part of the lot not included within the open spaces required by this article.

BUILDING. Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, and property of any kind.

BUILDING, COMPLETELY ENCLOSED. Any building having no outside openings other than ordinary doors, windows and ventilators.

BUILDING COVERAGE (LOT COVERAGE). That percentage of a lot which when viewed from above would be covered by a structure or structures and any part thereof, excluding roof eaves.

BUILDING, HEIGHT OF. The vertical distance from the average established curve grade or from the average level of the finished grade at the front building line, if higher, to the highest point of the roof if a flat roof, to the deck line of a mansard roof or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof.

BUILDING LINE. The line created where the building makes contact with the finished grade level. Building height is measured in a perpendicular direction from this line.

BUILDING, MAIN. The principal building or one of the principal buildings on a lot or the building or one of the principal buildings housing the principal use on the lot.

BUILDING OFFICIAL or INSPECTOR. The legally designated building authority of New Kent County or his/her authorized representative.

BUS TERMINAL or STATION. Any premises for the transient housing or parking of motor driven buses and the loading and unloading of passengers.

CAMPER. Any individual who occupies a campsite or otherwise assumes charge of or is placed in charge of a campsite.

CAMPGROUND. A plot of land on which two (2) or more campsites are located established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

CAMPING UNIT. Any tent, travel trailer, cabin, lean-to, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

CAMPSITE. Any plot of ground in a campground intended for the exclusive occupancy by a camping unit or units under the control of camper.

CANOPY. A detachable rooflike cover supported from the ground or deck, floor or walls of a building for protection from sun and weather.

CELLAR. A story entirely underground or partly underground with at least one half (1/2) of its height below grade.

CEMETERY, ~~PRIVATE or PUBLIC~~. A place of the interment of human or animal dead above or below ground.

CHANGE OF USE. Any use which substantially differs from the previous use of building or land.

CHILDCARE CENTER. A private establishment enrolling four (4) or more children between two and five years of age and where tuition fees or other forms of compensation for the care of the children is charged and which is licensed or approved to operate by the State of Virginia.

CHIMNEY. A structure containing one or more flues for drawing off emissions from stationary sources of combustion.

CHURCH/**SYNAGOGUE**. A building or structure or groups of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

CIVIC CENTER. A building or complex of buildings that house municipal offices and services and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

CLINIC. An establishment where patients who are not lodged overnight are admitted for an examination or treatment by physicians or dentists.

CLUB. Buildings and facilities owned and operated by a corporation, association, person or persons for a social, educational, or recreational purpose but not primarily to render a service which is customarily carried on as a business. This includes community pools and recreational facilities.

CLUSTER HOMES. A group of dwellings for private and separate ownership similar to condominium development but buildings may or may not be connected. Generally associated with Planned Unit Developments.

COMMERCIAL GREENHOUSE. A structure in which plants, vegetables, flowers, and similar other materials are grown for sale.

COMMISSION. The Planning Commission of New Kent County, Virginia.

COMMON AREA. All land within a subdivision or townhouse development excluding public streets and rights-of-way and private lots held either by the owner/developer or an individual non-profit corporate owner whose members shall be all property owners within the subdivision or townhouse development.

COMMUNITY CENTER. A building used for recreational, social, educational and cultural activities owned and operated by a public or nonprofit group or agency.

COMMUNITY FACILITY. A building or structure owned and operated by a governmental agency to provide a governmental service to the public.

CONDITIONAL USE. A use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in this article and as established by the Board of Supervisors of New Kent County.

CONDITIONAL USE PERMIT. A written permit issued by the proper authority stating that the conditional use meets all conditions required by this article.

CONDOMINIUM. A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional undivided basis.

CONFERENCE CENTERS. A facility used for business or professional conferences and seminars, often with accommodations for sleeping, eating, and recreation.

CONSTRUCTION BUSINESS WITH EQUIPMENT STORAGE. A business engaged in the erection, alteration, extension or repair of a structure with facilities used for the storage of materials and equipment.

CONSTRUCTION TRAILERS/PORTABLE-TEMPORARY. Trailers used for the temporary storage of materials and equipment or used as administrative offices on a construction site.

CONTRACTOR STORAGE. Facilities used for the storage of materials and equipment used in the erection, alteration, extension or repair of structures.

CONVALESCENT, NURSING or REST HOME. Any institution, however named, whether conducted for charity or for profit, which is advertised, announced or maintained for the express or implied purpose of caring for two (2) or more non-related persons submitted thereto for the purpose of nursing or convalescent care. Nursing or convalescent care includes care given because of prolonged illness or defect or during the recovery from injuries and includes any and all of the procedures commonly employed in waiting on the sick such as administration of medicine, preparation of special diets, giving of bedside care, application and dressing of bandages and the carrying out of treatment prescribed by a duly licensed practitioner of medicine.

CONVENIENCE STORES. Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same, and gasoline and diesel fuel, and having a gross floor area of less than 5,000 square feet. This definition shall not include truck stops.

COUNTRY CLUBS. A land area and buildings containing recreational facilities, clubhouse and usual accessory uses, open only to members and their guests for a membership fee.

COURT. An open space which may or may not have direct street access and around which is arranged a single building or a group of related building.

CROP SERVICES. A business or enterprise solely engaged in the biological and entomological care of agricultural crops.

CUL-DE-SAC. The turnaround at the end of a dead-end street.

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

DANCE AND MUSIC STUDIO. A building or portion of a building used to teach, rehearse, and perform the various disciplines of dance and music.

DAYCARE CENTER/DAY NURSERY. See Childcare Center.

DENSITY. The number of families, individuals, dwelling units or housing units per unit of land.

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, drilling operations, or storage of equipment or materials.

DEVELOPMENT STANDARD. Regulations which limit the size, bulk or siting conditions of particular types of buildings or uses located within any designated district or permitted as conditional uses.

DISTILLATION OF ETHANOL FROM GRAIN. A facility used to produce ethanol from grain through the process of distillation.

DISTRICT. Areas established by this article under the provisions of Section 15.1-486 of the Code of Virginia.

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

DRY CLEANING PLANT. A facility used for the cleaning of clothing, curtains, and similar fabric items by means of special equipment employing the use of chemicals and solvents.

DRY CLEANING PICK-UP OUTLET. A facility used to collect and return items to be drycleaned at a plant located elsewhere. Such facilities may include equipment to be used for the laundering and pressing of clothing items.

DUMP. A land site used primarily for the disposal by dumping, aerial burning or other means for whatever purposes of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or part thereof, and other waste, scrap, or discarded material of any kind.

DWELLING. A building or portion thereof designed or used exclusively for residential occupancy but not including boats, trailers, mobile homes, motor homes, hotels, motels, motor lodges, tourist courts, or tourist homes.

DWELLING, SINGLE-FAMILY. A building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

DWELLING, TWO-FAMILY. A structure arranged or designed to be occupied by two families, the structure having only two (2) dwelling units.

DWELLING, MULTI-FAMILY. A structure arranged or designed to be occupied exclusively by three (3) or more families living independently of each other.

DWELLING, SEMI-DETACHED. Two (2) single-family dwellings attached by a common vertical wall without openings between them and with separate entrances for each dwelling unit.

DWELLING, MODULAR. A single-family dwelling which is constructed in units which are movable but not designed for regular transportation on highways and designed to be constructed on a permanent foundation.

DWELLING UNIT. One or more rooms in a dwelling designed for living or sleeping purposes and having at least one kitchen.

EDUCATIONAL INSTITUTION. A college or university authorized by the state to award degrees.

EQUESTRIAN SALES AND SHOW PAVILION. A facility solely used for the show and sale of horses, tack, horsedrawn carriages, and similar accessory equipment.

EXISTING USE. the use of a lot or structure at the time of enactment of the applicable provisions of this article.

EXTENDED CARE FACILITY. See convalescent nursing or rest home.

EXTERIOR WALL. Any wall which defines the exterior boundaries of a building or structure.

FAMILY. One or more persons occupying a premises and living in a single dwelling unit as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home or hotel. The term shall include unrelated persons occupying single dwelling units, if the number of such unrelated persons does not exceed four (4).

FARM. A parcel of land used for agriculture.

FARM EQUIPMENT SALES. A business engaged in the sale and repair of machines and equipment used solely for agricultural purposes.

FARM STRUCTURES. Any building or structure used for agricultural purposes.

FAST FOOD RESTAURANT. An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off the premises.

FEED LOT. A relatively small confined land area for fattening cattle or holding temporarily for shipment.

FEED AND SEED STORES. A business primarily engaged in the sale of animal feed, agricultural crop seeds, and ancillary supplies to sustain and nurture crops and animals used for agricultural purposes.

FIRE AND RESCUE STATIONS. A building to house fire fighting and emergency medical rescue equipment and personnel.

FLOOD. A general and temporary inundation or normally dry land areas.

FLOODPLAIN. (a) A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; (b) An area subject to the unusual and rapid accumulation of runoff of surface water from any source.

FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source.

FLOODWAY. The designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) - year magnitude.

FLOOR AREA. (a) Commercial, business, and industrial buildings or buildings containing mixed uses: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior wall or from the center line of walls separating two buildings but not including, (1) attic space providing head room of less than seven feet; (2) basement or cellar space not used daily; (3) uncovered steps or fire escapes; (4) accessory water towers; (5) accessory off-street parking spaces, and (6) accessory off-street loading spaces. (b) Residential buildings: The sum of the gross horizontal areas of the several floors of a dwelling exclusive of garages, basements, cellars and open porches measured from the exterior faces of the exterior walls.

FLOOR AREA, FINISHED. That area that is so completed as to be in conformity with the conditions of the main living area but not necessarily utilizing the same building material.

FLOOR AREA, LIVABLE. Floor area designed for year-round family living enclosed or protected from the weather but not intended for storage or similar uses and not including garages, carports, cellars, basements, attics, open porches, atriums, patios and breezeways. Basement space may be included as livable floor area when designed as a family room, game room or similar use with an exposed outside wall containing windows or doors.

FORESTRY. The operation of timber tracts, tree farms, forest nurseries, or the gathering of forest products.

FREIGHT TERMINAL. A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored.

FRONTAGE (SEE LOT FRONTAGE).

FUNERAL HOMES. A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

GAME PRESERVES/CONSERVATION AREAS. Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance, or character. Such areas may include wetlands, tidal shores, steep slopes, and areas of significant biological productivity or uniqueness and abundant wildlife habitats.

GAME ROOMS/AMUSEMENT FACILITIES. A building in which five (5) or more pinball machines, video games, pool or billiards tables, or other similar player-operated amusement devices are maintained.

GARAGE, PRIVATE. Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple unit dwelling, the private garage may be designed and used for the storage of one-and-one-half (1-1/2) times as many automobiles as there are dwelling units.

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

GARDEN APARTMENT. A multi-story building with one or more separate and individual apartments found in each story.

GOLF COURSE. Any golf course, publicly or privately owned, on which the game of golf is played including accessory uses and buildings customary thereto, but excluding golf driving ranges as herein defined.

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

GOVERNING BODY. The Board of Supervisors of New Kent County, Virginia.

GOVERNMENT BUILDINGS/FACILITIES. A building or structure in which activities and services of local (New Kent County) government activities and services are conducted.

GRADE. Grade or grade elevation shall be determined by averaging the elevations of the finished ground adjacent to all the corners and/or other principal parts in the perimeter wall of the building.

GRAIN STORAGE. A facility used for storing seeds or fruits from cereal grasses.

GRAVEL PIT/BORROW PIT. An open land area where sand, earth, gravel, or rock fragments are mined or extracted for sale of off-tract use.

GREENBELT. A strip of land planted with evergreen trees, established to protect one type of land use from another with which it may be incompatible.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

GROUP CARE FACILITY. A facility designed to provide resident services to individuals who are mentally retarded or otherwise developmentally disabled who require rehabilitation or personal services. Group care facilities include uses such as family care homes, group homes and resident schools for the above individuals.

GUEST HOUSE. Living quarters with an attached accessory building located on the same premises with the main dwelling for use by guests of the occupants of the premises and not rented or otherwise used as a separate dwelling.

HEALTH OFFICIAL OR HEALTH OFFICER. The legally designated health authority of New Kent County or his/her authorized representative.

~~HELIPORT PRIMARY SURFACE. The area of the primary surface coincides in size and shape with the designated landing and takeoff area of a heliport (runway). This surface is a horizontal plane at the elevation of the established heliport elevation.~~

HELISTOP. A heliport, but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

HISTORIC AREA. An area or district established by the Board of Supervisors of New Kent County under the provisions of Section 15.1-503.2 of the Code of Virginia.

HISTORIC STRUCTURE. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(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.

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

HOME OCCUPATION. An activity carried out for gain by a resident of the dwelling unit as an accessory and subordinate use to the residential use, which activity is carried on within the resident's dwelling unit unless otherwise specifically provided.

HOMES FOR DEVELOPMENTALLY DISABLED PERSONS. A dwelling or facility shared by four or more resident handicapped persons and staff in which staff provide care, education, and therapy to the residents. As used herein, the term handicapped shall mean having 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such impairment; or 3) being regarded as having such impairment. This definition shall not include persons with an addiction to controlled substances or alcohol, nor shall it include facilities engaged in the treatment of such persons, nor shall it include work release facilities for convicts or ex-convicts, or other facilities serving as an alternative to incarceration.

HORSE TRACKS. Facilities used for the racing of horses for competition on a set course involving a race between horses on which pari-mutuel wagering is permitted with accessory uses including, but not being limited to, stables, animal hospitals and temporary housing facilities used by persons participating in race track meetings, fairs or other exhibitions, but such campers shall not be available for use or rental to the general public, nor may they be utilized for permanent occupancy.

HOSPITAL/**MEDICAL FACILITY.** An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, including as an integral part of the institution, related facilities such as laboratories, offices, outpatient facilities or training facilities.

HOTEL, MOTEL, MOTOR COURT, TOURIST COURT or MOTOR LODGE. A building in which lodging or boarding and lodging are provided for more than fourteen (14) persons primarily transient and offered to the public for compensation and in which room assignments are made through a lobby or office supervised by a person in charge at all hours. As such, it is open to the public as distinguished from the keeping of boarders or roomers or a multiple family dwelling which are herein separately defined. A hotel or motel may include restaurants, taverns or club rooms, public banquet and conference halls, ballrooms, and meeting rooms.

HUNTING CLUBS. A private not for profit organization of which the membership is characterized by certain qualifications, pays fees and dues, conducts regular meetings, and is regulated by by-laws, and the primary purpose of membership is to hunt game animals.

INDUSTRIAL PARK. A tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

JUNK. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvaging, storage, baling, disposal or other use or disposition.

JUNKYARD/SALVAGE YARD. ~~The use of more than two hundred (200) square feet of land area in any location for the storage or keeping of junk for recycling or salvage purposes. The term shall include automobile salvage years.~~ **Any area, lot, land, parcel, building, or structure or part thereof used for the storage, collection, processing, purchase, sale, or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery, or two or more unregistered and inoperable motor vehicles or other type of junk.**

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

LANDFILL, SANITARY. A facility designed for the safe disposal of municipal solid waste. Such facility shall not accept chemical, nuclear or other hazardous wastes.

LAUNDROMAT. An establishment providing washing, drying or dry cleaning machines on the premises for rent to or use by the general public for family laundering or dry cleaning purposes.

LAUNDRY. A building or part thereof other than a laundromat where clothes and other articles are washed, dried and ironed.

LIBRARIES. An institution engaged in the custody of books, manuscripts, musical scores, or other literary or artistic materials for use by the public but not for sale.

LIVESTOCK MARKET. A commercial establishment wherein livestock is collected for sale and auctioned off.

LOADING SPACE. An off-street space or berth used for the loading or unloading of commercial vehicles.

LODGE/ASSEMBLY HALL. The place where members of a local chapter of an association hold their meetings.

LOT. A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law to be used, developed, or built upon as a unit. Such lot may consist of a single lot of record or a part or combination of one or more lots of record as provided herein.

LOT AREA. The total area within the lot lines of a lot, excluding any street rights-of-way.

LOT, CORNER. A lot or parcel of land that at the time of recordation abuts upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. A reverse corner lot is a corner lot that is turned with reference to an adjoining lot to front on another street. The front of such corner lot shall be deemed to be the shortest of the two (2) sides fronting on street.

LOT, DEPTH OF. The average distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE/THROUGH. An interior lot fronting on two streets.

LOT FRONTAGE. The minimum width of a lot measured from one side lot line to the other along the ultimate street right-of-way line on which the lot fronts.

LOT, INTERIOR. Any lot other than a corner lot.

LOT LINE, FRONT. The line separating the lot from a street on which it fronts.

LOT LINE, REAR. The lot lines opposite and most distant from the front lot line.

LOT LINE, SIDE. Any lot line other than a front or rear lot line.

LOT OF RECORD. A lot which exists as shown or described on a plat or deed in the records of the Clerk's Office of the Circuit Court of New Kent County.

LOT WIDTH. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

MACHINE AND WELDING SHOPS. Establishments engaged in the production of relatively small precision manufactured products or welding activities.

MAIN BUILDING. See Building, Main.

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

MANUFACTURED HOME. ~~(Doublewide Mobile Home) A structure, transportable in one or more sections 19 or more feet in width which is built on a permanent foundation when attached to the required utilities.~~ **A structure subject to federal regulations, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site, is built on a permanent chassis, is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.**

MARINA. A facility for storing, servicing, fueling, berthing, and securing of pleasure boats. ~~and which may include eating, sleeping and retail facilities for owners, crews, and guests.~~

MEAT, POULTRY, AND FISH PROCESSING. An establishment engaged in preparing meats, poultry or fish into products, not to include the slaughtering of animals.

MINING, The extraction of minerals including solids such as coal and ores, liquids such as crude petroleum and gases such as natural gases. The term also includes quarrying, well operations, milling such as crushing, screening, washing and floatation and other preparation customarily done at the mine site or as part of a mining activity.

MINI-STORAGE UNITS/WAREHOUSES. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customer's goods or wares.

MINIATURE GOLF. A recreation facility comprised of simulated putting surfaces often incorporating physical obstacles and open to the public. Such establishment shall not include golf courses.

MINING. The extraction of minerals including solids, such as coal and ores, liquid such as crude petroleum, and gases such as natural

gases. The term also includes quarrying, well operation, milling such as crushing, screening washing and floatation, and other preparation customarily done at the mine site or as part of a mining activity.

MOBILE HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet in length, or, when erected on site, is 320 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.

MOBILE HOME PARK. A mobile home park shall mean any parcel of land upon which two (2) or more mobile homes, occupied for dwelling or sleeping purposes are located, or which is held out for the location of any such mobile home.

MANUFACTURED AND MOTOR HOME SALES. A business engaged in the sale of motor homes and/or manufactured and mobile homes.

MODULAR HOME. See Dwelling, Modular.

MORTUARY/FUNERAL HOME. A place for the storage of human bodies prior to their burial or cremation which may be used for the preparation of the deceased for burial and display of the deceased and ceremonies connected therewith before burial or cremation.

NEW CONSTRUCTION. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NONCONFORMING LOT. An otherwise legally platted lot that does not conform to the minimum area or width requirements of this article for the district in which it is located either at the effective date of this article or as a result of subsequent amendments to this article.

NONCONFORMING SIGN. Any sign lawfully existing on the effective date of this article or an amendment thereto which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING STRUCTURE. A structure or building the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to this article but which fails by reason of such adoption, revision or amendment to conform to the present requirements of this article.

NONCONFORMING USE. A use of part or all of a building or other structure or a use of land which was lawful prior to the adoption, revision or amendment of this article but which fails by reason of such adoption, revision or amendment to conform to the present requirements of this article.

~~NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.~~

NURSERY SCHOOL. See Childcare Center.

NURSING HOME. See Convalescent, Nursing or Rest Home.

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

OFFICE PARK. A development that contains a number of separate office buildings, supporting uses and open space designed, planned, and constructed and managed on an integrated and coordinated basis.

OPEN SPACE. Any parcel or area of land or water set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of a land adjoining or neighboring such open space.

OUTBUILDING. A separate accessory building or structure not physically connected to the principal building.

OUTDOOR STORAGE. The keeping in an unroofed area of any goods, junk, materials, merchandise, or vehicles in the same place for more than twenty-four hours.

PAINT PELLET COMPETITIVE GAMES. An event operated on a commercial basis where individuals are divided into teams for the purpose of shooting paint pellets at each other to determine a winner. These events are strictly a recreational sport and not a training exercise.

PARKING LOT, PUBLIC. An area containing one or more parking spaces for self-propelled passenger vehicles designed for and available to the public as an accommodation for patrons, customers or employees either with or without charge.

PARKING SPACE. Parking space shall mean an all-weather surfaced area not in a street or alley and having an area of not less than one hundred and sixty-two (162) square feet and dimensions of at least nine (9) feet by eighteen (18) feet, exclusive of driveways permanently reserved for the temporary storage of one vehicle and connected with a

street or alley by a surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

PARKS/PLAYGROUNDS. An open space designed for the use of residents of a neighborhood or community for passive or active recreation or for conservation purposes which is not to be designed or used for commercial or business purposes.

PARTY WALL. A common shared wall between two separate structures, buildings or dwelling units.

PERMIT. Written governmental permission issued by an authorized official empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

PERMITTED USE. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PHOTOCOPY SERVICE. A business that reproduces drawings, plans, maps, or other copy by means of photocopying.

PLANNED UNIT DEVELOPMENT. A development which may contain the following uses: Single-family residences, apartments, townhouses, commercial and light industrial uses. Location of all uses shall be controlled in such a manner as to permit a variety of land uses in an orderly relationship to one another.

PLANT NURSERIES. Land or greenhouses used to raise flowers, shrubs, and plants for sale.

PORCH. A roofed open area which may be glazed or screened, attached to or part of and with direct access to or from a building.

~~PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PA). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.~~

PREMISES. A lot parcel, tract or plot of land together with the buildings and structures thereon.

PRIMARY HIGHWAY. A highway designated as a state primary highway or U.S. highway by the adopted comprehensive plan of New Kent County or by the Virginia Department of Transportation.

~~PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned~~

~~hard surface, the primary surface ends at each end of the runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulation (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.~~

PRINCIPAL BUILDING. See Building, Main.

PRINCIPAL USE. The primary or predominate use of any lot.

PRINT SHOPS. A retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating and printing of booklets and reports.

PRIVATE CLUB OR LODGE. See Club, Private.

PRIVATE SCHOOL. Any building or group of buildings the use of which meet state requirements for primary, secondary or higher education and which use does not secure the major part of its funding from any governmental agency.

PRIVATE YARD. A single area adjacent to a dwelling unit maintained directly by the owner of the unit.

PROFESSIONAL OFFICE. The office of a member of a recognized profession maintained for the conduct of that profession.

PUBLIC ACCESS EASEMENT. Any area through which ingress and egress is not restricted or limited to any individual occupant of the development or guest.

PUBLIC BUILDING. A building or part thereof owned or leased and occupied and used by an agency or political subdivision of the United States of America, the Commonwealth of Virginia, a county, town or city.

PUBLIC SEWER AND WATER SYSTEMS. Any system other than an individual septic tank, tile field or individual well designed to furnish water on the premises where the well is located, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment and disposal of waste and the furnishing of potable water. The term shall include all equipment and structures, all water and sewer mains, pipes, valves, pumping stations, and all other facilities, equipment and structures necessary for furnishing water and sewer.

PUBLIC/PRIVATE WATER AND SEWER. Any system other than an individual septic tank, tile field or individual well designed to furnish water on the premises where the well is located, that is operated by a municipality, governmental agency, public utility or private corporation for the collection, treatment and disposal of waste and the furnishing of potable water. The term shall include all equipment and structures,

all water and sewer mains, pipes, valves, pumping stations, and all other facilities, equipment and structures necessary for furnishing water and sewer.

PUBLIC/**PRIVATE** UTILITY FACILITIES. Telephone, electric and cable television lines, poles, equipment, structures, gas pipes, mains, valves, or structures, telephone exchanges and repeater stations and all other facilities, equipment and structures necessary for conducting a service by a government or public utility.

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) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

RECYCLING CENTERS. An establishment where inorganic waste materials are collected and processed so they may be reduced to raw materials and transformed into new and often different products.

REGULATIONS. The whole body of regulations, text, charts, tables, diagrams, maps, notations, references and symbols contained or referred to in this article.

RENTAL UNIT. A dwelling unit intended for rental to transients on a day-to-day or week-to-week basis but not intended for or used as a permanent dwelling.

REQUIRED OPEN SPACE. Any space required in any front, side or rear yard or that area required for open space/recreation within a development.

RESEARCH CENTERS. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory. Such centers shall not include the use, production, or storage of radio active atomic and sub-atomic elements and particles in quantities sufficient for the large scale production of electricity or thermonuclear exploding devices, nor shall they include the collection, treatment, or disposal of hazardous or medical wastes.

RESIDENCE. A home, abode, or place where an individual is actually living at a specific point in time.

RESTAURANT. Any building in which, for compensation, food or beverages are prepared to be dispensed for consumption on or off the premises including, among other establishments, cafes, tea rooms, confectionary shops and fast food facilities.

REST HOME. See Convalescent, Nursing or Rest Home.

RETAIL SALES AND SERVICE. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods exclusive of coal, wood, and lumber yards, and discount building supply stores. The following serves as an illustration of permitted uses: drug store, news stand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, audio equipment store, tailor shop, barber shop and beauty shop.

~~RETAIL STORES AND SHOPS. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards), such as the following which will serve as illustration: Drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop.~~

ROOMING HOUSE. See Board House.

~~RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.~~

SANITARY LANDFILL. A land site on which engineering principles are utilized to bury deposits of solid waste without creating nuisances or hazards to the public health or safety which is approved by the appropriate governmental agencies.

SATELLITE DISH ANTENNA. A round, parabolic antenna intended to receive from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than four meters in diameter, while commercial dish antennas are usually larger than four meters and typically used by broadcasting stations.

SAWMILL. A permanent facility for processing of timber into lumber which received timber cut from property other than that on which the facility is located.

SAWMILL, PORTABLE. A portable sawmill located on private property for the processing of timber cut only from that property or from property immediately adjacent thereto.

SCHOOL. Any building or part thereof which is designed, constructed, or used for educational instruction in any branch of knowledge.

SCHOOL, PUBLIC. Any building or group of buildings, the use of which meets state requirements for primary or secondary education and which receives the major part of its funding through governmental agencies and which is under the control of the School Board of New Kent County.

SEASONAL USE. A use carried on for only part of the year such as outdoor swimming during the summer months or skiing during the winter months.

SECONDARY HIGHWAY. A highway designated as a State Secondary Highway by the adopted Comprehensive Plan of New Kent County or by the Virginia Department of Transportation.

SETBACK. The minimum distance by which any building or structure must be separated from the front lot line.

SHOPPING CENTER. A group of stores, shops and other commercial establishments within a single architectural unit sharing access, parking and other common areas.

SIGNS. For definitions pertaining to signs, see Division 19 of this article.

SITE PLAN. The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, marshes and waterways, open spaces, walkways, means of ingress and egress, utility services, landscaping, buildings structures and signs, lighting and screening devices, and any other information required by the terms of this article.

SPECIAL EXCEPTION. The term "special exception" shall be synonymous with the term "conditional use".

STABLE. A structure that is used for the shelter of horses and cattle.

START OF CONSTRUCTION. The date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

~~STOL PRIMARY SURFACE. An imaginary plane, three hundred (300) feet wide, centered in the runway. Its length extends one hundred (100) feet~~

~~beyond each runway end. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway center line.~~

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between the floor and the ceiling.

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level and in which space possible floor area with headroom of five (5) feet or less occupies at least forty percent (40%) of the total floor area of the story directly beneath.

STREET, CENTER LINE. The center line of a street shall mean the center line thereof as shown in any official records of the County or as established by the Virginia Department of Transportation. If no such center line has been established, the center line of a street shall be a line lying midway between the sidelines of the ultimate right-of-way thereof.

STREET, COLLECTOR. A street that will carry the largest volume of traffic at higher speeds within a residential subdivision. Such streets may carry traffic from one neighborhood to another or from the neighborhood to other areas of the community.

STREET LINE. The line between a lot, tract or parcel of land and a contiguous street.

STREET, ROAD. A public or private thoroughfare which affords the principal means of access to abutting property.

STRUCTURE. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

STRUCTURAL ALTERATION. Any change in either the supporting members of a building such as bearing walls, columns, beams, and girders or in the dimensions or configurations of the roof or exterior walls.

STRUCTURE. Anything constructed or erected, the use of which required permanent locations on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, towers, antennas, satellite dishes, etc. It does not include fences or signs.

SUBDIVISIONS, SINGLE FAMILY. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels, or other divisions of land for sale, development or lease of single family dwelling units.

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.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, additional, percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement officials and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure.".

SWIMMING POOL. A water-filled enclosure permanently constructed or portable having a depth of more than eighteen (18) inches below the level of the surrounding land or an above-surface pool having a depth of more than thirty (30) inches designed, used and maintained for swimming and bathing.

TEMPORARY STRUCTURE, A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

TEMPORARY USE. A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

TENANT HOUSE. Living quarters within a portion of a main building or in an accessory building located on the same lot with the main building used for persons employed on the premises.

THEATERS, ENCLOSED. An enclosed building or portion thereof devoted to showing motion pictures, or for dramatic, musical or live performances.

TOURIST HOME. An establishment in a private dwelling that supplies temporary accommodations for up to fourteen (14) overnight guests for a fee.

TOWNHOUSE. A one (a) family dwelling in a row of at least three (3) such units 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 fire resistant walls.

TRAVEL TRAILER. A mobile unit which is less than thirty-two (32) feet in length and less than eight (8) feet in width which is designed to be towed by a car or truck and designed for human habitation.

TRUCK/HEAVY EQUIPMENT SALES. A business engaged in the sale of utility vehicles and tractor trailers greater than ten thousand (10,000) pounds gross vehicle weight, surface grading and excavation equipment, bulldozers, front end loaders, and similar type vehicles and equipment.

TRUCK STOP. Any building, premises, or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or other petroleum products directly into motor vehicles, and the sale of accessories or equipment for trucks or similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.

TRUCK TERMINAL. An area or building where cargo is stored and where trucks load and unload cargo on a regular basis.

TURKEY SHOOT. A shooting match or similar activity conducted by a nonprofit organization involving the discharge of firearms at a target or targets with the object of such activity being to determine a winner of a prize such as a turkey or pork ham or other food stuff or other prize.

~~UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.~~

VARIANCE. Permission to depart from the literal requirements of this article granted by the Board of Zoning Appeals.

VETERINARY CLINICS. A facility engaged in the medical diagnosis and treatment of animals.

~~VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure, and no instrument designation indicated on a Federal Aviation Administration's approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the Federal Aviation Administration by competent authority.~~

WAREHOUSE. A building used primarily for the storage of goods and materials.

WATER IMPOUNDMENT. A body of water, the storage of which is caused by a dam or other impounding structure.

WATERWAY. Any body of water including any creek, canal, river or lake or any other body of water, natural or artificial, except a swimming pool or ornamental pool located on a single lot.

WATERWAY LINE. A line marking the normal division between land and a waterway as established by the Zoning Administrator or other County requirements.

WATER WELL FIELD. A publicly owned facility engaged in the pumping of water from aquifers and artesian wells for public distribution.

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

WHOLESALE BUSINESS AND DISTRIBUTION CENTERS. Establishments or places of business primarily engaged in selling merchandise to retail, industrial, commercial, institutional, or professional and business users or other wholesalers. Such establishments or business may also act as agents or brokers and buying merchandise for, or selling merchandise to, such establishments or businesses.

WOOD LOADING YARDS. A facility used for loading raw timber onto barges, trains, or trucks for transport to processing facilities.

WOOD PRESERVING OPERATIONS. A facility engaged in the chemical treatment of lumber for purposes of long term preservation from exposure to weather.

WOOD YARDS. A facility engaged in the storage and sale of timber and lumber.

YACHT CLUB. A group of buildings and structures designed to provide boating and sailing facilities for a group of persons organized as an entity characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

YARD. An open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the Ground upward except as may be specifically provided in this article.

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

YARD, MEASUREMENT. In measuring yard size, the line of measure shall be taken perpendicular from the building line to the nearest lot line of the building or group of buildings nearest to such lot line. This measure shall be taken from a point on the building line nearest the lot line.

YARD, REAR. A space extending across the full width of the lot between the principal building and the rear lot line. Such rear yard is unoccupied and unobstructed from the ground upward except as may be permitted in this article.

YARD, SIDE. A space extending from the front yard to the rear yard between the principle building and the side lot line. Such side yard is unoccupied and unobstructed from the ground upward except as may be permitted elsewhere in this article.

ZONING ADMINISTRATOR. The Director of Planning of New Kent County.

ZONING MAP. The map described in Section 9-39 of this article.

ZONING PERMIT. A document signed by the authorized official and required in this article as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this article or an authorized variance therefrom.

ZOOLOGICAL GARDENS. A place where live, nonindigenous animals are kept for educational displays. (9/14/87) (12/11/89) (2/12/90) (10/8/90) (11/28/90)

Sec. 9-38. Application of article.

Except as provided in this article, no building or structure shall be erected, moved, altered, or extended and no land, building or structure or part thereof shall be occupied or used unless in conformity with the requirements specified in this article for the district in which it is located.

Sec. 9-39. Zoning districts and map.

A. For the purpose of this article, the County of New Kent, Virginia, is hereby divided into the following districts which are shown on the map included as a part of this article:

Conservation, C-1
Agricultural, A-1
Rural Residential, R-R
Single-Family Residential, R-0, R-0A, R-1, R-1A
General Residential, R-2, ~~R-2A~~
Multiple Family Residential, R-3
Mobile Home Park, MHP
Business General, B-1
Business Limited, B-2
~~Research, Engineering and Office, B-3~~
Warehousing and Limited Industrial, M-1
Heavy Industrial, M-2

B. The official boundaries of these zoning districts are established on a set of maps on file in the office of the Zoning Administrator which are entitled "Certified Zoning Maps of the County of

New Kent". These maps are hereby incorporated in this article by reference as though set forth in their entirety herein.

Sec. 9-40. Zoning permit required.

A. All buildings, structures, signs or other uses of property shall be started, reconstructed, enlarged or altered only after a zoning permit has been obtained from the Zoning Administrator. The use for which the zoning permit is issued shall be commenced within one (1) year of the date of the permit. If the use is not commenced within one (1) year, the permit shall be null and void and a new permit shall be required.

B. Each application for a zoning permit involving land disturbing activity in excess of 2,500 square feet, shall be accompanied by a copy of a survey completed by a certified land surveyor, professional engineer or landscape architect. The survey and application shall indicate the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building to be constructed, the location of such building or use with respect to the property lines of said parcel of land and with respect to the right-of-way of any street or highway adjoining said parcel of land. The survey shall also indicate the location of the drainfield and reserve drainfield location, erosion and sediment control devices, any vegetation needed to be preserved under Article VI of this chapter, and any other information which the Zoning Administrator may deem necessary for consideration of the application. Applications involving disturbance of less than 2,500 square feet shall be accompanied by a drawing roughly showing those items required by the survey above.

C. In the event that the Health Department finds it necessary or more feasible to alter the location of the septic tank and drain field after land disturbing activity has begun, the director of planning shall administratively note the changes on the survey. No change made in the location of septic tank and drain field sites or erosion and sediment control measures will be permitted unless water quality standards set forth in this chapter can be maintained. (11/29/91)

Sec. 9-41. Fees.

Applications submitted for various permits and approvals are required to be accompanied by the fees hereinafter set forth.

A. Application for Zoning Permit -- $25.00
B. Application for Conditional Use Permit -- $100.00
C. Application for Rezoning -- $350.00
D. Application for Variance to the Board of Zoning Appeals -- $500.00
E. Application for an Appeal to the Board of Zoning Appeals -- $500.00
F. Application for Site Plan Approval -- $100.00
G. Application for Agricultural and Forestal District -- $300.00

(8/14/89)

Sec. 9-42. Enforcement authority.

This article shall be enforced by the Zoning Administrator who shall be appointed by the governing body.

Sec. 9-43. Interpretation.

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

A. Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

B. Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction, and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

C. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.

D. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto, and at such distances therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the zoning map.

E. If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.

F. Whenever any street or public way is vacated by official action, the zoning districts adjoining the side of such public way shall be automatically extended to include the right-of-way that has been vacated, which shall be subject to all regulations of the extended district or districts. Where the vacated right-of-way is bounded on either side by more than one district, the former center line of the right-of-way shall determine the extension of each district.

G. Uses not specifically permitted within a district are prohibited.

H. All charts, drawings and graphs included in this article are for the convenience of the user. If any conflict exists between the written text of the ordinance and any chart, drawing or graph, the written text of the ordinance shall control.

Sec. 9-44. One principal building or use per lot.

Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot of record and in no case shall there be more than one principal building or use on one lot unless otherwise specifically provided in this article. Agricultural or forestal buildings or uses may be constructed or conducted on lots upon which there is a single-family dwelling. More than one principal building or use may be permitted in the B-1, B-2, B-3, M-1, and M-2 districts.

Sec. 9-45. Accessory buildings and uses.

A. Accessory buildings or uses as defined by this article are only permitted on:

1. Lots with existing permitted principal buildings.

2. Lots on which a building permit for a permitted principal building has been issued.

3. Lots adjacent to a lot with the principal building when both lots are owned by the same person. This prohibition shall not apply to accessory buildings such as barns, sheds, etc., constructed in conjunction with a bona fide farming operation and normally associated with farming uses. No accessory building on a farm or otherwise shall be used for dwelling purposes unless specifically allowed elsewhere in this article. Accessory uses require a zoning permit. Unless otherwise specifically provided, no accessory building or structure shall be permitted in the front yard area of a permitted use in any zone designated with an "R" classification.

B. Subject to the conditions of paragraph A of this section, accessory uses and structures are permitted in any zoning district unless specifically prohibited elsewhere in this article.

C. The following accessory uses or structures shall be permitted in conjunction with a residence:

1. Antenna structures for radio, television and other noncommercial communication purposes.

2. Barns or other structures that are customarily incidental to an agricultural use in the C-1 or A-1 districts or when used in conjunction with permitted animal husbandry activity.

3. Carports, garages, utility sheds and similar storage facilities customarily associated with residential living.

4. Children's playhouses limited to one hundred twenty (120) square feet in floor area and without plumbing.

5. Doghouses, pens or other similar structures for the housing of household pets.

6. Home occupations in accordance with the following conditions:

   a. There shall be no display visible from the right-of-way or adjacent properties other than a sign not to exceed four (4) square feet in size stating only the name of the occupant and/or the home occupation.

   b. All activities associated with a home occupation in residentially zoned districts shall not utilize over five hundred (500) square feet of enclosed structure per parcel.

   c. For all activities associated with a home occupation in an A-1 agricultural district which require a detached structure, such detached structure shall not exceed one percent (1%) of the size of the parcel. Additionally, this structure shall not exceed 5,000 square feet per parcel, regardless of size, without a conditional use permit.

   d. There shall be no individuals other than family members residing on the premises employed at the site of the home occupation.

   e. There shall be no outside storage associated with the home occupation.

   f. Parking shall be provided for anticipated visitors, clients, or customers, etc., on site in a manner which does not alter the exterior appearance of the property in such a way as to cause an appearance which is nonresidential in character.

   g. The home occupation shall be clearly incidental and subordinate to the residential use of the property.

   h. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation.

i. All public contact related to such home occupation shall be limited to the period between 8:00 a.m. and 8:00 p.m., Monday through Saturday.

j. In all residential districts, no more than one business vehicle and one piece of equipment shall be operated from the site or stored on site overnight.

k. The following activities and uses shall not be permitted as home occupations, nor shall activities determined by the Zoning Administrator to be sufficiently similar in terms of type, scale and impact be permitted:

Vehicle repair and services
Antique shops
Funeral homes
Gift shops
Restaurants
Commercial stables or kennels
Boarding homes
Tourist homes
Daycare or babysitting for more than ten (10) children inclusive of children of the operator's immediate family.

7. Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment including but not limited to boats, boat trailers, motor homes, tent trailers and horse vans provided such equipment shall not be used for living, housekeeping, or business purposes when parked or stored on the lot, and that wheels or transporting devices shall not be removed except for necessary repairs.

8. Outdoor recreational facilities such as swimming pools, tennis courts, basketball courts, private boat docks, piers or boat houses provided that use of such facilities shall be limited to occupants of the premises and guests for whom no admission or membership fees are charged.

9. Fences or walls which are neither electrified nor constructed of barbwire, which do not block site triangle easements at intersections and which are no higher than four (4) feet in the front yard and six (6) feet in the side and rear yards.

10. Roadside stands when located in the A-1 district provided that such stands shall be limited to the sale of produce grown or raised on the premises and shall provide off-street parking for not less than three (3) vehicles.

11. Other uses and structures of a similar nature which are customarily associated with and incidental to residential uses and do not constitute or create the potential for nuisance

situations which will adversely affect the health, safety and general welfare of adjoining or nearby residents.

12. In-ground or partially in-ground outdoor swimming pools shall meet the minimum yard setback distances for principal buildings for each particular zoning district as specified in this article but may be located in either front, side or rear yards. In-ground swimming pools shall be located no closer than fifteen (15) feet to any rear lot line. A minimum distance from the nearest portion of the principal building to the closest portion of the swimming pool structure shall not be less than ten (10) feet. All in-ground swimming pools shall be surrounded by a suitable fence with a self-latching gate at least four (4) feet but no more than six (6) feet in height.

13. Guest houses as an accessory use to a residence in agricultural zones only.

D. The following accessory uses shall be permitted in conjunction with commercial and industrial uses.:

1. Uses intended specifically for the use and benefit of the employees of the principal use such as snack bars, cafeterias, recreation facilities, and similar uses.

2. Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses.

E. The following accessory uses shall be permitted in conjunction with a mobile home park provided they are designed and situated for the specific use of the park occupant:

1. Laundromats.

2. Office space for managers.

3. Retail convenience stores, provided the mobile home park is larger than twenty-five (25) acres in size.

F. The following accessory uses and none other shall be permitted in conjunction with apartment or condominium developments in the R-3 district:

1. Outdoor recreational facilities such as swimming pools, tennis courts, basketball courts, private boat docks piers, or boathouses provided that use of such facilities shall be limited to occupants of the premises and guests.

2. Laundry and storage areas for use of the occupants of the development.

3. One office to be located within the complex and to be used as facilities for the management of the development.

4. Garages provided, however, that if garages are provided, they shall have a floor area of not less than two hundred and forty (240) square feet. No garage or accessory building shall be placed closer to the side or rear property line than fifty (50) feet when abutting a residential or agricultural zoning district; in all other cases this distance may be reduced to twenty-five (25) feet. Each group of attached garages shall have a joint capacity of not more than ten (10) vehicles arranged in a row and there shall be a minimum distance of twelve (12) feet between such structures. The architectural design and materials used in the construction shall conform to the design and building materials used in the construction of the apartment or condominium buildings. No part of any such garage or other accessory building shall be used for living purposes.

5. Antenna structures as provided for in the A/1 district regulations.

6. Home occupations under the same conditions as are set forth in subparagraph C-6 of this section.

7. Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, provided special separate parking areas are included for the same.

8. Fences or walls which are neither electrified nor constructed of barbed wire and which do not block site triangle easements and intersections.

Sec. 9-46. Violations and penalties.

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

B. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to one thousand dollars ($1,000). Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this article is committed, continued or permitted by such person, firm or corporation, and shall be punished as herein provided.

C. Nothing in this section shall be construed as to prohibit the Zoning Administrator from applying to the appropriate court of New Kent County to restrain, correct or abate any violation of this article by injunction or other appropriate proceedings.

Sec. 9-47. Conflicting laws.

Whenever the requirements of this article require a greater width or size of yards, courts or other open spaces, require a lower height of building or less number of stories, require a greater percentage of lot left unoccupied or impose other higher standards than are required in any other statute, ordinance or regulation, provisions of this article shall control. Whenever the provisions of any other statute or ordinance or regulation require a greater width or size of yards, courts or other open spaces, require a lower height of building or a less number of stories, require a greater percentage of lot to be left unoccupied or impose other higher standards than are required by this article, then the provisions of such statutes or ordinances or regulations shall control.

Sec. 9-48. Effective date.

A. The zoning ordinance adopted by the New Kent County Board of Supervisors on November 14, 1966, became effective at 12:01 a.m., January 3, 1967. All amendments thereto and other provisions of this article shall become effective on the date of adoption.

B. A copy of this article shall be filed in the office of the County Administrator of New Kent County and in the office of the Clerk of the Circuit Court of New Kent County, Virginia.

C. Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this article. However, such construction must commence within thirty (30) days after this article becomes effective. If construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this article for the district in which the operation is located.

D. 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. (10/8/90)

Sec. 9-49. Amendments.

The regulations, district boundaries or classifications of property established by this article may, from time to time, be amended, supplemented, changed or repealed by ordinance adopted by the Board of Supervisors, provided:

A. That public notices be given and public hearings be held in accordance with the requirements of State Law.

B. Action shall be taken by the governing body only after a report has been received from the commission, unless a period of ninety (90) days has elapsed from the date the proposed change(s) was submitted to the commission. After such time the change or amendment shall be deemed approved by the commission.

C. Applications for amendments to the ordinance or rezonings shall be in such form and contain such information as is required by the Zoning Administrator.

D. All applications for amendment of a zoning classification shall contain a statement by the owner granting permission for the erection of signing announcing the proposed change on the premises. The Zoning Administrator may erect appropriate signing on the premises during the time the application is pending to provide additional notice to interested persons.

E. No application for rezoning shall be considered by the planning Commission or the governing body, if the same request has been denied within twelve (12) months of the date that the application is submitted.

Secs. 9-50 through 9-55. Reserved for future legislation.

Division 2. General Area, Frontage, Yards, Height, Setback Performance Requirements and Standards Applicable in All Districts.

Sec. 9-56. Purpose and intent.

The purpose of this division is to provide those regulations which shall apply in all zoning districts. These regulations shall be in addition to any specific regulations contained within any zoning classification and in the event of a conflict between these regulations and those contained within a particular zoning district, then the regulations within the particular zoning district shall apply. For the convenience of the user of this article, a chart entitled "General Lot, Yard and Height Requirements--New Kent County Zoning Ordinance" is incorporated as a part of this section. This chart is for convenience only and in the event of a conflict between the chart and the requirements set forth in this article for each zoning district, the requirements set forth in this article for each district shall control.

Section 9-56 Cont.

Insert Chart

Sec. 9-57. General area and lot requirements.

A. Conformity with the area regulations; reduction prohibited. No building or structure shall be erected, structured, converted, enlarged, structurally altered or moved on a lot or moved to another lot unless such building or enlargement conforms with the area regulations of the district on which the building is located. No lot shall be reduced in size so as to produce a parcel which is not in conformity with these regulations unless the parcel is combined with other property to produce a conforming lot or unless said parcel is needed and accepted for public use.

B. Exclusions from minimum lot area computation. The following areas shall not be included as part of a lot for the purpose of computing the required minimum area:

1. Any existing or required right-of-way established by easement or dedication.

2. Any area contained within an easement area for overhead high voltage utility lines.

3. Any area within the flood plain or subject to periodic or occasional inundation.

C. Required front yard and area for lots on rights-of-way less than fifty (50) feet in width.

1. Where a building lot has frontage upon a right-of-way which is less than fifty (50) feet in width, the area of the lot shall be increased in such a manner as to permit the future widening of the right-of-way without the resulting effect of creating a nonconforming situation.

2. The Zoning Administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to existing or future planned rights-of-way, in order to preserve and protect the rights-of-way for future street or highway widening.

D. Consolidation of contiguous lots under a common ownership upon which structures exist or are proposed.

1. Lots of record which are contiguous and owned by the same person may be consolidated for the purposes of this chapter.

2. Where a principal or accessory building encroaches upon an interior lot line which separates such lots, all setback yard dimensions and other requirements shall apply as if the lots were a single lot. A building permit shall not be issued on the lots unless they are consolidated. If ownership becomes separate rather than common, a building permit shall be

withheld on the separated lots. Where a principal or accessory building does not encroach on an interior lot line, all setback yard dimensions and other requirements shall apply as if the lots were in separate ownership if said lots are conforming in all other respects.

3. The owner of such lot may submit a request to consolidate to the Zoning Administrator on such forms and containing such information as may be required by the Zoning Administrator. By submitting an application for consolidation, the owner waives any right for himself, his successors and assigns to develop the lots as separate lots without conforming to all the requirements of this chapter.

4. Once such lots have been combined, they shall be treated as one lot for the purposes of this chapter. The Zoning Administrator shall note the combination on the zoning map and shall keep a properly indexed file of all such consolidations. If ownership of such lots becomes separated after a consolidation without compliance with the terms of this chapter, then in addition to any other penalties as may be provided, no building permit shall be issued on any lots so created.

5. If any such lots are located in a platted subdivision, then the owner may elect to proceed in accordance with the subdivision ordinance and follow the procedures set forth therein for a resubdivision.

E. Lots not meeting minimum lot size requirements. No building or structure shall be constructed on lots not meeting the minimum lot size requirements of the district in which they are located. Any such lots may be consolidated under the provisions of paragraph D of this section in order to meet minimum lot size requirements. The following shall be exempt from the provisions of this paragraph:

1. Lots of record on the date of adoption of this section provided they contain a minimum area of twenty thousand (20,000) square feet and have a minimum lot width of one hundred (100) feet.

2. Lots within a subdivision established and approved in accordance with the New Kent County Subdivision Ordinance after July 1, 1962.

3. Lots of record prior to January 3, 1967, and not within a subdivision mentioned in 2 above, regardless of size or dimension. The burden of proof of qualification for any exemption is on the applicant.

Sec. 9-58. General frontage requirements.

A. Multiple frontage lots. Any building proposed to be constructed on a lot having a frontage on two or more streets shall be so located as

to comply with the regulations governing the front yard restrictions and setbacks on all the streets on which such lot has frontage. In the case of an interior through lot, the owner shall elect and so designate which yard shall be the required rear and the required front yard. The designated rear shall be attractively landscaped and maintained so as to conform to the character of the front yards in the general area. In the case of a corner lot, the required rear yard shall be the opposite of the front yard as defined in this article.

B. Determination of frontage for lots. The minimum frontage requirements for lots shall be measured at the right-of-way line. In no case shall the lot frontage at the street line be less than two-thirds (2/3) of the minimum lot width required by this article. In the event the provisions of Sec. 9-57(C) apply, then the frontage shall be measured at the future right-of-way line.

C. In the B-1, B-2, ~~B-3~~, M-1, and M-2 districts all lots shall front on streets designed and constructed in accordance with Virginia Department of ~~Highways and~~ Transportation standards.

Sec. 9-59. General yard and setback requirements.

A. Maintenance of required yards. No yard or other open space for each and every building shall be encroached upon or reduced in any manner except in conformance with this article. No yard for one principal building shall be considered as a yard for any other principal building and no yard on one lot shall be considered as a yard for a principal building on another lot. Shrubbery, driveways, off-street parking spaces, retaining walls, fences, curbs, planted screens and planted buffer strips shall not be construed to be encroachments on yards.

B. Permitted encroachments into required yards. Architectural features may project into a required yard a distance not greater than the following:

Open Entrance Shelter	Four (4) Feet
Cornices and Eaves	Three (3) Feet
Window Sills	Six (6) Inches
Chimneys	Two (2) Feet
Steps and Landings	Four (4) Feet
Fire Escapes (side and rear yard only)	Six (6) Feet
Open Balconies	Four (4) Feet
Porches, Platforms or Open Landings	Ten (10) Feet

(Open structures such as steps, platforms, paved terraces or landing places which do not extend above the first floor level of the building and which have no wall more than thirty 30inches high)

Awnings and Movable Canopies	Four (4) Feet
Bay or Bow Windows	Two (2) Feet

C. The minimum setback from any lot line for any permitted use, activity, sign, building or structure shall be five (5) feet unless otherwise specifically provided. Fences may be erected up to the property line unless specifically restricted elsewhere in this article

Sec. 9-60. General height requirements.

A. Public or semipublic buildings. Public or semipublic buildings such as a school, church, library or hospital may be erected to a height of sixty (60) feet from grade provided that required front, side and rear yards shall be increased one (1) foot for each foot in height over thirty-five (35) feet.

B. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles and antennas. Unless otherwise specifically provided, church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas and radio aerials are exempt from any height requirements. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

C. Agricultural structures. Agricultural structures are exempt from the height requirements of this ordinance.

Sec. 9-61. General setback requirements.

A. Roadside stands. Roadside stands shall be set back at least twenty (20) feet from any right-of-way.

B. Docks, piers and boathouses. Docks, piers and boathouses are exempt from the rear yard setback requirements.

C. Accessory buildings attached to or located within ten (10) feet of principal buildings. Accessory buildings or structures attached to a principal building by any wall or roof construction or located with ten (10) feet of any principal building shall be considered a part of the principal building and shall observe all yard regulations applicable thereto.

D. Special provisions for corner lots. The side yard on the side facing the side street shall be thirty-five (35) feet or more for both the main and accessory buildings.

Sec. 9-62. Flood plain.

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

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 with areas subject to flooding.

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

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

B. Applicability. These provisions shall apply to all lands within the jurisdiction of New Kent County and identified as being in the 100-year floodplain by the Federal Insurance Administration.

C. Compliance and Liability.

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

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

3. This ordinance shall not create liability on the part of New Kent County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

D. Abrogation and Greater Restrictions. This ordinance supersedes any ordinance currently in effect in flood-prone areas. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance. (10/8/90)

Sec. 9-62.1. Establishment of zoning districts.

A. Description of District.

1. Basis of District. The floodplain district shall include areas subject to inundation by waters of the one hundred (100) - year

flood. The basis for the delineation of the district shall be the one hundred (100) year flood elevations or profiles contained in the Flood Insurance Study for New Kent County prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated December 5, 1990, as amended.

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 Flood Insurance Rate Maps (FIRM). For these areas, the one hundred (100) year flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one hundred (100) year flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the County of New Kent.

2. Overlay Concept.

(a) The floodplain District described above shall be overlays to the existing underlying area as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain district shall serve as a supplement to the underlying district provisions.

(b) Any conflict between the provisions or requirements of the Floodplain District and those of any underlying district the more restrictive provisions and/or those pertaining to the floodplain district shall apply.

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

B. Official Zoning Map. The boundaries of the Floodplain District are established as shown on the Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Planning Department offices.

C. District Boundary Changes. The delineation of any of the Floodplain District may be revised by the Board of Supervisors where natural or man-made changes have occurred and/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 possibility for such change. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.

D. Interpretation of District Boundaries. Initial interpretations of the boundaries of the Floodplain District shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any District, 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. (10/8/90)

Sec. 9-62.2. District Provisions.

A. Permit Requirement. All uses, activities, and development occurring within any Floodplain District shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of the Ordinance and with all other applicable codes and ordinances, such as the Virginia Uniform Statewide Building Code and the New Kent County Subdivision Ordinance. Prior to the issuance of any such permit, the Zoning Officer shall require all applications to include compliance with all applicable state and federal laws. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

B. Alteration or Relocation of Watercourse. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U. S. Corps of Engineers, the Virginia Marine Resources Commission, the Virginia State Water Control Board (a joint permit application is available from anyone of these organizations). Notification of the proposal shall be given to all adjacent jurisdictions and adjacent property owners, the Division of Soil and Water Conservation (Department of Conservation and Recreation), and the Federal Insurance Administration.

C. Site Plans and Permit Applications. All applications for development in the floodplain district and all building permits issued for the floodplain shall incorporate the following information:

1. For structures that have been elevated, the elevation of the lowest floor, including basement.

2. For nonresidential structures that have been floodproofed, the elevation to which the structure has been floodproofed.

3. The elevation of the one hundred (100) - year flood.

4. Topographic information showing existing and proposed ground elevations.

D. Encroachment Provisions.

1. No new construction or development shall be permitted within the floodplain district 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 elevation of the one hundred (100) - year floodplain more than one foot at any point.

2. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, and other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred (100) - year flood elevation.

E. Mobil Homes **and Manufactured Homes.**

1. Mobile **and manufactured** homes that are placed or substantially improved within Zones A-1 and MHP on the county's FIRM, on sites

   (a) outside of a mobile home park or subdivision,

   (b) in a new mobile home park or subdivision,

   (c) in an expansion to an existing mobile home or subdivision, or

   (d) in an existing mobile home park or subdivision on which a mobile home has incurred "substantial damage" as the result of a flood, must be elevated on a permanent foundation such that the lowest floor of the mobile home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation collapse and lateral movement.

2. Mobile **and manufactured** homes to be placed or substantially improved on sites in an existing mobile home park or subdivision within Zones A-1 and MHP on the county's FIRM that are not subject to the provisions of paragraph one above of this section must be elevated so that either

   (a) The lowest floor of the mobile home is at or above the base flood elevation, or

(b) The mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

F. Recreational Vehicles. Recreational vehicles placed on sites within Zone A-1 or C-1 on the county's FIRM must be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use. (10/8/90)

Sec. 9-62.3. Design criteria for utilities and facilities.

A. Sanitary Sewer Facilities. All new or replacement sanitary sewer facilities and private package sewage treatment plants (including all pumping stations and collector systems) shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into the flood waters. In addition, they should be located and constructed to minimize or eliminate flood damage and impairment.

B. Water Facilities. All new or replacement water facilities shall be designed to minimize or eliminate infiltration of flood waters into the system and be located and constructed to minimize or eliminate flood damages.

C. Drainage Facilities. All storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and onsite waste disposal sites. The Board of Supervisors may require a primarily underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

D. Utilities All utilities, such as gas lines, electrical and telephone systems being placed in flood-prone areas shall be located, elevated (where possible), and constructed to minimize the chance of impairment during a flooding occurrence.

E. Streets and Sidewalks. Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights. (10/8/90)

Sec. 9-62.4. Existing structures in floodplain districts.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity

with these provisions, may be continued subject to the following conditions:

A. Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

B. The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain district, to an extent or amount of fifty (50) percent or more of its market value shall be undertaken only in full compliance with the provisions of the Virginia Uniform Statewide Building Code. (10/8/90)

~~Sec. 9-63. Schedule of uses.~~

~~For the convenience of the user of this article, a chart entitled "Schedule of Uses -- New Kent County Zoning Ordinance" is incorporated as a part of this section. This chart is for convenience only and in the event of a conflict between the chart and the text of this article, the requirements set forth in the text shall control.~~

Sec. 9-64. Additional design and performance standards.

Uses permitted under the provisions of this article, in addition to any other requirements, shall where applicable be in conformance with the following standards:

A. Air pollution standards. Any activity, operation or device which causes or tends to cause the release of air contaminants into the atmosphere shall comply with the rules and regulations of the Commonwealth of Virginia.

B. Drainage. All rights-of-way shall be drained in accordance with the requirements of the ~~State Highway Department~~ **Virginia Department of Transportation.** Off-street parking areas shall be designed to provide positive drainage of storm water and natural drainage waters when deemed necessary by the site plan. Drainage systems shall be adequate to carry off or store the storm water and natural drainage water which originates not only within the lot or tract boundaries but also that which originates beyond the original lot or tract boundaries. No storm water runoff or drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for taking care of these conditions. Lots shall be graded to secure proper drainage away from buildings and prevent the ponding of storm water unless within an approved retention or detention basin. Where a lot or tract is traversed by a watercourse, surface or underground drainage way or drainage system, channel or stream, there shall be provided and dedicated a drainage

right-of-way easement to the County or to the ~~State Highway Department~~ **Virginia Department of Transportation** which conforms substantially with the line of such watercourse and such further width or construction or both as will be adequate to accommodate expected storm water runoff in the future and accommodate necessary maintenance.

C. Drainage and conservation easements. Where a development is traversed by a water course, drainage way, channel or stream, or where it is desirable to preserve other areas within a subdivision because of the soil conditions, tree masses, wildlife habitat, vistas or other significant horticultural, environmental or natural features, there shall be provided a drainage and/or conservation easement of sufficient area and width to protect and preserve the aforementioned feature if required by the Planning Commission. Drainage easements shall be designed and drainage structures constructed in such a manner as to reduce the burden of maintenance.

D. Electromagnetic radiation and interference standards. Any activity, operation or use shall be deemed to cause electromagnetic radiation interference that (a) adversely affects persons or the operation of any equipment across lot lines, and (b) is not in conformance with the regulations of the Federal communications Commission. All such uses are prohibited.

E. Fences and walls. All permitted fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. No fence shall be erected of barbwire, topped with metal spikes or constructed of any material in a manner which may be dangerous to persons or animals except that these provisions shall not apply to farms and that fences for industrial uses may be topped by barbwire protective barriers. All barbwire fences shall be faced into the property. A tennis court area may be surrounded by a fence a maximum of twelve (12) feet in height. Its setback from any property line shall be the minimum distance required for accessory buildings in the zoning district in which the tennis court is proposed to be located. All fences constructed for farm operations may be placed on property lines.

F. Fire and explosion hazard standard. All operations, activities and uses shall be conducted so as to comply with all applicable fire prevention codes.

G. Lands subject to flooding. Lands subject to flooding and land deemed topographically unsuitable shall not be platted for use which would increase danger to health, life or property or aggravate erosion or flood hazard. Such land within a subdivision shall be set aside on the plat for such uses as shall not be endangered by periodic or occasional inundation or shall not produce conditions contrary to the public welfare.

H. Landscaping and buffers. In order to minimize any adverse impact on adjacent uses caused by nuisances on a site, to provide climate control in the form of shade trees and windbreaks, and preserve and

enhance the rural nature of the county, all plans of development shall preserve existing landscaping whenever possible and supplement existing landscaping with landscaping which will offset the introduction of nuisance creating facilities.

~~I. Lighting. All parking areas and walkways thereto and driveways servicing commercial, public, office, industrial, apartment, condominium or other similar uses having common off-street parking and/or loading areas shall be adequately illuminated for security and safety purposes. Lighting in and around parking and loading areas shall provide for non-glare, color-corrected lights focused downward. The light intensity provided at ground level shall be a minimum of five tenths (5/10) foot candles over the entire area and shall be provided by fixtures with a mounting height of more than twenty five (25) feet or the height of the building whichever is less, measured from the ground level to the center line of the light source. Light standards shall be spaced a distance not to exceed five (5) times the mounting height. No light shall shine into windows or onto streets and driveways in such a manner as to interfere or to obstruct driver vision. The intensity of lights, the light shielding and similar characteristics shall be subject to development plan review.~~

J. Liquid and solid wastes standards. Any activity, operation or device which causes or tends to cause the discharge or other release of liquid or solid waste into public sanitary sewer, storm drains or public waters shall comply with applicable laws, rules and regulations governing such discharge or release, including but not limited to the Federal Water Pollution Control Act, the Virginia Water Control Law and the New Kent County regulations regarding sewers and sewage disposal, maintenance and cleanliness of storm drainage facilities, garbage, trash and refuse, and erosion and sediment control.

K. Natural features. Natural features such as trees, hilltops and views, natural terrain, open waters and natural drainage lines shall be preserved whenever possible in designing any development. The topsoil shall not be removed from areas intended for lawn or open space. Topsoil removed during the course of construction shall be redistributed onto these areas and shall be stabilized by approved seeding and/or planting. A conscious effort shall be made to preserve all worthwhile trees and shrubs which exist on the site. Stripping trees from a lot or filling around trees on a lot shall not be permitted unless it can be shown that grading or construction requirements necessitate removal of trees, in which case these lots shall be replanted with trees to reestablish the tone of the area.

L. Radiation hazard standards. All operations, activities and uses shall comply with the regulations of the U.S. Atomic Energy Commission set out in Chapter I of Title 10 of the Code of Federal Regulations which apply to by-product material, source material and special nuclear material, as those terms are defined in Section IIe., z and aa. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014 (e), (z), and (aa)).

No activity, operation or use shall cause radiation emissions which are in violation of the Radiation Health and Safety Act of 1968 (Public Law 90-602), as amended, or the implementing regulations of the Virginia Department of Health established pursuant thereto.

Any water discharged from any facility must meet all radioactivity standards as specified in Environmental Protection Agency (EPA) Document 570/9-76-003, "National Interim Primary Drinking Water Regulations," in effect on the date of adoption of this Ordinance irrespective of any subsequent amendments to said EPA Document.

Air emission discharges, including fugitive emissions, shall not be permitted to contain radioactive levels more than 10% above background airborne radioactivity at the point of discharge.

Sec. 9-65. Reserved for future legislation.

Division 3. Conservation, C-1

Sec. 9-66. Intent.

This district is established to protect environmentally fragile or significant areas. The specific purpose of this district is to **protect the Chesapeake Bay**, prevent water pollution, control areas prone to soil erosion, protect watersheds, wetlands forests **and other environmentally sensitive features**, and to reduce the hazards associated with floods and fire. These areas are characterized by various open uses such as forests, farmlands, wetlands, water bodies, and parks and recreation areas. Uses which are not consistent with the existing character of these areas are not permitted. No dwelling units of any type are permitted.

Sec. 9-67. Permitted uses.

In the conservation district, structures to be erected or land to be used shall be for one or more of the following uses:

Agriculture, provided however, in order to conserve agricultural soils, reduce erosion and sedimentation of streams and roadside ditches and neighborhoods, agriculture uses shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights of way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

Forestry

Preserves or conservation areas.

Public utilities other than those requiring a conditional use permit under the provisions of Section 9-68.

Sec. 9-68. Uses permitted by conditional use permit only.

In the conservation district, buildings to be erected or land to be used for one or more of the following uses shall be permitted only ~~after the issuance of conditional use permit by the Board of Supervisors or its agent as the case may be, and with an approved site plan submitted under the provisions of Division 17 of this Article:~~ **after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit**

has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:

Campgrounds.

Construction trailers and/or portable, or temporary buildings for offices, storage facilities, public and semipublic uses.

Hunting clubs.

~~Marinas.~~

Portable sawmills.

Public parks and playgrounds.

Public and Private water well fields

Public or private ~~electrical generation facilities,~~ electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more. ~~with an approved site plan.~~

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids with an approved site plan, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains with an approved site plan, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Railroad facilities including tracks **and** bridges, ~~switching yards and stations with an approved site plan,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Sporting Clays

Water impoundments for public or private use. ~~of fifty (50) acres or more and a dam height of twenty-five (25) feet or more with an approved site plan.~~

~~Yacht clubs.~~

Sec. 9-69. Area requirements.

A minimum lot area shall be sixty-five thousand three hundred and forty (65,340) square feet.

Sec. 9-70. Setback requirements.

Structures shall be located one hundred and twenty-five (125) feet or more from any street right-of-way.

Sec. 9-71. Width requirements.

The minimum width for lots ~~on which permitted buildings or structures are or are proposed to be located~~ shall be one hundred and fifty (150) feet.

Sec. 9.72. Yard requirements.

A. Side -- The minimum side yard for any building or structure shall be twenty-five (25) feet and the total width of the required side yards shall be fifty (50) feet or more.

B. Rear -- Each structure shall have a rear yard of fifty (50) feet or more.

Sec. 9-73. Height requirements.

Buildings or structures not exempted by the provisions of Section 9-60 may be erected to a height not to exceed thirty-five (35) feet.

Sec. 9-74 through 9-80. Reserved for future legislation.

Division 4. Agricultural, A-1

Sec. 9-81. Intent.

This district is established to protect woodlands and agricultural lands from ~~the premature or unnecessary~~ conversion to more intense land uses. Their protection will help to minimize environmental hazards such as flooding, erosion, siltation, and air and water pollution. Prevention of excessive land conversion will serve to maintain the character and quality of the rural environment and will minimize urbanization in those areas where roads and other public facilities are scaled to meet only rural needs. Large lot subdivisions may be permitted **in accordance with the minor subdivision process as outlined in Article IV** ~~where not in conflict with the intent of this division~~.

Sec. 9-82. Permitted uses.

In the agricultural district, A-1, structures to be erected or land to be used shall be for one or more of the following uses:

Agriculture, provided that in order to conserve agricultural soils, reduce erosion and sedimentation of streams and roadside ditches and neighborhoods, agriculture uses shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights of way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Cemeteries (no sale of lots).

Churches, **synagogues and other houses of worship** with an approved site plan.

Crop services.

Forestry.

Game preserves and conservation areas.

Golf courses and country clubs with an approved site plan.

Government buildings and facilities with an approved site plan.

Guest house.

Hospitals and medical facilities with an approved site plan.

Libraries with an approved site plan.

Parks and playgrounds with an approved site plan.

Public schools with an approved site plan.

Public utilities other than those requiring a conditional use permit under the provisions of Section 9-83.

Radio, television or communication towers not exceeding fifty (50) feet in height provided it shall be located in the rear yard of a principal permitted use.

Single Family residential units, to include manufactured housing as defined in § ~~15.1-486.4~~ **36-85.3 and in accordance with § 15.1-486.4 of the Code of Virginia.** On land devoted to agriculture on a full-time basis, in addition to the main farm house, one tenant house for every twenty-five (25) acres with a minimum of twenty-five (25) acres being necessary to establish the first tenant house shall be permitted.

Satellite dishes located in the side, front, or rear yard provided such satellite dish shall set back fifty (50) feet or more from any state maintained or privately owned, public right-of-way and shall comply with the side and rear yard setbacks for accessory structures.

Single-family residential dwelling units. On land devoted to agriculture on a full-time basis, in addition to the main farm house, one tenant house for every twenty-five (25) acres with a minimum of twenty-five (25) acres being necessary to establish the first tenant house shall be permitted.

Yacht clubs with an approved site plan. (11/28/90)

Sec. 9-83. Uses permitted by conditional use permit only.

In the Agricultural A-1 district, buildings to be erected or land to be used for one or more of the following uses shall be permitted only ~~after the issuance of conditional use permit by the Board of Supervisors or its agent as the case may be, and with an approved site plan submitted under the provisions of Division 17 of this Article:~~ **after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional**

use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:

Animal husbandry of the following types:

1. Commercial stables.

2. Commercial raising and housing of swine.

3. Raising, breeding and keeping of animals for profit on less than ten (10) acres, **including feed lots.**

Airports.

Antique Shops

Bed and Breakfast/Home Stay Establishments

Campgrounds.

Cemeteries (with sale of lots).

Child care centers.

Community centers.

Construction business, with storage of equipment, as a home occupation.

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Distillation of ethanol from grain.

Flat track horse racing facilities.

Group care facilities.

Helistops.

Kennels.

Landfills or dump sites.

Marinas.

Mining, excavation or filling, borrow pits, extraction, processing and removal of land, gravel and stripping of top soil (but farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval are permitted generally and without a conditional use permit).

Mobile home as storage shed in conjunction with a bona fide agricultural operation.

Mobile homes, as a residence in emergency situations.

Paint pellet competitive games.

Permanent mobile homes that do not meet the definition of manufactured housing under § 15.1-486.4 of the Code of Virginia on twenty-five (25) acres or more.

Polo fields and clubs.

Portable sawmills.

Private clubs or hunt clubs with an approved site plan, provided that in order to maintain a tranquil environment for those residential uses within the A-1 zoning district, hunt clubs shall be located at least two hundred and fifty (250) feet from a property line of a residential use.

Private schools ~~with approved site plan~~.

Public or private electrical generation facilities, electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more.

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, except that private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and without a conditional use permit.

Public or private water well fields.

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.

Railroad facilities including tracks, bridges, switching yards and stations, except that spur lines which are to serve and are

accessory to existing or proposed development adjacent to existing railroad rights-of-way, and track and safety improvements in existing railroad rights-of-way, are permitted generally and without a conditional use permit.

Riding stables.

Rifle, skeet and trap ranges.

Seasonal activities requiring an Outdoor Gathering Permit.

Single-family conversion to two-family.

Sporting clays

Steeple chase events.

Temporary mobile home use while occupant is constructing permanent dwelling on five (5) acres or more.

Temporary storage of a mobile home.

~~Turkey shoots.~~

Veterinary clinics.

Water impoundments for public or private use ~~of fifty (50) acres or more and a dam height of twenty-five (25) feet or more~~.

Zoological Gardens. (9/14/87) (12/11/89) (11/28/90) (4/8/91)

Sec. 9-84. Area requirements.

The minimum lot area for permitted buildings or structures shall be XXX acres. ~~except for residential lots created in conformance with the exceptions of the New Kent County Subdivision Ordinance.~~

Sec. 9-85. Setback requirements.

Structures shall be located a minimum of seventy-five (75) feet from any street right-of-way.

Sec. 9-86. Width requirements.

The minimum width for permitted uses shall be one hundred fifty (150) feet.

Sec. 9-87. Yard requirements.

A. Side: The minimum side yard for each main structure shall be twenty-five (25) feet and the total width of the two required side yards shall be fifty (50) feet or more.

B. Rear: Each main structure shall have a rear yard of fifty (50) feet or more.

C. Accessory buildings:

1. Accessory buildings shall have a minimum side and rear yard of not less than five (5) feet.

Sec. 9-88 through 9-90. Reserved for future legislation.

Division - Rural Residential, R-R

Sec. 9 - Intent

The purpose of the Rural Residential R-R District is to encourage continued protection of environmentally and ecologically sensitive areas and to preserve the natural beauty of rural areas of the county where urban services (i.e., water and sewer mains, etc.) are not planned by the County. The district is intended to provide developmental flexibility by allowing for spacious residential development for those who choose to live in a rural environment.

All subdivision proposals will be carefully reviewed prior to granting a Rural Residential classification to ensure that the proposal is compatible with the surrounding environment and existing land uses. The density of new development shall not exceed one dwelling unit per five acres of gross area. Subdivisions within the Rural Residential R-R district shall not be located on existing state maintained or private roads. All County ordinances will be in full effect in this district.

Sec. Permitted uses

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Single family dwellings.

Subdivisions of single family residences.

Bed and breakfast inns.

Parks, playgrounds and recreation areas with an approved site plan.

Public schools with approved site plan.

Off street parking, as required by this chapter.

Sec. 9 - Uses permitted by conditional use permit only

In the rural residential R-R district, buildings to be erected or land to be used for one or more of the following uses shall be permitted only after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:

Cemeteries.

Child care centers.

Churches, synagogues or other houses of worship.

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semi-public uses.

Golf courses and country clubs.

Private schools.

Public or private electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more.

Public or private water well fields.

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Railroad facilities including tracks and bridges with an approved site plan, except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Water impoundments for public or private use.

Sec. 9- Accessory Building yard requirements

Side yards and rear yards for each accessory building shall be five (5) feet and accessory buildings shall not be placed in front of the principal dwelling.

Sec. 9- Subdivision requirements

All subdivisions created within the Rural Residential R-R district shall follow the requirements of the County's subdivision ordinance as outlined in Chapter 9, Article IV of the New Kent County Code.

Sec. 9- Special provisions applicable to corner lots

In the Rural Residential District R-R, the following provisions apply to corner lots:

1. Of the two sides of the corner lot, the front lot shall be deemed to be the shorter of the two sides fronting on the streets.

2. The minimum side yard on the side facing the side street shall be the same as that required for the front yard.

Division 5. Single Family Residential, R-O,R-OA, R-A, R-1A

Sec. 9-91. Intent.

These districts are composed of certain quiet, low-density, residential areas plus certain areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and prohibit all activities of a commercial nature. To these ends development is limited to relatively low concentrations and permitted uses are limited basically to single unit dwellings providing homes for the residents plus certain additional uses such as schools, parks, churches and certain public facilities that serve the residents of the district.

Sec. 9-92. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights-of-way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

B. Any forestal uses whether nonconforming or otherwise shall:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned R-O, R-OA, R-1. R1A shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the Planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

Sec. 9-93. Permitted uses.

In the single family residential R-O, R-OA, R-1 and R-1A districts, structures to be erected or land to be used shall be for one or more of the following uses:

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Community center with an approved site plan.

Parks and playgrounds with an approved site plan.

Public utilities other than those requiring a conditional use permit under the provisions of Section 9-94 with an approved site plan.

Public schools with an approved site plan.

Radio, television or communication towers not exceeding fifty (50) feet in height and satellite dishes provided any of these uses are located in the rear yard of a principal permitted use.

Single-family dwellings.

Subdivisions of single-family dwellings.

Sec. 9-94. Uses permitted by conditional use permit only.

In the R-O, R-OA, R-1 and R-1A single-family residential district, buildings to be erected or land to be used for one or more of the following uses shall be permitted only ~~after the issuance of conditional use permit by the Board of Supervisors or its agent:~~ **after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Cemeteries ~~with an approved site plan~~.

Child care center ~~with an approved site plan~~.

Churches, synagogues and other houses of worship ~~shall only be located on rights-of-way classified as residential collectors~~.
Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Golf courses and country clubs ~~with an approved site plan~~.

Private schools with approved site plan.
Public or private ~~electrical generation facilities,~~ electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more ~~with an approved site plan~~.

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids ~~with an approved site plan~~, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains ~~with an approved site plan~~, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Railroad facilities including tracks **and** bridges, ~~switching yards and stations with an approved site plan,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Water impoundments for public or private use ~~of fifty (50) acres or more and a dam height of twenty-five (25) feet or more with an approved site plan~~.

Sec. 9-95. Accessory building yard requirements.

Accessory buildings shall have a side and rear yard of not less than five (5) feet.

Sec. 9-96 through 9-102. Reserved for future legislation.

Division 6. General Residential R-2

Sec. 9-103. Intent.

This district is composed of certain medium and high concentration residential uses, plus certain areas where similar development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as is compatible with the intensity of land use, a suitable environment for family life composed of an adult population with some children. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. This residential district is not completely residential as it includes public and semipublic institutional and other related uses.

Sec. 9-104. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.
~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights of way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

B. All forestal uses whether non-conforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned R-2 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the Planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

Sec. 9-105. Permitted uses.

In the general residential R-2 district, structures to be erected or land to be used shall be for one or more of the following uses:

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Churches, synagogues and other houses of worship with an approved site plan.

Convalescent, nursing or rest homes with approved site plan.

Community center with an approved site plan.

Government buildings and facilities with an approved site plan.

Libraries with an approved site plan.

Parks and playgrounds with an approved site plan.

Public schools with an approved site plan.

Public utilities other than those requiring a conditional use permit under Section 9-106 with an approved site plan.

Radio, television or communication towers not exceeding fifty (50) feet in height and satellite dishes provided any of these uses are located in the rear yard of a principal permitted use.

Single-family dwellings.

Subdivisions for single-family dwellings.

Sec. 9-106. Uses permitted by conditional use permit only.

In the R-2 general residential district, structures to be erected or land to be used for one or more of the following uses shall be permitted only ~~after the issuance of a conditional use permit by the Board of Supervisors or its agent~~ **after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

~~Apartments, condominiums and~~ Cluster-home developments.

Bed and breakfast/home stay establishment in County-designated historic site districts.

Cemeteries ~~with an approved site plan~~.

Child care center ~~with an approved site plan~~.

Churches, synagogues and other houses of worship ~~shall only be located on rights-of-way classified as residential collectors~~. Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Group care facilities ~~with an approved site plan~~.

~~Planned unit developments.~~

Private schools ~~with an approved site plan~~.

Public or private ~~electrical generation facilities~~, electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more ~~with an approved site plan~~.

Public or private transmission pipelines, pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids ~~with an approved site plan~~, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains ~~with an approved site plan~~, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Railroad facilities including tracks **and** bridges, ~~switching yards and stations with an approved site plan,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Water impoundments for public or private ~~use of fifty (50) acres or more and a dam height of twenty five (25) feet or more with an approved site plan~~.

Single-family conversion to two-family~~, with an approved site plan~~.

Two-family dwellings.

Water impoundments for public or private ~~use of fifty (50) acres or more and a dam height of twenty five (25) feet or more with an approved site plan~~. (12/11/89)

Sec. 9-107. Accessory building yard requirements.

Accessory buildings shall have a side and rear yard of not less than five (5) feet.

Sec. 9-108 through 9-115. Reserved future legislation.

Division 7. Multiple Family Residential District, R-3

Sec. 9-116. Intent.

This district is composed of higher density residential development in the form of apartments or condominiums in areas appropriately located for such uses. These areas are on major thoroughfares in close proximity to commercial areas and other centers of employment. Special regulations are needed to ensure the general capability of this development with other residential development in the County and to afford the residents of these multiple-type family dwellings a living environment consistent with that enjoyed by other residents of this rural community.

Sec. 9-117. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights-of-way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

B. All forestal uses whether nonconforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned R-3 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the Planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

C. All churches, synagogues, and other houses of worship with the R-3 zoning district shall **be permitted with an approved site plan** ~~only be located on rights-of-way classified as residential collectors~~.

Sec. 9-118. Permitted uses.

In the multiple family residential R-3 district, structures to be erected or land to be used shall be for one or more of the following uses:

Apartments with approved site plan.

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Cluster homes **with an approved site plan.**

Condominiums with an approved site plan.

Developments incorporating both apartments and condominiums with an approved site plan provided that no more than sixty-five percent (65%) of all dwelling units are either apartments or condominiums.

Libraries with an approved site plan.

Parks and playgrounds with an approved site plan.

Public schools with an approved site plan.

Public utilities other than those requiring a conditional use permit under Section 9-119 with an approved site plan.

Radio, television or communication towers not exceeding fifty (50) feet in height and satellite dishes provided any of these uses are located in the rear yard of a principal permitted use.

Sec. 9-119. Uses permitted by conditional use permit only.

In the R-3 multiple family residential district, structures to be erected or land to be used for one or more of the following uses shall be permitted only after ~~the issuance of a conditional use permit by the Board of Supervisors or its agent:~~ **all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Cemeteries ~~with an approved site plan~~.

Churches, synagogues and other houses of worship ~~shall only be located on rights-of-way classified as residential collectors~~.
Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Golf course/country clubs ~~with an approved site plan~~.

Group care facilities.

~~Planned unit developments.~~

Private schools ~~with approved site plan~~.

Public or private ~~electrical generation facilities,~~ electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more ~~with an approved site plan~~.

Public or private transmission pipelines, pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids ~~with an approved site plan~~, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains ~~with an approved site plan~~, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Railroad facilities including tracks **and** bridges, ~~switching yards and stations with an approved site plan,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Water impoundments for public or private use ~~of fifty (50) acres or more and a dam height of twenty-five (25) feet or more with an approved site plan~~.

Sec. 9-120. Maximum gross density in apartment and condominium development.

Maximum gross density in any apartment or condominium development shall not exceed **twenty (20)** dwelling units per acre.

Sec. 9-121. Right-of-way standards.

The minimum right-of-way for any street, road or thoroughfare within an apartment or condominium development shall **meet VDOT standards** ~~be fifty (50) feet~~.

Sec. 9-122. Special conditions related to apartment and condominium development.

A. The developer shall receive the approval of the Department of Health relative to the provision of a potable water supply and adequate sewage disposal facilities.

B. No outside area or equipment shall be provided for the hanging of laundry or the outside airing of laundry in any manner. A laundry shall be provided within each apartment building or condominium unit with sufficient area and equipment for the laundering and artificial drying of laundry belonging to the occupants of each building.

C. Each building shall contain a single master television antenna system which shall serve all dwelling units within the building.

D. If trash and garbage collection is provided through the location of steel dumpster containers, they shall be located conveniently to the dwelling units: shall be screened from view by decorative masonry walls, shrubs or fences and shall be located on concrete pads with a sufficient strength rating to withstand the weight of a garbage disposal truck.

E. Each dwelling unit and combined complex of dwelling units shall have a compatible architectural theme, with variations in design to provide attractiveness to the development which shall include consideration of landscaping techniques, building orientation to the site and to other structures, topography, natural features, and individual dwelling unit design. Techniques to be considered are varying widths of units, staggering unit setbacks. providing different exterior materials, changing roof lines and roof designs, altering building heights, changing the types of windows an shutters, doors, porches, and the vertical or horizontal orientation of the facades singularly or in combination.

F. In order to prevent the development of long and monotonous buildings and ridge lines which serve to increase the sense of density, lack of interest, and liken the development to a barracks, overall structures of attached townhouses shall consist of no more than eight townhouse dwelling units. There shall be at least three different ridge line heights in each overall structure of attached townhouses which shall vary by at least three (3) feet. In any structure of attached townhouses no more than two (2) adjacent dwelling units shall have the same setback. Setbacks shall vary by at least eight feet.

Buildings may consist of any configuration that meets the prescribed area and yard requirements and does not exceed the following overall or component building lengths or standards:

1. Two hundred (200) feet on any one plane.

2. Three hundred and forty (340) feet on any angle.

3. Five hundred (500) feet along the center line of the building.

4. No more than sixteen (16) dwelling units shall be contained in any one building and there shall be no more than four (4) dwelling units in any unbroken line. A setback of not less than eight (8) feet shall be deemed as a satisfactory offset in a building line.

5. No townhouse dwelling unit shall be less than sixteen (16) feet in width.

Land area of at least five hundred and sixty (560) square feet for each dwelling unit shall be specified on the site plan and improved by the developer as active recreation areas for use by residents of the development. Such areas shall be an integral part of the development and shall be at least one-half (1/2) acre in size. Such area shall be at least one hundred (100) feet wide and have a grade of less than five percent (5%). Recreational facilities shall include residential swimming pools, regulation doubles tennis courts, tot lots and playgrounds. The developer may be permitted to substitute other recreational facilities as an equivalent alternative if deemed appropriate by the Zoning Administrator.

Secs. 9-123 to 9-129. Reserved for future legislation.

Insert Sec. 9-130
Table of Regulations

Sec. 9-130. Table of Regulations (continued)

(a) Public utility structures may be constructed to any necessary height, when located as far from all lot lines as the height of the structure.

(b) For corner lots the minimum area shall be twenty-seven thousand (27,000) square feet.

(c) For corner lots the minimum width at the set back line shall be one hundred and twenty-five (125) feet. The front of the lot shall be the shortest of the two side lines adjacent to the street.

(d) Or greater where specified elsewhere in this ordinance.

(e) Greater heights when required for a particular use may be authorized by the Board of Zoning Appeals as a special exception.

(f) Finished floor area for one-story dwellings may be one thousand two hundred (1,200) square feet.

(g) Finished floor area for one-story dwellings may be one thousand eight hundred (1,800) square feet.

(h) Finished floor area for one-story dwellings may be one thousand seven hundred (1,700) square feet.

(i) Finished floor area for one-story dwellings may be one thousand four hundred (1,400) square feet.

(j) Total floor area, each dwelling unit. However, studio apartments may be two hundred eighty (280) square feet; provided, that the average floor areas of the units in a multi-family development or phase thereof is at least five hundred (500) square feet.

(k) Finished floor area for one-story dwellings may be nine hundred (900) square feet.

(l) A maximum of one-third (1/3) of the total floor area of the dwelling may be contained in unfinished rooms capable of being made livable floor area.

(m) For lots served by public water and sewer, the minimum lot area shall be ten thousand (10,00) square feet.

(n) For lots served by public water and sewer systems, the minimum lot area shall be twelve thousand (12,000) square feet.

(o) On any street right-of-way which is less than fifty (50) feet in width all buildings shall be set back sixty (60) feet or more from the center line of the
street right-of-way.

(p) Approved site plan required.

(q) Yard requirements for multi-family housing:

1. Buffers: A landscaped buffer area at least twenty-five (25) feet in width shall be maintained surrounding all apartment and condominium developments and no parking areas or structures shall be located within such twenty-five (25) foot buffer area.

2. Side: The minimum side yard width for any structure shall be thirty (30) feet. If a side yard abuts a residential or agricultural zoning district, the side yard shall be increased to a minimum of seventy-five (75) feet.

3. Rear: Each structure shall have a rear yard of not less than fifty (50) feet. If the rear yard abuts a residential or agricultural zoning district, the minimum rear yard shall be seventy-five (75) feet.

4. The minimum yard area between buildings located on the same parcel shall be measured horizontally in feet and shall be measured away from the front, side, and rear of each building. No building as measured radially from any corner shall be closer to any other building corner than the combined distance of the yard requirements for each building. The combined distance of two (2) side yards shall exclude any driveway or vehicular access, such driveway or vehicular access width being in addition to the combined yard width.

Secs. 9-131 through 9-135. Reserved for future legislation.

Division 9. Mobile Home Parks, MHP

Sec. 9-136. Intent.

This district is intended to accommodate high-density single family residential mobile home parks. Regulations for this district are designed to promote an appropriate residential environment for family life; to establish minimum standards governing the construction and maintenance of mobile home parks; establish minimum standards governing utilities and facilities and other physical things and conditions to make mobile home parks safe, sanitary and fit for human habitation, and to fix the responsibilities and the duties of the owners of mobile home parks.

Sec. 9-137. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights of way and streams to slow down runoff waters and filter out sediment.~~

2. Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.

B. All forestal uses whether nonconforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned MHP shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

Sec. 9-138. Permitted uses.

In the mobile home parks MHP district, structures to be erected or land to be used shall be for one or more of the following uses:

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Community centers with an approved site plan.

Conveniences stores

Golf Courses with an approved site plan

Laundromats

Mobile home parks with an approved site plan.

Parks and playgrounds with an approved site plan.

Public utilities not requiring a conditional use permit under the provisions of Section 9-139 with an approved site plan.

Radio, television or communication towers not exceeding fifty (50) feet in height and satellite dishes provided any of these uses are located in the rear yard of a principal permitted use.

~~See Section 9-45 for permitted accessory uses.~~

Sec. 9-139. Uses permitted by conditional use permit only.

In the MHP mobile home parks district, structures to be erected or land to be used for one or more of the following uses shall be permitted only after ~~the issuance of a conditional use permit by the Board of Supervisors or its agent~~ **all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Public or private ~~electrical generation facilities,~~ electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more with ~~an approved site plan~~.

Public or private transmission pipelines, pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids ~~with an approved site plan~~, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains ~~with an approved site plan~~, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Railroad facilities including tracks **and** bridges, ~~switching yards and stations with an approved site plan,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Sec. 9-140. Area requirements.

The minimum area of a mobile home park shall be five (5) acres.

Sec. 9-141. Density requirements.

Intensity of development shall be limited to no more than four (4) mobile homes per acre of gross area. Each site or space for an individual mobile home shall not be less than ten thousand (10,000) square feet in area and sixty (60) feet wide; except that a space for a double-wide mobile home shall not be less than seventy-five (75) feet wide.

Sec. 9-142. Setback requirements.

Mobile home parks shall be located fifty (50) feet or more from any State maintained street right-of-way which is fifty (50) feet or greater in width or seventy-five (75) feet or more from the center line of any street right-of-way less than fifty (50) feet in width. this shall be known as the "setback line".

Sec. 9-143. Frontage requirements.

Each mobile home park shall have a minimum frontage of two hundred (200) feet on a State-maintained road.

Sec. 9-144. Yard requirements.

No mobile home lot line shall be nearer than fifty (50) feet from the exterior boundary line of the zoning district. The greenbelt planting strip required by Section 9-146 may be included within this fifty (50) feet.

Sec. 9-145. Height requirements.

All buildings not otherwise exempt shall be limited to one-story structures not exceeding fifteen (15) feet in height. Television antennas and radio aerials are not exempt in the MHP district.

Sec. 9-146. Greenbelt requirements.

A mobile home park shall have a greenbelt planting strip not less than twenty (20) feet along all park boundaries.

Sec. 9-147. Spacing requirements.

Mobile homes shall be placed in spaces so that, at the nearest point, they shall be a least twenty (20) feet from all internal streets, any other mobile home, or attachment thereto, and any accessory structure.

Sec. 9-148. Recreation areas.

Mobile home parks shall provide open space area for recreational purposes having an area equal to ten percent (10%) of the mobile home park.

Sec. 9-149. Internal streets.

Where off-street parking is provided, the minimum width of internal streets on which an individual mobile home lot fronts shall be twenty-six (26) feet and have an all-weather surface. Where off-street parking is not provided, the minimum internal street shall be fifty (50) feet in width and have an all-weather surface. In cases when internal streets dead-end, there shall be constructed a cul-de-sac with a minimum turning radius of thirty-five (35) feet. No cul-de-sac shall exceed five hundred (500) feet in length.

Sec. 9-150. Speed limits.

The owner of a mobile home park shall post in a prominent location a sign limiting the speed on all internal streets to not more than fifteen (15) miles per hour.

Sec. 9-151. Landscaping.

Any part of each lot not used for buildings or other structures, or off-street parking, recreation use, drives and pedestrian walks, central laundry drying yards, garbage and trash collection stations, shall be planted or screened with appropriate planted ground cover, trees, flowers, shrub and grass lawns, all of which shall be properly maintained.

Sec. 9-152. Garbage collection.

The owner of the mobile home park shall provide for the central location of and collection of trash and garbage containers which shall be emptied at least two times per week.

Sec. 9-153. Groundmarkers for lots.

Lot corners shall be clearly defined by permanent ground markers corresponding to the approved site plan.

Sec. 9-154. Underground utilities.

All utilities shall be underground, except control instrumentation and substations which must be screened by planting or ornamental walls. No overhead wires are permitted within the park.

Sec. 9-155. Water and sewer.

The owner of the mobile home park shall provide each mobile home space with individual water and sewage connections. A privately-owned central water and/or sewage disposal plant may be provided for an entire mobile home park. Septic tanks shall be adequate so long as there are not more than two mobile home spaces connected to each septic tank. Installation of water and sewage systems and installation of septic tanks shall be subject to the inspection and approval of the County Health Inspector.

Sec. 9-156. Electrical connections.

The owner of the mobile home park shall provide each mobile home space with suitable electrical outlets installed in accordance with the BOCA and NEA Codes. Installation of such electrical outlets shall be subject to the inspection and approval of the County Building Official.

Sec. 9-157. Blocking and tiedowns.

It shall be the responsibility of the mobile home park owner to see that all mobile homes within his park are blocked and tied in accordance with the Statewide Uniform Building Code.

Sec. 9-158. Skirting.

It shall be the responsibility of the mobile home park owner to see that all mobile homes are completely skirted with a fire-resistant material approved by the Building Inspector.

Sec. 9-159. Certificate of Occupancy.

No mobile home located within a mobile home park shall be occupied without a certificate of occupancy issued by the Building Official of New Kent County.

Sec. 9-160. Site Plan required.

To construct, operate and maintain a mobile home park in New Kent County, a site plan must be **prepared in accordance with Division 18 of this article, and** approved by the Zoning Administrator. ~~All applications for site plans shall be made to the Zoning Administrator in triplicate and shall include at a minimum the following: A scale plan or drawing of the proposed mobile home park, including street layout and easements; area and dimensions of the site; the number, location, and size of all mobile home spaces; the location and width of roadways and walkways; the location of service buildings and any other proposed structures; the location of water and sewer lines, source of water supply and method of sewage disposal; a vicinity sketch showing location in reference to nearest road intersection and magisterial district in which the site is located, a sketch showing recreational and parking areas, and the dimensions thereof; the name and address of applicant; and such further information as may be requested by the Health Officer or the Zoning Administrator to enable them to determine that the proposed mobile home park will comply with legal requirements. Each application shall be accompanied by the required fee.~~

Sec. 9-161. Registration of occupants.

Every mobile home park owner shall maintain a register containing a record of all mobile homes and occupants using the mobile home park. Such register shall be available to any authorized person inspecting the park including the Zoning Administrator and Building Official, to the Commissioner of Revenue of New Kent County, an any law enforcement officer in the performance of his official duties, and shall be preserved for a period of not less than three (3) years. Such register shall contain the following information:

A. Name and address of each occupant with ages of all occupants under eighteen (18) years of age.

B. Mobile home license number, if any, serial number and manufacturer's name, length and width.

C. Mobile home space to which assigned.

D. Last place of location.

E. Date of arrival.

F. Date of departure.

Sec. 9-162. Existing parks.

All mobile home parks existing at the date of passage of this article are designated as nonconforming uses and shall be subject to all provisions of this article regulating nonconforming uses. Nothing herein

shall eliminate the necessity for compliance with Sections 9-145, 9-150, 9-152, 9-155, 9-156, 9-157, 9-158, 9-159, and 9-161.

Secs. 9-163 through 9-166. Reserved for future legislation.

Division 10. Business ~~General~~ Limited, B-1

This district is intended for the conduct of business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than those occasioned by incidental light and noise of congregation associated with small business, commercial and service establishments.

Sec. 9-168. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights-of-way and streams to slow down runoff waters and filter out sediment.~~

2. Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.

B. All forestal uses whether nonconforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned B-1 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the Planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

C. All retail activities in the B-1 district in buildings containing more than ten thousand (10,000) square feet in floor area shall require a conditional use permit.

Sec. 9-169. Permitted uses.

In the Business General, B-1 district, structures to be erected or land to be used shall be for one or more of the following uses and each of the uses permitted in this district shall require an approved site plan **prepared in accordance with the provisions of Division 18 of this article:**

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Antique shops.

Assembly halls.

~~Auto sales and service.~~

Automobile sales.

Automobile service station.

Banks.

Barber and beauty shops.

Business and professional offices.

Child care centers.

Churches.

Clothing stores.

Clubs.

Computer and data processing centers.

Convalescent, nursing, and rest homes.

Convenience stores.

Dance or music studios.

Drug stores.

Dry cleaning **pick up** outlets.

Florist shops.

Gift, record and tobacco shops.

Government buildings and facilities.

Hospitals and medical facilities.

Laundromats.

Libraries.

Marinas.

Miniature golf.

Photography studios.

Print Shops.

Public utilities which do not require a conditional use permit under the provisions of Section 9-170.

Radio, television or communication towers not exceeding fifty (50) feet in height provided it shall be located in the rear yard of a principal permitted use.

Restaurants **that do not serve alcoholic beverages.**

~~Retail auto parts sales.~~

~~Retail bakeries.~~

~~Retail grocery stores.~~

Retail sales and service.

Satellite dishes located in the side, front, or rear yard provided such satellite dish shall set back fifty (50) feet or more from any state maintained or privately owned, public right-of-way and shall comply with the side and rear yard setbacks for accessory structures.

~~Service stations with minor repair under cover.~~

Theaters, enclosed.

Veterinary clinics.

Yacht clubs **with an approved site plan.**

Sec. 9-170. Uses permitted by conditional use permit only.

In the Business General, B-1 district, structures to be erected or land to be used for one or more of the following uses shall be permitted only after ~~the issuance of a conditional use permit by the Board of Supervisors or its agents, with an approved site plan~~ **all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Automobile service garage.

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

~~Group care facilities.~~

Office park ~~with approved site plan~~.

~~Planned unit developments.~~

Public or private ~~electrical generation facilities,~~ electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more.

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids, or solids, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.

Railroad facilities including tracks and bridges, ~~switching yards and stations,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way are permitted generally and without a conditional use permit.

Restaurants.

Retail or service uses which exceed ten thousand (10,000) square feet in floor area.

Water impoundments for public or private use ~~of fifty (50) acres or more and dam height of twenty five (25) feet or more~~.

Sec. 9-171. Area requirements.

The minimum lot area for permitted uses shall be fifteen thousand (15,000) square feet except that corner lots shall have a minimum area of twenty thousand (20,000) square feet.

Sec. 9-172. Setback requirements.

All structures shall be located a minimum of twenty (20) feet from any deeded right-of-way.

Sec. 9-173. Width requirements.

The minimum width for permitted uses shall be one hundred (100) feet except that corner lots shall have a minimum width of two hundred (200) feet.

Sec. 9-174. Yard requirements.

A. Side: The minimum side yard for any structure shall be ten (10) feet and the total width of the two required side yards shall be twenty (20) feet or more.

B. Rear: All structures shall have a rear yard of ten (10) feet or more.

Sec. 9-XXX. Provisions for the Waiver of Yard Requirements.

A waiver shall be permitted to allow the subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls or as part of a multiple-structure commercial development, the agent may grant, at his discretion, a waiver from any part of Sec. 9-174 of this article finding:

A. The overall complex or structure, if considered as a single unit, meets all of the requirements of Sec. 9-174;

B. adequate parking is provided as per the requirements of Division 19 of this article, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;

C. adequate provisions are made to assure compliance with Division 20 of this Article, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and,

D. **The complex or structure is designed and serviced from the standpoint of safety, and that the County Fire Chief certifies that fire safety equipment and access for emergency vehicles is adequate, and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.**

Sec. 9-175. Height requirements.

All structures not exempted under the provisions of Section 9-60 may be erected to a height not to exceed forty (40) feet.

Sec. 9-176. Sign and Parking Requirements.

For regulations concerning signs, see Division 20--Signs, page 120. For regulations concerning parking, see Division 19--Off-street Parking, Driveways and Loading Areas, page 111.

Sec. 9-177 through 9-180. Reserved for future legislation.

Division 11. Business ~~Limited~~ General, B-2

Sec. 9-181. Intent.

This district is intended to provide locations for commercial uses servicing the needs of a broader service area than that of the Business General (B-1) uses ~~and also those commercial activities not necessarily associated with highway access and the traveling public~~.

Sec. 9-182. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.
~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights of way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

B. All forestal uses whether nonconforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned B-2 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the Planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

Sec. 9-183. Permitted uses:

In the B-2, Business Limited District, structures to be erected or land to be used shall be for one or more of the following uses and each of the uses permitted in this district shall require an approved site plan prepared in accordance with the provisions of Division 18 of this article:

All uses not requiring a special use permit in the B-1 district.

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Amusement parks.

~~Antique shops.~~

~~Assembly halls.~~

Auto parts sales.

~~Auto sales and services.~~

Automobile service garage.

~~Banks.~~

~~Barber and beauty shops.~~

Boat sales.

Broadcasting studios.

~~Business and professional offices.~~

~~Child care centers.~~

~~Churches.~~

~~Clothing stores.~~

~~Clubs.~~

~~Computer and data processing centers.~~

Conference centers.

Convalescent, nursing and rest homes.

~~Convenience, mini-supermarkets.~~

~~Dance and music studios.~~

~~Drug stores.~~

~~Dry cleaning outlets.~~

Farm equipment sales.

Feed and seed stores.

~~Florist shops.~~

Funeral homes.

Game rooms, amusement facilities.

~~Gift, record and tobacco shops.~~

~~Government buildings and facilities.~~

Hardware stores.

Home appliance, sales and indoor service.

~~Hospitals and medical facilities.~~

Hotels, motels.

~~Laundromats.~~

Lumber and building supply centers.

Machine sales and indoor service.

Mini-storage units.

Mobile and motor home sales.

Office parks with approved site plan.

~~Photography studios.~~

Personal services.

Plant nurseries.

Plumbing and electrical supply outlets.

Print shops.

Professional offices.

Public utilities not requiring a conditional use permit under the provisions of Section 9-184.

~~Radio, television or communication towers not exceeding fifty (50) feet in height provided it shall be located in the rear yard of a principal permitted use.~~

Rental centers.

~~Restaurants.~~

~~Retail bakeries.~~

Retail pet stores.

Retail establishments over ten thousand (10,000) square feet in size.

Sale of household furniture and furnishings.

~~Satellite dishes located in the side, front, or rear yard provided such satellite dish shall set back fifty (50) feet or more from any state maintained or privately owned, public right-of-way and shall comply with the side and rear yard setbacks for accessory structures.~~

~~Service stations with minor repair under cover.~~

~~Theaters, enclosed.~~

Tourist homes.

Upholstery shops.

~~Veterinary clinics.~~

Sec. 9-184. Uses permitted by conditional use permit only.

In the B-2, Business Limited District, structures to be erected or land to be used for one or more of the following uses shall be permitted only after ~~the issuance or a conditional use permit by the Board of Supervisors or its agents with an approved site plan~~ **all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Accessory apartments as defined in 9-37 of this article.

~~Auto body painting.~~

Automobile repair.

Bus terminals/stations.

Cemeteries.

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

~~Convalescent homes.~~

Kennels.

Office Park.

Public or private ~~electrical generation facilities,~~ electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more.

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.

Railroad facilities including tracks and bridges, ~~switching yards, and stations,~~ except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Research centers.

Residential apartments located above or adjacent to a business.

Water impoundments for public or private use ~~of fifty (50) acres or more and a dam height of twenty-five (25) feet or more~~.

Sec. 9-185. Area requirements.

The minimum lot area for permitted uses shall be thirty thousand (30,000) square feet.

Sec. 9-186. Setback requirements.

All structures shall be located a minimum of twenty (20) feet from any deeded right-of-way.

Sec. 9-187. Width requirements.

The minimum width for permitted uses shall be one hundred fifty (150) feet.

Sec. 9-188. Yard requirements.

A. Side: The minimum side yard for any structure shall be twenty (20) feet and the total width of the two required side yards shall be forty (40) feet or more.

B. Rear: Each main structure shall have a rear yard of twenty (20) feet or more.

C. Accessory buildings shall have a minimum side and rear yard of five (5) feet.

Sec. 9-XXX. Provisions for the Waiver of Yard Requirements.

A waiver shall be permitted to allow the subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls or as part of a multiple-structure commercial development, the agent may grant, at his discretion, a waiver from any part of Sec. 9-188 of this article finding:

A. The overall complex or structure, if considered as a single unit, meets all of the requirements of Sec. 9-188;

B. adequate parking is provided as per the requirements of Division 19 of this article, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;

C. Adequate provisions are made to assure compliance with Division 20 of this Article, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and,

D. The complex or structure is adequately designed and serviced from the standpoint of safety, and that the County Fire Chief certifies that fire safety equipment and access for emergency vehicles is adequate, and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

Sec. 9-189. Height requirements.

All structures not exempted under the provisions of Section 9-60 may be erected to a height not to exceed forty (40) feet.

Sec. 9-190. Signs and parking requirements.

For regulations concerning signs, see Division 20-Signs, page 120. For regulations concerning parking, see Division 19--Off-street Parking, Driveways and Loading Areas, page 111.

Sec. 9-191 through 9-195. Reserved for future legislation.

~~Division 12. Research, Engineering and Office, B-3~~

~~Sec. 9-196. Intent.~~

~~This district is intended for the location of research and laboratory uses as well as office activities. The development of large tracts of land in a park like setting is encouraged in an effort to promote the formation of well planned and identifiable "office and research parks".~~

~~Sec. 9-197. General conditions applicable to certain uses.~~

~~A. Any agricultural use, nonconforming or otherwise shall:~~

~~1. Utilize best management practices whenever possible.~~

~~2. Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.~~

~~B. All forestal uses whether nonconforming or otherwise shall conform to the following:~~

~~1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned B-3 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the Planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.~~

~~Sec. 9-198. Permitted uses.~~

~~In the B-3, Research, Engineering and Office District, all permitted uses shall require an approved site plan. All structures to be erected or land to be used in this district shall be for one or more of the following uses:~~

~~Broadcasting studios.~~

~~Child daycare sponsored by employer on site.~~

~~Computer and data processing centers.~~

~~Conference centers.~~

~~Hospitals and medical facilities.~~

~~Laboratories/testing, medical, pharmaceutical, scientific.~~

~~Libraries.~~

~~Office parks with approved site plans.~~

~~Printing establishments.~~

~~Professional offices.~~

~~Public utilities not requiring a conditional use permit under the provisions of Section 9-200.~~

~~Radio, television or communication towers not exceeding fifty (50) feet in height provided it shall be located in the rear yard of a principal permitted use.~~

~~Research centers.~~

~~Restaurants.~~

~~Satellite dishes located in the side, front, or rear yard provided such satellite dish shall set back fifty (50) feet or more from any state maintained or privately owned, public right-of-way and shall comply with the side and rear yard setbacks for accessory structures.~~

~~Sec. 9-199. Uses permitted by conditional use permit only.~~

~~In the B-3, Research, Engineering and Office District, all conditional uses shall require an approved site plan. Structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a conditional use permit by the Board of Supervisors or its agent:~~

~~Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.~~

~~Helistops.~~

~~Public or private electrical generation facilities, electrical substations with a capacity of five thousand (5000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty nine (69) kilovolts or more.~~

~~Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, except that private connections to existing pipelines which are intended to serve an individual residential or commercial~~

~~customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.~~

~~Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.~~

~~Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.~~

~~Railroad facilities including tracks and bridges, switching yards and stations, except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.~~

~~Water impoundments for public or private use of fifty (50) acres or more and a dam height of twenty-five (25) feet or more.~~

~~Sec. 9-200. Area requirements.~~

~~The minimum lot area for single lots on which permitted uses are located is five (5) acres. The minimum lot area for lots located within a research/office park larger than twenty-five (25) acres shall be three (3) acres.~~

~~Sec. 9-201. Setback requirements.~~

~~All structures shall be located a minimum of one hundred fifty (150) feet from any street right-of-way, except that the minimum setback for structures on a lot in a research/office park larger than twenty-five (25) acres shall be one hundred (100) feet.~~

~~Sec. 9-202. Width requirements.~~

~~A. Unless otherwise provided in paragraph B, all lots shall have a minimum width of four hundred (400) feet.~~

~~B. Lots within a research/office park over twenty-five (25) acres in size shall have a minimum width of three hundred ()300) feet.~~

~~Sec. 9-203. Yard requirements.~~

~~A. Side:~~

~~1. Unless otherwise provided in subparagraph 2, the minimum side yard for each main structure shall be seventy-five (75) feet and the total width of the two required side yards shall be one hundred and fifty (150) feet or more.~~

~~2. The minimum side yard for each main structure on a lot in a research/office park larger than twenty-five (25) acres shall be fifty (50) feet and the total width of the two required yards shall be one hundred (100) feet or more.~~

~~B. Rear:~~

~~1. Except as otherwise provided in subparagraph 2, each main structure shall have a rear yard of seventy-five (75) feet or more.~~

~~2. Each main structure located on a lot in a research/office park larger than twenty-five (25) acres shall have a rear yard of fifty (50) feet or more.~~

~~C. Unless otherwise provided in paragraph D below, accessory buildings of one hundred (100) square feet or more shall have a side and rear yard of not less than fifty (50) feet. Accessory buildings of less than one hundred (100) square feet shall have a side and rear yard of ten (10) feet or more.~~

~~D. Accessory buildings on lots located within a research/office park larger than twenty-five (25) acres shall have a side and rear yard of fifty (50) feet or more.~~

~~Sec. 9-204. Height requirements.~~

~~All structures not exempted under the provisions of Sec. 9-60 may be erected up to sixty (60) feet in height.~~

~~Sec. 9-205. Signs and parking requirements.~~

~~For regulations concerning signs, see Division 20 Signs, page 120. For regulations concerning parking, see Division 19 Off-street Parking, Driveways and Loading Areas, page 111.~~

~~Sec. 9-206 to 9-210. Reserved for future legislation.~~

Division 13. Warehousing and Limited Industrial, M-1

Sec. 9-211. Intent.

This district is intended for the location of the uses such as warehousing and distribution centers which do not have inherent characteristics that are obnoxious, injurious, offensive or hazardous to the health, safety or general welfare of the community. The development of large tracts of land in a park-like setting is encouraged in an effort to promote formation of well-planned and identifiable "industrial parks".

Sec. 9-212. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming of otherwise shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights of way and streams to slow down runoff waters and filter out sediment.~~

2. **Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.**

B. All forestal uses whether nonconforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zone M-1 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

Sec. 9-213. Permitted uses.

~~In the M-1, Warehousing and Limited Industrial District, all permitted uses shall require an approved site plan. All structures to be erected or land to be used in this district shall be for one or more of the following uses:~~

In the M-1, Warehousing and Limited Industrial District, structures to be erected or land to be used shall be for one or more of the following uses and each of the uses permitted in this district shall require an approved site plan prepared in accordance with the provisions of Division 18 of this article:

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Assembly of electrical and electronic devices.

Auto repair.

Auto body repair.

Auto sales and service.

Boat building and repair, including engine repair.

Cabinet/furniture manufacturing.

Child daycare ~~sponsored by employer on site~~.

Computer and data processing center.

Contractor storage.

Convenience stores.

Grain storage.

Laboratories/testing, medical, pharmaceutical, scientific.

Lumber and wood yards.

Machine and welding shops.

Machine sales and indoor service.

Mini-storage units.

Public utilities not requiring a conditional use permit under the provisions of Section 9-214.

Radio, television or communication towers not exceeding fifty (50) feet in height provided it shall be located in the rear yard of a principal permitted use.

Recycling centers.

Restaurants.

Satellite dishes located in the side, front, or rear yard provided such satellite dish shall set back fifty (50) feet or more from any state maintained or privately owned, public right-of-way and shall comply with the side and rear yard setbacks for accessory structures.

Truck and heavy equipment sales and service.

Upholstery shops.

Warehousing **and wholesale businesses occupying less than 50,000 square feet.**

Well drilling and septic tank businesses.

~~Wholesale businesses and distribution centers.~~

~~Wood yards.~~

Sec. 9-214. Uses permitted by conditional use permit only.

In the M-1, Warehousing and Limited Industrial District, ~~all conditional uses shall require an approved site plan. Structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a conditional use permit by the Board of Supervisors or its agent~~ **buildings to be erected or land to be used for one or more of the following uses shall be permitted only after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Airports.

Amusement parks.

Bus terminal/station.

Cement, lime and gypsum manufacturing.

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Freight terminal.

Helipads.

Mining, excavation or filling, borrow pits, extractional, processing and removal of sand, gravel, and stripping of top soil (but farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval are permitted generally and without a conditional use permit).

Public or private electrical generation facilities, electrical substations with a capacity of five thousand (5,000) kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine (69) kilovolts or more.

Public or private transmission pipelines, including pumping stations and accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.

Public and Private water well fields

Railroad facilities including tracks, bridges, switching yards and stations, except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and without a conditional use permit.

Truck stops/terminals.

Warehousing of construction materials.

Warehousing occupying more than 50,000 square feet.

Water impoundments for public or private use ~~of fifty (50) acres or more and a dam height of twenty five (25) feet or more~~.

Sec. 9-215. Area requirements.

The minimum lot area for single lots on which permitted uses are located is 20,000 square feet except that corner lots shall have a minimum area of one (1) acre. The minimum lot area for lots located within an industrial park larger than twenty-five (25) acres shall be one (1) acre except corner lots which shall have a minimum area of fifty thousand (50,000) square feet.

Sec. 9-216. Setback requirements.

All structures shall be located a minimum of one hundred (100) feet from any street right-of-way except that all structures on lots within an industrial park larger than twenty-five (25) acres shall be located a minimum of fifty (50) feet from any street right-of-way.

Sec. 9-217. Width requirements.

A. Unless otherwise provided in paragraph B, all lots shall have a minimum width of one hundred (100) feet.

B. Lots within an industrial park over twenty-five (25) acres in size shall have a minimum width of one hundred and seventy-five (175) feet.

Sec. 9-218. Yard requirements.

A. Side:

1. Unless otherwise provided a subparagraph 2, the minimum side yard for each main structure shall be fifteen (15) feet and the total width of the two required side yards shall be thirty (30) feet or more.

2. The minimum side yard for each main structure on a lot in an industrial park larger than twenty-five (25) acres shall be fifteen (15) feet and the total width of the two required yards shall be forty (40) feet or more.

B. Rear: Each main structure shall have a rear yard of fifteen (15) feet or more.

C. Unless otherwise provided in paragraph D below, accessory buildings shall have a side and rear yard of not less than fifteen (15) feet.

D. Accessory buildings on lots located within an industrial park larger than twenty-five (25) acres shall have a side yard of fifteen (15) feet or more and a rear yard of fifteen (15) feet or more.

Sec. 9-XXX. Provisions for the Waiver of Yard Requirements.

A waiver shall be permitted to allow the subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls or as part of a multiple-structure commercial development, the agent may grant, at his discretion, a waiver from any part of Sec. 9-218 of this article finding:

A. The overall complex or structure, if considered as a single unit, meets all of the requirements of Sec. 9-218;

B. adequate parking is provided as per the requirements of Division 19 of this article, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;

C. Adequate provisions are made to assure compliance with Division 20 of this Article, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and,

D. The complex or structure is adequately designed and serviced from the standpoint of safety, and that the County Fire Chief certifies that fire safety equipment and access for emergency vehicles is adequate, and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

Sec. 9-219. Height requirements.

All structures not exempted under the provisions of Section 9-60 erected in excess of sixty (60) feet in height shall require a conditional use permit.

Sec. 9-220. Signs and parking requirements.

For regulations concerning signs, see Division 20--Signs, page 120. For regulations concerning parking, see Division 19--Off-street Parking, Driveways and Loading Areas, page 111.

Sec. 9-221 through 9-225. Reserved for future legislation.

Division 14. Heavy Industrial, M-2

Sec. 9-226. Intent.

The primary purpose of this district is to establish an area where the principal use of land is for heavy commercial and industrial operations which may create some nuisance and which are not properly associated with nor particularly compatible with residential, institutional and neighborhood commercial establishment.

Sec. 9-227. General conditions applicable to certain uses.

A. Any agricultural use, nonconforming or otherwise shall:

1. Utilize best management practices whenever possible.

~~2. Maintain a five (5) foot wide grass or planted strip on site along all rights-of-way and streams to slow down runoff waters and filter out sediment.~~

2. Maintain the buffer requirements outlined in Article VI of the County's Land Development ordinance where such agricultural lands are located in Chesapeake Bay preservation areas.

B. All forestal uses whether nonconforming or otherwise shall conform to the following:

1. In order to maintain a rural environment in those areas of the County designated for residential and commercial development, no commercial timbering of lands zoned M-2 shall commence until a plan for development (subdivision or site or reforestation plan) has been approved by the planning Commission or the Zoning Administrator as the case may be. Any plan for reforestation shall require a posting of a bond in an amount sufficient to reforest the area based on current per acre estimate of reforestation by the Virginia Forest Service. No commercial timbering shall be allowed in any development once any lot in the development has been sold.

Sec. 9-228. Permitted uses.

~~In the M-2, Heavy Industrial District, all Permitted uses shall require an approved site plan. All structures to be erected or land to be used in this district shall be for one or more of the following uses.~~

In the M-2, Heavy Industrial District, structures to be erected or land to be used shall be for one or more of the following uses and each of the uses permitted in this district shall require an approved site plan prepared in accordance with the provisions of Division 18 of this article:

All uses permitted in the M-1 district.

Accessory buildings and uses as outlined in Sec. 9-45 of this ordinance.

Asphalt mixing.

~~Assembly of electrical and electronic devices.~~

Boat building.

Brick manufacturing.

Bus terminal/station.

~~Cabinet/furniture manufacturing.~~

Cement, lime and gypsum manufacturing.

~~Child day care sponsored by employer on site.~~

~~Contractor's storage.~~

~~Computer and data processing centers.~~

Distillation of ethanol from grain.

Freight terminals.

~~Laboratories/testing, medical, pharmaceutical, scientific.~~

~~Machine and welding shops.~~

Manufacturing.

Meat, poultry and fish processing.

~~Mini warehouses.~~

Mining, excavation or filling, borrow pits, extractional, processing and removal of sand, gravel, and stripping of top soil (but farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval are permitted generally and without a conditional use permit).
Monumental stone work.

Public utilities not requiring a conditional use permit under the provisions of Section 9-229.

~~Radio, television or communication towers not exceeding fifty (50) feet in height provided it shall be located in the rear yard of a principal permitted use.~~

~~Restaurants.~~

~~Satellite dishes located in the side, front, or rear yard provided such satellite dish shall set back fifty (50) feet or more from any state maintained or privately owned, public right-of-way and shall comply with the side and rear yard setbacks for accessory structures.~~

Sawmills and planning mills.

Truck terminals/stop.

Warehousing.

~~Well drilling/septic tank businesses.~~

~~Wholesale businesses and distribution centers.~~

Wood preserving operations.

~~Wood loading yards.~~

Sec. 9-229. Uses permitted by conditional use permit only.

In the M-2, Heavy Industrial District, ~~all conditional uses shall require an approved site plan. Structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a conditional use permit by the Board of Supervisors or its agent~~ **buildings to be erected or land to be used for one or more of the following uses shall be permitted only after all requirements for a conditional use permit in accordance with Division 15 of this article have been satisfied, including the preparation of a site plan in accordance with Division 18 of this article, and a conditional use permit has been issued by the agent or Board of Supervisors in accordance with the provisions of Division 15 of this article:**

Construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.

Helipads.

~~Mining, excavation or filling, borrow pits, extractional, processing and removal of sand, gravel, and stripping of top soil (but farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval are permitted generally and without a conditional use permit).~~

Public or private electrical generation facilities, electrical accessory storage for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids, except that private connections to existing pipelines which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities, and transmission mains, except that private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development are permitted generally and without a conditional use permit.

Public and Private water well fields

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.

Railroad facilities including tracks, bridges, switching yards, and stations, except that spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way are permitted generally and without a conditional use permit.

Salvage yards.

~~Used auto sales and service.~~

Water impoundments for public or private use ~~of fifty (50) acres or more and a dam height of twenty-five (25) feet or more~~.

Sec. 9-230. Area requirements.

The minimum lot area for single lots on which permitted uses are located is one (1) acres. The minimum lot area for lots located within an industrial park larger than twenty-five (25) acres shall be two (2) acres except corner lots in such parks shall have a minimum area of two and one-half (2 1/2) acres.

Sec. 9-231. Setback requirements.

All structures shall be located a minimum of seventy-five (75) feet from any deeded right-of-way.

Sec. 9-232. Width requirements.

A. Unless otherwise provided in paragraph B, all lots shall have a minimum width of two hundred (200) feet.

B. Lots within an industrial park over twenty-five (25) acres in size shall have a minimum width of two hundred (200) feet.

Sec. 9-233. Yard requirements.

A. Side:

1. Unless otherwise provided in paragraph 2, the minimum side yard for each main structure shall be fifty (50) feet and the total width of the two required side yards shall be one hundred (100) feet or more.

2. The minimum side yard for each main structure on a lot in an industrial park larger than twenty-five (25) acres shall be fifty (50) feet and the total width of the two required yards shall be one hundred (100) feet or more.

B. Rear: Each main structure shall have a rear yard of fifty (50) feet or more.

C. Unless otherwise provided in paragraph D below, accessory buildings shall have a side and rear yard of not less than fifty (50) feet.

D. Accessory buildings on lots located within an industrial park larger than twenty-five (25) acres shall have a side yard of fifty (50) feet and a rear yard of one hundred (100) feet or more.

Sec. 9-XXX. Provisions for the Waiver of Yard Requirements.

A waiver shall be permitted to allow the subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are constructed as part of a multi-unit structure in which the units share common walls or as part of a multiple-structure commercial development, the agent may grant, at his discretion, a waiver from any part of Sec. 9-233 of this article finding:

A. The overall complex or structure, if considered as a single unit, meets all of the requirements of Sec. 9-233;

B. adequate parking is provided as per the requirements of Division 19 of this article, and where determined necessary by the Commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;

C. Adequate provisions are made to assure compliance with Division 20 of this Article, and where determined necessary by the Commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and,

D. **The complex or structure is adequately designed and serviced from the standpoint of safety, and that the County Fire Chief certifies the fire safety equipment and access for emergency vehicles is adequate, and the County Building Official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.**

Sec. 9-234. Height requirements.

All structures not exempted under the provisions of Section 9-60 erected in excess of sixty (60) feet in height shall require a conditional use permit.

~~Sec. 9-235. Signs and parking requirements.~~

~~For regulations concerning signs, see Division 20 - Signs, page 120. For regulations concerning parking, see Division 19 Off street Parking, Driveways and Loading Areas, page 111.~~

Division 14A. Planned Unit Developments

Sec. 9-236. Specific conditions for all planned unit developments.

General Information

Planned unit development districts are intended to provide for variety and flexibility in design necessary to implement the varied goals and objectives of the county as set forth in the Comprehensive Plan. Through a planned unit development approach, these special regulations are intended to accomplish the purposes of zoning and other applicable regulations to the same extent as regulations of conventional districts. In addition, planned unit development regulations are intended to promote: Economical and efficient land use through unified development; improved levels of amenities; appropriate and harmonious physical development; creative design; and a better environment than generally realized through conventional district regulations. In view of the substantial public advantages of planned unit developments, these regulations are intended to encourage the planned unit development approach in areas appropriate in terms of location and character.

Planned unit development districts shall be developed: To provide for the comfort and convenience of residents; to facilitate protection of the character of surrounding neighborhoods; and to lessen traffic impact through a reasonably short travel time between origins and destinations of persons living, working, or visiting in such developments. Housing, commercial and service facilities, places of employment, and amusement parks, shall be related either by physical proximity or by adequate street networks so as to promote these objective.

The following provisions shall apply generally to the establishment and regulation of all planned unit developments districts. Where conflicts occur between the special provisions herein and general zoning, subdivision or other regulations or requirements, these special regulations shall apply in planned unit development districts unless the Board of Supervisors shall find, in the particular case: (a) That provisions herein do not serve public purposes to a degree at least equivalent to such general zoning, subdivision or other regulations or requirements, or (b) That actions, designs or solutions proposed by the applicant, although not literally in accord with these special or general regulations, satisfy public purposes to at least an equivalent degree. It is specifically provided, however, that where floor area and similar ratios have been established by these regulations, the Board shall not act in a particular case to alter said ratios.

Except as provided above, procedures and requirements as set forth herein and standards adopted for particular planned unit development districts shall apply in such planned unit development districts.

Applications for planned unit development districts shall be submitted as for other zoning map amendments and/or for conditional use

permits. Material submitted with the application shall include all plans, maps, studies and reports which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records. More specifically, all of the following shall be required:

1. All information required for a site plan review permit under Section 9-278.

2. An archeological and historic site survey.

3. A traffic impact study.

4. A storm water management plan.

5. A waste stream impact study.

6. An environmental impact study.

7. A wetlands identification study and protection plan to include Chesapeake Bay Management Area.

8. An economic impact assessment.

9. A school impact assessment.

10. A utilities requirement and implementation plan.

11. The Phasing Schedule which described when, within the development of the planned unit development, the required school sites, library sites, recreation and green space areas, major streets, commuter parking lots, and similar amenities or community facilities will be dedicated or reserved.

    The Phasing Schedule shall include the timing of providing all improvements as proffered. The Phasing Schedule shall also consider the need for future amendments, due to the trend of development in the planned unit development and the county. The Directors of the Office of Planning and the Department of Public Safety may jointly approve minor revisions to the Phasing Schedule where it can be shown to be in the best interest of the planned unit development and the county.

12. Existing topography accurately shown with a maximum of five (5) foot contour intervals at a scale of not less than one hundred (100) feet to the inch. Other interval and/or scale may be required or permitted by the Director of Planning where topographic considerations warrant.

13. Flood plain limits which shall be established by current soil survey, Corps of Engineers survey, and/or engineering methods.

14. Connection to existing and proposed Virginia Department of Transportation construction and to Comprehensive Plan proposed thoroughfares when necessary.

15. A minimum of two (2) data references for elevations to be used on plans and profiles and correlated, where practical, to U.S. Geological Survey data.

16. A report identifying all property owners within the proposed district and giving evidence of unified control of its entire area. The report shall state agreement of all present property owners to:

    (a) Proceed with the proposed development according to regulations existing when the map amendment creating the planned unit development district or conditional use permit is approved, with such modifications as are set by the Board of Supervisors and agreed to by the applicant at the time of amendment.

    (b) Provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the Board of Supervisors for completion of such development according to approved plans, and for continuing operation and maintenance of such areas, facilities and functions as are not to be provided, operated or maintained at general public expense; and such dedications, contributions or guarantees as are required for provision of needed public facilities or services; and

    (c) Bind their successors in title to any commitments made in 1 or 2 above.

17. Paved State-maintained roads will be provided for the site and all interior roads dedicated for purpose of vehicular access will be built to standards for State-maintained paved roads.

An applicant for a planned unit development shall dedicate to the appropriate public agency or community group recreation areas, green space areas, library sites, fire station sites, streets, commuter parking areas, and other sites for necessary public facilities or services. Sites for elementary, junior and senior high schools shall be dedicated.

Upon creation of planned unit development district, preliminary and final subdivision and site plans shall be submitted to the Director of the Department of Planning and Community Development. The submission of these plans must conform with the Phasing Schedule. These plans shall be reviewed and approved in accordance with applicable statutes of Virginia and ordinances of New Kent County. Any required dedications, reservation, or required improvements shall be made in accordance with

the Phasing Schedule, and must be provided with the approval of final subdivision or site plans.

On applications for planned unit development districts, the Board of Supervisors shall proceed in general as for other rezoning applications but shall give special consideration to the following matters and shall allow changes in original applications as indicated below.

Applicants are required to meet with the planning staff and other qualified officials to review the application plan and original proposal prior to submittal. The purpose of such preapplication conference shall be to assist in bringing the application and material submitted therewith as nearly as possible into conformity with these and/or other regulations applying in the case, and/or to define specific variations from application of regulations which would otherwise apply which seem justified in view of equivalent service of public purposes of such regulations.

In the course of such preapplication conferences, any recommendations for changes shall be recorded in writing, and shall become part of the record in the case. All such recommendations shall be supported by stated reasons for the proposed changes. Applicants shall indicate, in writing, their agreement to such recommendations, or their disagreement and their reasons therefor. Response by applicants shall also be included in the record.

At such time as further conferences appear unnecessary, or at any time on request of the applicant, the staff shall proceed to prepare its recommendations to the Planning Commission and Board of Supervisors. The date of the Board's determination to proceed, or of the applicant's request for preparation of recommendations, shall be deemed the formal date of submission of the application. Specifically, recommendations to the Planning Commission and the Board of Supervisors shall include findings as to:

1. The suitability of the tract for the general type of planned unit development district proposed in terms of: Relation to the Comprehensive Plan; physical characteristics of the land; and its relation to surrounding area.

2. Relation to major roads, utilities, public facilities and services.

3. Adequacy of evidence on unified control and suitability of any proposed agreements, contracts, deed restrictions, sureties, dedications, contributions, guarantees, or other instruments, or the need for such instruments or for amendments in those proposed; and

4. Specific modifications in planned unit developments or general regulations as applied to the particular case, based on

determination that such modifications are necessary or justified by demonstration that the public purposes of planned unit development or general regulations as applied would be satisfied to at least an equivalent degree by such modifications.

On applications for planned unit development districts, the Planning Commission and Board of Supervisors shall proceed in general as provided for other map amendments. The Planning Commission may recommend and Board of Supervisors may approve the application in accordance with planned unit development and general regulations, may include specific modifications of planned unit development or general regulations, or may deny the application.

If the application is approved with modifications, the Board of Supervisors shall, in its amending action, approve the application plan in whole or in part or may indicate required changes, and such approval and requirements shall be binding in determinations concerning final development plans. The development shall be in accord with site development plans meeting the requirements of this ordinance as specifically supplemented or modified by the Board of Supervisors in the particular case. Modifications in the application plan or other application materials required by Board's approval shall be submitted by the applicant to the Director of Planning prior to submission of the final site development plans. Revised application plans shall be submitted within sixty (60) days of Board's approval or such approval shall be deemed null and void.

Unless modification is permitted by Board of Supervisors' action all site plans shall comply with Division 18 of this ordinance and all subdivision plats shall comply with Article 4 of Chapter 9 of the New Kent County Code. Not less than ten (10) percent of the land area or one (1) acre, whichever is greater, shall be shown on any final plan or plat.

Approval of site plans and subdivision plats shall be based on: Compliance with site plan or subdivision regulations applying at the time the land was designated as a planned unit development district; or at the option of the applicant, compliance with such regulations currently in effect; provided the Board of Supervisors shall find that application of current regulations would satisfy the public purpose to at least an equivalent degree in the particular case.

Variations in site plans and subdivision plats from approved application plans may be permitted by the Board of Supervisors upon a finding that such variations are: Generally in keeping with the spirit and concept of the approved application plans; in accordance with the Comprehensive Plan; and in accordance with regulations currently in effect. Changes other than permitted herein shall be made only by rezoning application.

After planned unit development designation, no building permit including special footings and foundation permits and no grading permit

shall be issued in such district prior to approval of site plans or subdivision plats for the development of the area in which such permits would apply.

In the case of any planned unit development district established at the time of the adoption of this ordinance, or thereafter by action of the Board of Supervisors without an application, as to which no application has been submitted in accordance with this section of this ordinance or the analogous provisions, no site plan or subdivision plat shall be approved unless and until such application, including all transportation analysis plans and other plans, maps, studies and reports required by this ordinance, shall have been submitted an approved in accordance with this section.

Sec. 9-237. Residential Planned Unit Developments.

Residential planned unit development districts may hereafter be established in accordance with the provisions set forth generally for planned unit development districts in Sections 9-236 and Division 6 and 7 of this Article, and with densities and in locations in accordance with the Comprehensive Plan.

The residential planned unit development is intended to encourage sensitivity toward the natural characteristics of the site and toward impact on the surrounding area in land development. More specifically, the residential planned unit development is intended to promote economical and efficient land use, an improved level of amenities, appropriate and harmonious physical development, and creative design consistent with the best interest of the county and the area in which it is located.

To these ends, the residential planned unit development provides for flexibility and variety of development for residential purposed and uses ancillary thereto. Open space may serve such varied uses as recreation, protection of areas sensitive to development, buffering between dissimilar uses and preservation of agricultural activity.

A residential planned unit development approach is recommended for developments of any density.

The following uses shall be permitted subject to the requirements and limitations of this ordinance:

1. Detached single-family dwellings.

2. Semi-detached and attached single-family dwellings such as duplexes, triplexes, quadruplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.

3. Multiple-family dwellings.

4. Parks, playgrounds, golf courses, community centers and noncommercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries, etc.

5. Electric, gas, oil and communication facilities, excluding multilegged tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations, and appurtenances owned and operated by the County of New Kent, its designee, or an approved private operator. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapters 8 and 9 of the Code of New Kent and all other applicable law.

6. Public uses and buildings such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the County of New Kent or its designee.

7. Temporary construction uses.

8. Accessory uses and structures including home occupations and storage buildings.

9. Homes for developmentally disabled persons.

The following uses shall be permitted only by conditional use permit, provided that no separate application shall be required for any such use as shall be included in the original residential planned unit development rezoning petition:

1. Day care, child care or nursery facility.

2. Fire and rescue squad stations.

3. Rest home, nursing home, convalescent home, orphanage or similar institution.

4. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers; micro-wave and radio-wave transmission and relay towers, substations and appurtenances.

5. Amusement parks except sports complexes.

6. Parking structures located wholly or partly above grade.

The gross and net residential densities permitted in any residential planned unit development district shall be shown on the approved application plan therefor, which shall be binding upon its approval. The overall gross density so approved shall be determined by the Board of Supervisors with reference to the Comprehensive Plan, but shall, in no event, exceed thirty-five (35) dwelling units per acre.

Minimum area required for the establishment of a residential planned unit development district shall be three hundred (300) acres.

Additional area may be added to an established residential planned unit development district if it adjoins and forms a logical addition to the approved development. The procedure for an addition shall be the same as if an original application were filed, and all requirements shall apply except the minimum acreage requirement as set forth above.

Not less than twenty-five percent (25%) of the area of any residential planned unit development shall be in open space, except as hereinafter expressly provided.

Sec. 9-238. Mixed Commercial Planned Unit Development.

Mixed commercial planned unit development districts are hereby created and may hereafter be established by amendment of the zoning map to permit development of large-scale commercial areas with a broad range of commercial uses under a unified planned approach. It is intended that mixed commercial planned unit development districts be established on major highways in the urban area and communities in the Comprehensive Plan. In recognition that such large-scale development may substantially reduce the functional integrity and safety of public roads if permitted with unplanned access, it is intended that multiple access to existing public roads be discouraged and that development and access be oriented toward an internal road system having carefully planned intersections with existing public roads.

The following uses shall be permitted in any mixed commercial planned unit development district subject to the requirements and limitations of these regulations:

1. Uses permitted shall include commercial and service establishments permitted by right in the B-1, Business General, and B-2, Business Limited, districts. Outdoor storage, sales or display shall be permitted only when enclosed by appropriate visual screening.

2. Electric, gas, oil and communication facilities excluding multilegged tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a

public utility. Water distribution and sewerage collection lines, pumping stations, and appurtenances owned and operated by the County of New Kent, its designee, or an approved private operator.

3. Public uses and buildings such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies, public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and/or operated by the County of New Kent or its designee.

4. Temporary construction uses.

Uses permitted by conditional use permit shall include uses permitted by conditional use permit in the B-1, Business General, and B-2, Business Limited, districts.

Minimum area required for the establishment of a mixed commercial planned unit development district shall be thirty (30) acres.

Additional area may be added to an established mixed commercial planned unit development district if it adjoins and forms a logical addition to the approved development. The procedure for an addition shall be the same as if an original application were filed and all requirements shall apply except the minimum acreage requirement as set forth above.

Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Pavement widths and strengths of both internal and external roads shall be adequate to accommodate projected traffic generated from the district.

Primary access shall be provided from roads of adequate available capacity to accommodate projected traffic. Vehicular access from minor streets through residential neighborhoods shall be generally discouraged, and where permitted, shall be primarily for the convenience of residential areas served directly by such roads and not for general public access. Direct access by individual uses to existing public roads shall be discouraged. Uses shall be served by an internal road system to the maximum extent possible. Intersections of the internal road system and existing public roads shall be permitted to the extent necessary to provide reasonable access and service to uses contained within the mixed commercial planned unit development district.

To encourage visual cohesiveness and a park-like atmosphere, and to protect adjoining residential districts, uses and structures and parking areas shall be oriented toward internal travelways and away from adjoining residential districts.

Buildings shall be arranged in a fashion to encourage pedestrian access of customers and minimize internal automotive movement. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from customer access routes and parking areas.

In addition to requirements contained herein, the requirements of Section 9-236 and Divisions 10, 11, and 18 of this chapter shall apply to all mixed commercial planned unit development districts. In additions to materials required by Divisions 10, 11 and 18, a transportation analysis plan shall be submitted with the application for mixed commercial planned unit development designation. Such plan shall show: Projected automobile and truck traffic generation; internal and access point turning movement; percentage estimate of traffic distribution to and from the site on external roads; and proposed improvements to the existing transportation network.

Sec. 9-239. Industrial Park Planned Unit Development.

Industrial park planned unit development districts are hereby created and may hereafter be established to permit a variety of industrial uses, together with certain uses ancillary thereto, which are compatible with and do not detract either from each other or from surrounding districts. It is intended that industrial park planned unit development districts may be established in areas in conformity with the Comprehensive Plan and having all of the following characteristics:

--- Areas served by water and sewer facilities, if such facilities are reasonably available.

--- Areas served by major highway, rail or air service, or secondary road improved to standards approved by the county and state; and

--- Areas having clearly demonstrated suitability for intended uses with regard to physical characteristics and relationship to surrounding development.

In the establishment of any industrial park planned unit development district, the Board of Supervisors shall designate the category of uses which shall be permitted in each parcel, or part thereof, which is the subject of the application for such amendment.

The following uses shall be permitted in any area designated as Category I on the approved application plan:

1. Uses permitted shall include uses permitted by right in the M-1, Warehousing and Limited Industrial District.

2. Uses permitted by conditional use permit shall include uses permitted by conditional use permit in the M-1, Warehousing and Light Industrial District; provided that no separate

application shall be required for any use included on the approved application plan.

The following uses shall be permitted in any area designated as Category II on the approved application plan:

1. Uses permitted shall include uses permitted by right in the M-1, Warehousing and Light Industrial District, and in the M-2, Heavy Industrial District.

2. Uses permitted by conditional use permit shall include uses permitted by conditional use permit in the M-1, Warehousing and Light Industrial District, and in the M-2, Heavy Industrial District; provided that no separate application shall be required for any use included on the approved application plan.

Minimum area required for the establishment of an industrial park planned unit development shall be thirty (30) acres.

Sec. 9-240. Village Planned Unit Development.

Village planned unit development districts may hereafter be established by amendment to the zoning map in accordance with the provisions set forth generally for planned unit development districts in Section 9-236 and Divisions 5, 6 and 7 of this chapter with densities and uses in locations in accordance with recommendations of the Comprehensive Plan. Village planned unit development districts may be appropriate where the establishment of a "new village" or the nucleus of a future community exists and where the village planned unit development would not preclude achievement of the county's objectives for the urban area, communities and villages.

In order to encourage the community function, appropriate commercial and industrial uses are provided in addition to a variety of residential uses. It is intended that commercial and industrial development be limited to a scale appropriate to the support of the residential uses within the village planned unit development, provided that additional commercial and industrial activity may be permitted upon a finding that the area in which the village planned unit development is to be located is not adequately served by such use.

It is intended that these regulations provide flexibility in residential development by providing for a mix of residential uses with appropriate nonresidential uses, alternative forms of housing, flexibility in internal relationships of design elements and, in appropriate cases, increases in gross residential densities over that provided in conventional districts.

Notwithstanding the requirements and provisions of Section 9-236, planned unit development districts, generally, where certain planned community districts have been established and have been developed or received final site development plan approval prior to the adoption of

this ordinance, such districts shall be considered to have been established as village planned unit development districts under this ordinance and shall be so designated on the zoning map.

Within areas approved as residential on the application plan, permitted uses, subject to the requirements and limitations of this ordinance, shall be as follows:

1. Detached single-family dwellings.

2. Semidetached and attached single-family dwellings such as duplexes, triplexes, quadruplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.

3. Multiple-family dwellings.

4. Parks, playgrounds, golf courses, community centers and noncommercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries, et cetera.

5. Electric, gas, oil and communication facilities, excluding multilegged tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewerage collection lines, pumping stations and appurtenances owned and operated by the County of New Kent, its designee, or an approved private operator. Except as otherwise expressly provided, central water supplies and central sewerage systems in conformance with Chapters 8 and 9 of the Code of New Kent and all other applicable law.

6. Public uses and buildings such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like, owned and operated by the County of New Kent or its designee.

7. Accessory uses and structures including home occupation, and storage buildings.

8. Homes for developmentally disabled persons.

The following uses shall be permitted only by conditional use permit, provided that no separate application shall be required for any

such use included in the original village planned unit development rezoning petition:

1. Day care, child care or nursery facility.

2. Fire and rescue squad stations.

3. Rest home, nursing home, convalescent home, orphanage or similar intuition.

4. Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers, microwave and radio-wave transmission and relay towers, substations and appurtenances.

5. Amusement parks except sports complexes.

6. Parking structures located wholly or partly above grade.

7. Mobile home subdivisions/parks.

Within areas approved as commercial/service on the application plan, uses permitted shall be as follows:

1. Uses permitted in Division 10, B-1, Business General.

2. Uses permitted in Division 11, B-2, Business Limited.

Within areas approved for mixed commercial on the application plan, uses permitted shall be as follows:

1. Uses permitted in mixed commercial planned unit developments.

The following uses shall be permitted only by conditional use permit, provided that no separate application shall be required for any such use included in the original planned unit development rezoning petition:

1. Uses permitted by conditional use permit in Division 10, B-1, Business General.

2. Uses permitted by conditional use permit in Division 11, B-2, Business Limited.

3. Uses permitted by conditional use permit in mixed commercial planned unit development.

In approval of areas as industrial on the application plan, the Board of Supervisors shall designate the category of uses as provided in industrial park planned unit developments, for each subarea of industrial on the application plan.

Thereafter, except as otherwise expressly provided herein, uses permitted shall be established in accordance with Sec. 9-239, provided that no separate application shall be required for any such use permitted by conditional use permit included in the original village planned unit development petition.

Minimum area required for the establishment of a village planned unit development district shall be three hundred (300) acres.

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

The gross and net residential densities permitted in any village planned unit development district shall be shown on the approved application plan therefor, which shall be binding upon its approval.

The overall gross density so approved shall be determined by the Board of Supervisors with reference to the Comprehensive Plan, but shall, in no event, exceed thirty=five (35) dwelling units per acre.

Not less than twenty-five (25) percent of the residential area of any village planned unit development shall be in open space.

Unless otherwise provided at time of establishment of a village planned unit development district, structures may be erected to a height of sixty (60) feet, provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or residential or agricultural district, in addition to minimum yard requirements, a distance of not less than one(1) foot for each one (1) foot of height in excess of thirty-five (35) feet. Chimneys, flues, cooling towers, flag poles, radio or communication towers or their accessory facilities are excluded from the height limitation contained herein. Parapet walls are permitted up to four (4) feet above the limited height of the structure on which the walls rest; the setback requirement herein shall apply to parapet walls.

Structures to be located on the outer perimeter of a village planned unit development district shall conform to the setback and yard regulation of the adjoining district.

Within the village planned unit development district, the Board of Supervisors shall establish minimum setback and yard requirements at time of establishment of such district.

Commercial/service areas are intended to be of a scale, character and location appropriate to provide convenience services primarily for the residents of the village planned unit development district. To this end, where practical, commercial/service areas shall be internally oriented and separated from dissimilar areas surrounding the planned unit

development district. External vehicular access shall be discouraged and internal pedestrian access shall be encouraged. Total commercial/service area shall be based on dwellings served. Individual establishments shall be limited in size to avoid the impression of general commercial development.

Commercial/service areas shall comply to the requirements of Divisions 10 and 11, Business Districts, generally, provided that any requirement of Divisions 10 and 11 shall be subject to modification, variation or waiver as provided in Section 9-236 planned unit development districts generally. For such areas as may be located on the perimeter of a planned unit development district, the Board of Supervisors shall be particularly mindful of the intent to protect the character of adjoining development.

The total gross floor area of uses permitted in commercial/service areas shall not exceed twenty (20) square feet per dwelling unit approved on the application plan. Outdoor display service or sales areas shall be included in gross floor area calculations. For gasoline service stations, each fuel pump shall count as two hundred (200) square feet of gross floor area and all service bays shall be included in gross floor area calculations. No individual commercial establishment shall have a gross floor area in excess of five thousand (5,000) square feet.

Building permits for commercial/service uses shall not be issued prior to issuance of building permits for eighty (80) percent of the dwelling units approved on the application plan.

Sec. 9-240.1. Equestrian Planned Unit Development.

Equestrian planned unit development districts are hereby created and may hereafter be established by amendment of the zoning map to permit development of large scale horse racing facilities and show facilities under a unified planned approach. It is intended that equestrian planned unit development districts be established on major highways in the County.

In recognition that such a large scale development may substantially reduce the functional integrity and safety of public roads if permitted with unplanned access, it is intended that multiple access to existing public roads be discouraged and that development and access be oriented towards an internal roads system having carefully planned intersections with existing public roads.

It is intended that these regulations provide flexibility in development by providing for a mix of residential uses with nonresidential uses, alternative forms of housing and, in appropriate cases, increases in gross residential densities over that provided in conventional districts.

The following uses shall be permitted in any equestrian planned unit development district subject to the requirements and limitations of these regulations:

1. Commercial and service establishments permitted by right in Division 10, B1, Business General, and Division 11, B-2, Business Limited, districts. Outdoor storage, sales or displays shall be permitted only when enclosed by appropriate visual screening.

2. Uses permitted by right in Division 4, A-1, Agricultural districts.

3. Horse tracks.

4. Semidetached and detached, single-family dwellings such as duplexes, triplexes, quadruplexes, townhouses, atrium houses, and patio houses, provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all requirements for detached, single-family dwellings except for side yards at the common wall.

5. Multiple-family dwellings.

6. Single-family dwellings.

7. Parks, playgrounds, golf courses, community centers and recreational and cultural facilities such as tennis courts, polo fields, swimming pools, game rooms, libraries, museums, etc.

8. Campgrounds meeting conditions of Section 9-245.

9. Electric, gas, oil and communication facilities, excluding multi-use tower structures and including poles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility. Water distribution and sewage collection lines, pumping stations and appurtenances owned and operated by the County of New Kent, its designee, or an approved private operator. Except as otherwise expressly provided, central water supplies and central sewage systems in conformance with Chapters 8 and 9 of the Code of New Kent and all other applicable law.

10. Public uses such as schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and the like,

owned and/or operated by the County of New Kent or its designee.

11. Fire and rescue squad stations.

12. Temporary construction uses.

13. Equestrian sales and show pavilions.

The following uses shall be permitted only by conditional use permit, provided that no separate application shall be required for any such use included in the original Planned Unit Development rezoning petition:

1. Uses permitted by conditional use permit in Division 10, B-1, Business General.

2. Uses permitted by conditional use permit in Division 11, B-2, Business Limited.

3. Uses permitted by conditional use permit in Division 4, A-1, Agricultural.

Minimum area required for the establishment of an equestrian planned unit development shall be three hundred (300) acres. Additional area may be added to an established equestrian planned unit development district if it adjoins and forms a

logical addition to the approved development. The procedure for an addition shall be the same as if an original application were filed and all requirements shall apply except the minimum acreage requirement as set forth above.

Vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Pavement widths and strengths of both internal and external roads shall be adequate to accommodate projected traffic generated from the district. Primary access shall be provided from roads of adequate available capacity to accommodate projected traffic.

Vehicular access from minor streets through residential neighborhoods shall be generally discouraged, and where permitted, shall be primarily for the convenience of residential areas served directly by such roads and not for general public access. Direct access by individual uses to existing public roads shall be discouraged. Uses shall be served by an internal roads system to the maximum extent possible. Intersections of the internal road system and existing public roads shall be permitted to the extent necessary to provide reasonable access and service to uses contained within the equestrian planned unit development district.

A transportation analysis plan shall be submitted with application for equestrian planned unit development designation. Such plan shall show: Projected automobile and truck traffic generation; internal and access point turning movement; percentage estimate of traffic distribution to and from the site on external roads; and proposed improvement to the existing transportation network.

To encourage visual cohesiveness and a park-like atmosphere, and to protect adjoining residential district uses, structures and parking areas shall be oriented towards internal travel ways and away from adjoining residential districts. Buildings shall be arranged in a fashion to encourage pedestrian access of patrons and minimize internal automotive movement. Facilities and access routes for deliveries, service, and maintenance shall be separated, where practical, from patron-access routes and parking areas.

The gross and net residential densities permitted in any equestrian planned unit development district shall be shown on the approved application plan therefor, which shall be binding upon its approval. The overall gross density so approved shall be determined by the Board of Supervisors with reference to the Comprehensive Plan, but shall not, in any event, exceed thirty-five (35) dwelling units per acre.

Unless otherwise provided at the time of establishment of an equestrian planned unit development district, structures may be erected to a height of one hundred (100) feet, provided that any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or residential or agricultural districts, in addition to minimum yard requirements, a distance of not less than one (1) foot for each one (1) foot of height in excess of thirty-five (35) feet. Chimneys, flues, cooling towers, flagpoles, radio or communication towers, other accessory facilities are excluded from the height limitation contained herein. Parapet walls are permitted up to four (4) feet above the limited height of the structure on which the wall rests; the setback requirement shall herein apply to parapet walls.

Structures to be located on the outer perimeter of an equestrian planned unit development district shall conform to the setback and yard regulations of the adjoining district. Within the equestrian planned unit development district, the

Board of Supervisors shall establish a minimum setback and yard requirement at the time of establishment of such district.

In addition to requirements contained herein, the requirements of Section 9-236 and Divisions 4, 10, 11, and 18 shall apply to all equestrian planned unit development districts. (4/9/90)

Division 15. Conditional Uses

Sec. 9-241. Purpose and intent.

In order to provide for certain uses which because of their unique characteristics are not generally permitted as a matter of right in the various zoning districts, these uses are designated as conditional uses and may be permitted in certain districts subject to conformance with the provisions of this division. This division is established for the purpose of ensuring compatibility of conditional uses with surrounding uses, promoting the New Kent County Comprehensive Plan and protecting the health, safety and general welfare of the public.

Sec. 9-242. Conditional use permits.

All conditional uses set forth in this article shall require a conditional use permit in order to be lawfully conducted. The permit shall be subject to such conditions in addition to any which may be specified herein as are deemed necessary to carry out the intent of this article. There shall be a charge for the examination and approval or disapproval of every conditional use permit application and renewal thereof. Such charge shall be established by the governing body from time to time. The governing body may in any instance delegate the authority to issue conditional use permits to the Zoning Administrator. The Board of Supervisors or Zoning Administrator may at their discretion waive any and all required fees for conditional use permits to non-profit civic organizations whose fund raising events require conditional use permits. All conditional use permits shall expire one (1) year after issuance if the use has not commenced within that time period.

Sec. 9-243. Authority to issue conditional use permits; procedure.

A. The authority to issue conditional use permits for the following uses is hereby delegated to the Zoning Administrator. All other conditional uses shall be permitted only by the Board of Supervisors. The Zoning Administrator has the right to refer all applications for conditional use permits to the Board of Supervisors or Planning Commission for their recommendations.

1. Animal husbandry (commercial stables).

2. Animal husbandry (the keeping of horses, cattle, swine, fowl, and exotic animals on less than five (5) acres).

3. Animal husbandry (commercial raising and housing of swine).

4. Animal husbandry (raising, keeping and breeding of animals for profit on less than ten (10) acres).

5. Cemeteries.

6. Child care centers.

7. Radio, television or communication stations and/or towers which exceed fifty (50) feet in height.

8. Single-family detached dwellings converted to two-family.
9. Temporary use of construction trailers and/or temporary or portable buildings for offices, storage facilities or public and semipublic uses.

10. The temporary use of a mobile home while constructing a permanent residence.

11. Placing a permanent mobile home on Agricultural (A-1) zoned property.

12. Antique shops on Agricultural (A-1) zoned property.

13. Kennels on Agriclutural (A-1) zoned property.

14. Activities requiring seasonal use permits on Agricultural (A-1) zoned property.

15. Sporting Clays

B. The Zoning Administrator shall notify the governing body and adjacent property owners in writing of all applications ten (10) days prior to the issuance of a conditional use permit under his authority. He shall state to the Board his proposed disposition and the reasons therefore. On the date of notification to the governing body, the Zoning Administrator shall post a sign on the premises for which a conditional use permit is requested indicating that such a request has been made. Any two (2) board members may request within ten (10) days of the date of the notice that consideration be given by the entire governing body and in such event, the application shall be considered at the next regular or special meeting of the governing body. Otherwise, the Zoning Administrator shall proceed to act on the permit in accordance with the notice.

C. The Board of Supervisors in any case may, but shall not be required to, hold a public hearing regarding the issuance of a conditional use permit.

D. The notification and sign posting procedure shall be followed when an application for a conditional use permit that must be issued by the Board is received. The notification need not be made in ten days but shall be sent in adequate time to give the adjacent property owners notice of the meeting when the application will be considered by the Board. Upon receipt, applications will be placed on the Board's agenda as soon as practicable. (4/8/91)

Sec. 9-244. Standards for review.

In all requests for approval of conditional uses, the burden of proof shall be on the applicant. In making a decision, no action shall be taken which will be detrimental to the public welfare or which will substantially impair the intent or purpose of this article. Specific conditions for many particular conditional uses are set forth in Section 9-245 of this division. In the event no specific conditions are set forth for a particular conditional use or if, in the opinion of the granting authority, additional terms and conditions are needed in addition to those specifically set forth in order to carry out the intent and purpose of this article, the following guidelines shall be used in determining the propriety of granting a conditional use permit and in requiring any conditions therefor:

A. The proposed use shall not be prejudicial to the character of the neighborhood.

B. The proposed use shall not adversely affect the general plans for the physical development of the County as embodied in the Comprehensive Plan.

C. The proposed use shall not be detrimental to the use or development of adjacent properties or the general neighborhood nor impair the value of buildings or property in surrounding areas.

D. The proposed use shall not unreasonably restrict an adequate supply of light, water or air to adjacent property nor produce undue congestion in the street.

E. The proposed use shall adequately provide for access facilities for the estimated traffic.

F. The proposed use shall be subject to any applicable site planning or performance standards enumerated in Division 18 of this article.

G. The proposed use shall be reasonable in terms of the logical, efficient, and economical extension of public services and facilities serving the County, such as water, sewer, streets, police and fire protection, transportation, recreation, and public schools.

Sec. 9-245. Specific use conditions.

A. Restrictions on any conditional use including those for which specific provision is made in this article may include but need not be limited to the following:

1. Hours of operation.

2. Access to and from the subject property.

3. Protection of surface and groundwater.

4. Lighting of the site, including the intensity and shielding so as to not adversely affect adjacent or nearby property owners.

5. Adequate sewer and water supply.

6. Sound limitations as needed to ensure peaceful enjoyment of neighboring property.

7. Location, size, height, design of buildings, walls, fences, landscaping and buffer yards.

8. Covenants and/or homeowners associations for maintenance of applicable restrictions.

9. Timing or phasing of development.

10. Type and placement of utilities including underground placements.

11. Controls for smoke, dust and odors.

12. Requirements for performance guarantees ensuring that all conditions are met and plans are implemented.

13. Any other conditions deemed necessary to protect the health, safety and general welfare of the public.

B. The following conditional uses in addition to any other conditions or restrictions which may be imposed shall comply with the specific requirements set forth herein:

Airports and helipads.

1. All airports and helipads shall be designed in accordance with Federal Aviation Administration rules and regulations.

2. All approvals must be obtained from the Board of Supervisors.

Animal husbandry (commercial stables).

1. The minimum area for any such establishment shall be ten (10) acres. If horses or ponies are to be pasture fed, then there shall not be less than one (1) acre of suitable pasture land for each horse or pony kept on premises.

2. Any building, structure or animal yard used for the keeping of such animals shall be located not less than fifty (50) feet from any property line.

3. The Zoning Administrator shall find that such use will not be detrimental to the character of the neighborhood and may impose additional conditions relating to the setback of pastures and requirements for drainage control if deemed necessary to ensure the public interest and welfare.

Animal husbandry (the keeping of horses, cattle, swine, fowl, sheep, goats and exotic animals on less than five (5) acres).

1. The keeping of horses or ponies shall be solely for the recreational purposes of the family living on the premises. The commercial boarding of horses or ponies which are not owned by the resident family shall be prohibited.

2. The minimum area of any parcel used for the keeping of such animals shall be one (1) acre of grazing area per animal. The computation of the minimum area shall not include the area occupied by any residential structure or any other area which the Zoning Administrator finds to be unsuitable for the keeping of such animals.

3. Any building or structure used for the keeping of such animals shall be located not less than fifty (50) feet from any property line.

4. The Zoning Administrator shall find that such use will not be detrimental to the character of the neighborhood and may impose additional conditions relating to the setback of pastures and requirements for drainage control if deemed necessary to ensure the public interest and welfare.

Animal husbandry (commercial raising and housing of swine).

1. The minimum area for any such establishment shall be fifteen (15) acres.

2. No feed or brood pen or lot shall be closer to any property line than two hundred fifty (250) feet.

3. All outside areas used for the enclosure of animals shall be fenced with a three (3) foot high chain link fence or an equivalent barrier approved by the Zoning Administrator.

4. The Zoning Administrator shall find that such use will not be detrimental to the character of the neighborhood and may impose additional conditions including requirements relating to the setback of enclosed areas from property lines as well as requirements for drainage control.

Animal husbandry (raising, breeding and keeping of animals for profit on less than ten (10) acres.

1. No pen or other enclosure used for feed, exercise or brooding of animals shall be closer to any property line than two hundred fifty (250) feet.

2. All outside areas used for the enclosure of animals shall be fenced with a chainlink fence or equivalent barrier of sufficient height to insure the containment of animals to the satisfaction of the Zoning Administrator.

3. The Zoning Administrator shall find that such use will not be detrimental to the character of the neighborhood and may impose additional conditions relating to the setback of enclosed areas as well as requirements relating to drainage control.

Antique Shops in A-1 Zones

1. There shall be no outdoor display or storage of goods or merchandise.

2. Any building so used shall be the residence of the proprietor or an accessory structure thereto. Additionally, an accessory structure shall not exceed one percent (1%) of the size of the parcel, and in no case shall the structure exceed five thousand (5,000) square feet.

3. Employees shall be limited to residents of the dwelling.

4. Signs shall be limited to no more than two (2), and shall be two square feet (2 sq. ft.) or less in size.

5. Parking shall comply with Section 9-298 of this zoning ordinance.

6. Site plan in accordance with Division 18 of this zoning ordinance shall be required.

7. Other conditions may be added to the conditional use permit, if they are deemed to be appropriate by the ~~Board of Supervisors~~ Zoning Administrator.

Bed and breakfast/home stay establishment.

A. Locational Criteria.

Located on a paved State-maintained road with direct access to the State-maintained road. Direct access shall mean an entrance located on the same property as the bed and breakfast establishment.

B. Use Criteria.

1. No restaurant shall be permitted. Food service shall be limited to breakfast and to resident guests only.

2. The establishment shall be owner occupied and managed.

3. Amplified music, outdoor parties, (e.g., weddings, anniversaries, birthday parties, graduation parties) or similar activities for commercial purposes shall be permitted only with a permit in accordance with Chapter 11 of the County Code.

4. Business License is required.

C. Site Development Criteria.

1. Off-street parking:

   a. One off-street parking space shall be provided for each guest room.

   b. Parking may be provided off-site in a public lot or with certification of permission of off-site owner. Such parking to be located a convenient distance from the bed and breakfast.

   c. The parking area shall not be located within the setbacks of the required yards.

   d. In the A-1 zoning district the parking area shall be located at least 50 feet from any adjacent, residentially zoned property boundary or shall be adequately screened.

2. All requirements of the Health Department, the Fire Marshal's Office, the Uniform Statewide Building Code and the Code of Virginia shall be met.

3. The initial permit shall be issued by the Board of Supervisors. In each succeeding year, the Zoning Administrator shall issue the permit in a manner consistent with § 9-243(B).

Campgrounds, camping units and campsites.

1. The minimum lot size shall be twenty (20) acres.

2. No structure, campsite, parking area or any other improvement shall be located closer than one hundred (100) feet to any property line.

3. No permit shall be issued until the applicant has furnished evidence that the proposed development meets all applicable state and local health requirements.

4. The only permanent structure allowed for residential use shall be occupied by the owner or manager of the facility.

5. The facility shall be served by a fifty (50) foot wide right-of-way.

6. The gross density shall not exceed eight (8) camping sites per acre. Each campsite shall be a minimum of forty (40) feet in width and three thousand six hundred (3,600) square feet in area.

7. Storage buildings less than one hundred (100) square feet in size and permanent screened porches not exceeding one hundred fifty (150) square feet in size shall be permitted on each campsite designed for use by camper vehicles. One porch and storage building are permitted per campsite.

8. Accessory commercial uses are permitted, exclusively for the use of residents of the park (coin-operated laundry, convenience store, entertainment).

9. No one other than the owner or manager of the facility may reside at the facility for a period exceeding three (3) consecutive months or one hundred eighty (180) days per year.

Cemeteries.

1. Unless associated with and on the same property as a church, synagogue or other place of worship, a cemetery must be at least twenty (20) acres in size.

2. Cemeteries shall only be located in those areas which have favorable soil and water characteristics as identified by an inspection of the soil by an engineer or soil scientist.

3. No permit shall be issued until all state and local health department approvals have been obtained.

4. A plotting plan of the proposed burial sites and a traffic circulation and parking plan in the cemetery shall be submitted for approval.

5. No interment plot shall be located within fifty (50) feet of any public right-of-way.

6. Rights-of-way throughout the cemetery shall be at least twenty (20) feet in width.

7. Cemeteries shall not be located in residential zoning districts unless they share the site with a church, synagogue or other place of worship.

8. Any organization or entity other than an established church shall submit evidence which demonstrates that the cemetery will be maintained ad infinitum.

9. For private family cemeteries for use of the property owners only, the conditions set forth in paragraphs (2), (3), (5), (6), and (7) above are the only requirements which must be met.

Child care center, day care center, preschool, nursery.

1. The minimum site area shall be one (1) acre.

2. The minimum area required per child for indoor space and outdoor recreational space shall be in conformance with the requirements for licensing by the State of Virginia. All outdoor areas shall be adequately fenced or otherwise protected from hazards, traffic and driveways.

3. All loading and unloading of children shall take place on site and not in the public right-of-way.

4. All child care facilities to be used by the children shall be located on the principal entrance floor and any other level which is not more than one-half (1/2) above or below the grade at the location from which egress is provided to the street.

5. The Zoning Administrator shall not grant a permit until the applicant demonstrates an ability to meet all state certification requirements and state and local health department requirements.

Ethanol distillation in A-1 zoning district.

1. The distillation of ethanol shall not be approved by the governing body until the State Air Pollution Control Board has reviewed and commented on the proposal.

2. All equipment associated with an ethanol distillation process must be located at least two hundred (200) feet from all property lines.

Group care facility.

1. Each individual structure shall house no more than ten (10) persons.

2. Businesses which are agricultural or handicraft in nature and which are conducted for the sole benefit of the residents or other users of the group care facility may be established on the premises of the facility, if such businesses are part of an organized program of rehabilitation or therapy for the residents or other users. Such businesses shall be in addition to those otherwise allowed in the zoning district.

3. Any such use shall meet all other requirements of this article and all regulations of the appropriate governing state, federal and local agencies.

Mobile home as a storage shed in conjunction with a bona fide agricultural operation.

1. The mobile home shall not be used for living or sleeping purposes and all plumbing and kitchen fixtures shall be removed. The mobile home shall only by used for the storage of personal property.

2. The mobile home shall not be visible from any public road or from any residence not owned by the owner of the storage trailer.

3. A drawing showing the proposed location of the mobile home including distances from all property lines and the septic tank and drainfield shall be submitted by the applicant and must be approved by the zoning administrator. The zoning administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

4. The minimum lot size for any such use shall be fifteen (15) acres.

Mobile homes in emergency situations.

Mobile homes or any habitable dwelling or structure as a temporary use for a residence with a conditional use permit. A conditional use permit shall only be granted by the Zoning Administrator under the following circumstances and with the following conditions:

1. Permit shall be issued only to an applicant who has been displaced due to destruction of his or her home of fire, flood, windstorm or other natural disaster while during repairs or reconstruction of the dwelling. Permit shall be issued also when the building codes administrator has determined that an existing dwelling is no longer habitable.

2. The permit shall be temporary and shall be issued for a period not to exceed one (1) year unless the applicant can demonstrate

that, due to a fixed income or loss of income, he is financially unable to reconstruct the dwelling.

3. Except by those applicants who have demonstrated financial inability to reconstruct homes, within the first thirty (30) days of issuance of the conditional use permit the building permit shall be acquired. By the end of ten (10) months a certificate of occupancy shall be issued for a permanent dwelling. By the end of twelve (12) months the temporary dwelling shall either be removed from the premises or converted into a use permitted by the ordinance.

4. Applicants who have demonstrated financial inability to reconstruct homes shall, within ninety (90) days of receiving a conditional use permit, remove the uninhabited dwelling from the lot.

5. The applicant must furnish to the Zoning Administrator a copy of the restrictive covenants, if any, applicable to the lot on which the mobile home will be located, and no conditional use permit shall be issued which is in violation of said restrictive covenants. If there are no restrictive covenants applicable to the lot, the applicant shall so certify in writing.

6. A drawing showing the proposed location of the mobile home, including distances from all property lines and the septic tank and drainfield, shall be submitted by the applicant and must be approved by the Zoning Administrator. The Zoning Administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

7. For an applicant who is repairing or reconstructing a dwelling, the Zoning Administrator shall require the applicant to post a Five Hundred Dollar ($500.00) bond with surety conditioned upon the removal of the mobile home at the termination of the prescribed time period. This bond shall not be released until the mobile home has been removed from the property. Violation of any condition of the conditional use permit or failure to remove the mobile home within the prescribed time period shall result in the forfeiture of the bond to the county and the proceeds shall be used to pay any and all costs incurred by the county to remedy the violation, including but not limited to cost of removal and storage.

8. Only those mobile homes built since June 15, 1976, and constructed in accordance with regulations promulgated by the Department of Housing and Urban Development under the Federal Manufacture Housing Construction and Safety Standards Act and bearing the appropriate seals and labels to certify compliance

are permitted. The mobile home must be skirted with a fire-resistant material approved by the Building Official.

9. Provisions of this section shall apply only to the replacement of inhabited dwellings in existence at the time this ordinance becomes effective or those dwellings in existence at the time the ordinance becomes effective or those dwellings properly constructed under the provisions of the building and zoning codes in effect after its passage becomes effective.

Operation of a construction business with storage of equipment and maintenance as a home occupation on agriculturally zoned property.

1. Operation shall have been in existence at the adoption of this article, becoming a non-conforming use and obtaining a non-conforming use permit as in accordance with Section 9-267.

2. Non-conforming use may not be discontinued for a period of two (2) years after the enactment of this ordinance, or it shall be deemed abandoned.

3. Requires notifications of all adjacent property owners.

4. Requires a public hearing before issuance of a permit.

5. All structures associated with non-conforming use shall meet frontage setbacks, side yard, rear yard and height provisions of the district in which it is located.

6. Operation must be conducted as a family business.

Paint pellet competitive games.

1. All activities are conducted within a designated area which is properly marked.

2. The conditional use permit shall be renewed annually.

Permanent mobile homes for agricultural use.

1. The mobile home shall be used for dwelling purposes only.

2. The minimum parcel size shall be twenty-five (25) acres for the location and maintenance of a mobile home. The parcel on which the mobile home is located must be in use for agriculture or farming as defined in the New Kent County Zoning Ordinance.

3. One such mobile home may be located on the same parcel as the main dwelling, provided the main dwelling is not also a mobile home.

4. Only those mobile homes built since June 15, 1976, and constructed in accordance with regulations promulgated by the Department of Housing and Urban Development under the Federal Manufactured Housing Construction and Safety Standards Act and bearing the appropriate seals and labels to certify compliance are permitted. The mobile home must be skirted with a fire-resistant material approved by the Building Official.

5. A drawing showing the proposed location of the mobile home including distances from all property lines and the septic tank and drainfield shall be submitted by the applicant and must be approved by the Zoning Administrator. The Zoning Administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height on agriculturally zone property.

1. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility with the exception of any associated office building. A section of fence at least six (6) feet in height shall be provided completely around the base of the tower and any associated equipment.

2. A site plan of the proposed facility must be submitted to and approved by the zoning administrator.

3. The facility shall not interfere with the radio, television or communications reception of nearby property owners in residence at the time of construction. The applicant shall take steps to successfully eliminate any such interference.

4. All towers and other structures shall meet all safety requirements of all applicable building codes.

5. All towers shall be set back seventy-five (75) feet from any property line and in no event shall any such tower be constructed or erected nearer than five hundred (500) feet to a resident dwelling unit.

   This section does not apply to adjacent property owners' construction of a residential dwelling subsequent to erection of the tower.

6. All adjacent property owners and/or property owners within the 500 foot radius of any such tower shall be notified by certified mail, by the permitting authority, prior to the issuance of a conditional use permit.

Radio, television or communication stations and/or towers which exceed fifty (50) feet in height on property zoned B-1, B-2, B-3, M-1, and M-2.

1. A buffer of evergreen screening (trees or hedging) shall be provided around the entire facility with the exception of any associated office building. A section of fence at least six (6) feet in height shall be provided completely around the base of the tower and any associated equipment.

2. A site plan of the proposed facility must be submitted to and approved by the Zoning Administrator.

3. The facility shall not interfere with the radio, television or communications reception of nearby property owners in residence at the time of construction. The applicant shall take steps to successfully eliminate any such interference.

4. All towers and other structures shall meet all safety requirements of all applicable building codes.

5. All towers shall be set back seventy-five (75) feet from any property line.

Single-family detached dwellings converted to two-family dwellings.

1. The original dwelling unit shall be required to have not less than one thousand three hundred (1,300) square feet of livable floor area exclusive of attic, cellars, garages, porches or sheds and must not be in such a state of disrepair, obsolescence or dilapidation as to be in its existing state dangerous or injurious to health, safety, or general welfare or the preservation of the value of adjacent properties.

2. Prior to the issuance of the conditional use permit by the Zoning Administrator, the applicant shall have secured all necessary health approvals related to the provision of water and the disposal of sewage.

3. Each separate dwelling unit shall be provided with a private bathroom and kitchen.

4. The minimum habitable floor area for each separate unit shall be as follows:

   Efficiency or studio -- four hundred fifty (450) square feet

   One bedroom unit -- six hundred fifty (650) square feet

   Two bedroom unit -- seven hundred fifty (750) square feet. An additional one hundred fifty (150) square feet shall be provided for each additional bedroom.

5. Each dwelling unit shall be independent with safe means of ingress and egress provided also that no change in the exterior of the original dwelling shall be permitted to afford such ingress and egress except for a small porch not exceeding five (5) feet in width.

6. No dwelling unit shall be permitted above the second floor or in the cellar of any building. All dwelling units located in the basement of any building shall meet all county codes concerning the use of windows and doors for ingress and egress.

7. The ground area of the original dwelling shall not be enlarged more than twenty-five percent (25%) of the original ground area and the number of stories shall not be increased for the purpose of or in connection with the conversion of such structure into a second dwelling unit, except areas between projections of parts of the original dwelling may be incorporated into the building where reasonable necessary for the execution of a proper and otherwise approved plan for the conversion of the dwelling into two (2) or more dwelling units.

8. There shall be no outside alterations or changes which will in any way modify or change the single-family character or appearance of the original structure.

9. A minimum of two (2) off-street parking spaces shall be provided.

10. One (1) dwelling unit of a converted single-family dwelling must always be occupied by the owner of record.

11. All rooms within a dwelling unit shall be accessible within the limits of the dwelling unit.

<u>Sporting Clays.</u>

1. **The conditional use permit may, at the discretion of the Board of Supervisors, return to the Planning Commission for review and approval.**

2. **A site plan per Division 18 of the Zoning Ordinance will be required. The site plan may, at the discretion of the Board of Supervisors, return to the Planning Commission for review and approval.**

3. **All shooting stations will be designed so they are away from existing residential uses and firearms will be discharged in a direction away from these existing uses with established safety standards.**

4. Noise abatement barriers equal to the NRA Standards and Guidelines set forth in the range manual shall be utilized and shall appear on the site plan.

5. Lead shot size is limited to 7-1/2, and shotguns no larger than 12 gauge shall be allowed. When wetlands areas are involved steel shot shall be used. In the event the use of steel shot is required, shot no larger than 6 shall be allowed. If the state approves an alternative to steel shot it shall be allowed.

6. Hand traps may be used provided throwing positions are designed to protedt the trap operator.

7. Clay targets must be thrown only from designated positions and only in directions or elevations required by design specifications.

8. A shotfall safety area of three hundred yards in the direction of fire will be required at each station. Each field layout will require a different shotfall design.

9. Hours of operation shall be Monday through Saturday from sunrise to sunset. Sunday hours shall be established on a case by case basis by the Board of Supervisors.

10. A written list of range rules shall be created and filed in the office of Planning and Community Development.

11. A safety plan shall be created for the sporting clays operation, and it shall be filed in the Office of Planning and Community Development.

12. The range rules shall be posted in a conspicuous place and these rules shall be reviewed by the user of the range.

13. A minimum of 100 acres shall be required for sporting clays. (3/23/93)

Steeplechase.

1. A site plan per Division 18 of the Zoning Ordinance shall be required.

2. A traffic plan approved by the Sheriff's Department and Department of Public Safety shall be required.

3. Health Department approval of regulations governing food service, toilet facilities, sewage disposal facilities and water supply facilities shall be required.

4. **A fire protection and medical facilities plan approve by the Department of Public Safety shall be required.**

5. **Steeple chase tracks shall be located on no less than 200 acres.**

6. **A parking plan approved by the Planning Department, the Department of public safety, and the Sheriff's Department shall be required.**

7. **The Sheriff's Department and Department of Public Safety shall be notified ninety (90) days prior to the event.**

8. **The Health Department shall be notified ninety (90) days prior to the event.**

9. **All signs of a temporary nature shall be removed within forty-eight (48) hours after the event.**

10. **No billboards, grandstands or lighting shall be erected.**

11. **The operator shall submit an Alcoholic Beverage Control permit to the County ninety (90) days in advance if alcohol is to be served.**

12. **Other conditions may be added to the conditional use permit, if deemed appropriate by the Board of Supervisors.**

Temporary Mobile Homes.

1. Such use shall not be permitted unless the parcel on which the mobile home will be located is at least five (5) acres in area.

2. The mobile home is to be used by the applicant as a residence while construction of a house for applicant is in progress.

3. The applicant shall apply to the Building Official for a building permit for the permanent structure at the same time as application is made for the temporary use permit.

4. The permit shall be temporary and shall be issued for a period to expire ninety (90) days after the issuance of a certificate of occupancy for the dwelling but in no event for more than three (3) years. One (1) year extension may be granted at the discretion of the Zoning Administrator upon good cause shown by the applicant provided the applicant is making reasonable progress towards the completion of the dwelling.

5. Only those mobile homes built since June 15, 1976, and constructed in accordance with regulations promulgated by the Department of Housing and Urban Development under the Federal Manufactured Housing Construction and Safety Standards Act and bearing the appropriate seals and labels to certify compliance

are permitted. The mobile home must be skirted with a fire-resistant material approved by the Building Official.

6. A drawing showing the proposed location of the mobile home including distances from all property lines and the septic tank and drainfield shall be submitted by the applicant and must be approved by the Zoning Administrator. The Zoning Administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

7. The Zoning Administrator shall require the applicant to post a Five Hundred Dollar ($500.00) bond, with surety, conditioned upon removal of the mobile home at the termination of the prescribed time period. This bond shall not be released until the mobile home has been removed from the property. A violation of any condition of the conditional use permit or failure to remove the mobile home within the prescribed time period shall result in the forfeiture of the bond to the County and proceeds shall be used to pay any and all costs incurred by the County to remedy the violation, including but not limited to the costs of removal and storage.

Temporary storage of a mobile home.

1. The permit shall be issued for the storage of a mobile home only and no such mobile home shall be used for any purpose and specifically not as living or sleeping quarters.

2. The mobile home shall not be connected to any utilities nor shall water or electricity be furnished to the mobile home from any source.

3. Minimum lot size for storage of a mobile home shall be five (5) acres.

4. The mobile home may be stored on the same parcel with any other principal permitted use but must be located in the rear yard area.

5. The permit shall be temporary and shall be issued for a period not to exceed ninety (90) days.

6. The applicant must furnish to the Zoning Administrator a copy of the restrictive covenants, if any, applicable to the lot on which the mobile home will be located. No conditional use permit shall be issued which is in violation of said restrictive covenants. If there are no restrictive covenants applicable to the lot, the applicant shall so certify in writing.

7. A drawing showing the proposed location of the mobile home including distances from all property lines and the existing septic tank and drainfield shall be submitted by the applicant and must be approved by the Zoning Administrator. The Zoning Administrator may require changes in the drawing which would make the location of the mobile home more harmonious with the neighborhood.

8. The Zoning Administrator shall require the applicant to post a Five Hundred Dollar ($500.00) bond, with surety, conditioned upon removal of the mobile home at the termination of the prescribed time period. This bond shall not be released until the mobile home has been removed from the property. A violation of any condition of the conditional use permit or failure to remove the mobile home within the prescribed time period shall result in the forfeiture of the bond to the County and the proceeds shall be used to pay any and all costs incurred by the County to remedy the violation, including but not limited to the costs of removal and storage.

<u>Temporary use of construction trailers and/or portable or temporary buildings for offices, storage facilities, public and semipublic uses.</u>

1. Such use shall be in conjunction with:

   A. a bona fide construction project for which a building permit has been issued; or

   B. the development of an approved subdivision or highway or public works construction projects

   Such use shall not be permitted in conjunction with the construction of an individual single-family dwelling unit.

2. The temporary structure shall be located in conformance with all applicable requirements of this ordinance.

3. The temporary structure shall not be used for temporary living quarters at any time.

4. The conditional use permit shall be valid for a period of one (1) year or thirty (30) days beyond the date of the issuance of a certificate of occupancy for the permanent structure, whichever occurs first.

5. Upon evidence that the completion of construction is imminent, the Zoning Administrator may grant reasonable time extensions.

6. The Zoning Administrator retains the right to revoke the permit if, at anytime, the applicant violates any conditions of said permit.

7. The Zoning Administrator retains the right to require a site plan or to place additional reasonable conditions on the use permit if necessary.

Turkey shoots.

1. Only turkey shoots conducted as fund raisers by non-profit organizations will be permitted.

2. The parcel on which the shoot is conducted shall have a minimum width of three hundred (300) feet and a minimum depth of six hundred (600) feet.

3. The shoot shall be positioned so that the line of fire is directly away from any public or private road or right-of-way and shall not be directed towards any residence or any other structure.

4. No firearms shall be discharged within two hundred (200) feet of any public or private street or right-of-way.

5. No firearms shall be discharged within five hundred (500) feet of any unrelated commercial building or residential dwelling.

6. The hours of operation shall be restricted to the hours between 9 a.m. and 10 p.m. except on Friday and Saturday when the operation until 11 p.m. is permissible.

7. The discharge of firearms shall be limited to: Shotguns and muzzle loading shotguns. Any discharge of a rifle of caliber greater than .22 is prohibited for these events.

8. Conditional use permits will be subject to annual review by the Board of Supervisors or their agent to insure compliance with the ordinance.

Zoological gardens.

1. The garden is to be fenced with a heavy duty, chain link, perimeter fencing ten (10) feet high.

2. Individual cages will be prepared for each species of animal.

3. The facility will be operated in accordance with federal, state and SPCA guidelines.

4. Paved State-maintained roads will be provided for the site and all interior roads dedicated for purpose of vehicular access will be built to standards for State-maintained paved roads.

5. All health department requirements for animal facilities and public facilities must be met.

6. Site plan must be approved by the Planning Commission and Board of Supervisors.

7. The garden may not be closer than 1000 feet to any adjacent residence.

8. The garden may not be closer than one (1) mile from any residentially zoned property.

9. The garden may not be closer than two (2) miles from any school or hospital. (9/14/87) (12/11/89) (4/9/90) (4/8/91)

Sec. 9-246 to 9-250. Reserved for future legislation.

Division 16. Conditional Zoning

For State law as to conditional zoning see Section 15.1-491.1 of the Code of Virginia of 1950 as amended.

Sec. 9-251. Purpose of division.

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

Sec. 9-252. Proffer of conditions.

Any owner of property making application for a change in zoning or amendment to the zoning map as part of the application may voluntarily proffer in writing reasonable conditions which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning application. Any such proffered conditions must be made prior to any public hearing before the governing body (including joint public hearings of the Planning Commission and the Board of Supervisors) and shall be subject to the following limitations:

A. The rezoning itself must give rise to the need of the conditions;

B. The conditions shall have a reasonable relation to the rezoning;

C. The conditions shall not include a cash contribution to the county;

D. The conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities except for the dedication of any street, curb, gutter, sidewalk, bicycle trail, drainage, water or sewage systems;

E. The conditions shall not include payment for or construction of offsite improvements except for a pro rata share of sewage and drainage facilities;

F. No condition shall be proffered that is not related to the physical development or physical operation of the property; and

G. All conditions shall be in conformity with the New Kent County Comprehensive Plan.

Sec. 9-253. Effect of conditions.

Upon the approval of any such rezoning all conditions proffered and accepted by the governing body shall be deemed part thereof and nonseverable therefrom and shall remain in force until amended or varied by the Board of Supervisors in accordance with Section 15.1-491.6 of the Code of Virginia as amended. All such conditions shall be in addition to the regulations provided for in the zoning district by this article.

Sec. 9-254. Zoning map notation and records.

Each conditional rezoning shall be designated on the zoning map by an appropriate symbol designed by the Zoning Administrator. In addition, the Zoning Administrator shall keep and maintain a conditional zoning index which shall be available for public inspection and which shall provide ready access to the ordinance creating such conditions.

Sec. 9-255. Submittal requirements.

Each application for rezoning which proposes conditions to be applied shall be accompanied by the following items beyond those required by conventional rezoning requests.

A. A statement detailing the nature and location of any proffered conditions and those proposed circumstances which prompted the proffering of such conditions.

B. A signed statement by both the applicant and owner in the following form:

> I hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission.

Sec. 9-256. Procedural regulations and requirements.

Proffered conditions shall include written statements, development plans and materials proffered in accordance with the provisions of this division and approved by the governing body in conjunction with the approval of a change in zoning or an amendment to the zoning map.

Upon approval, any site plan, subdivision plat, or development plan thereafter submitted for the development of the property in question shall be in substantial conformance with all proffered conditions and no development shall be approved by any County official in the absence of said substantial conformance. For the purpose of this section substantial conformance shall mean that conformance which leaves a reasonable margin for adjustment due to final engineering data but conforms with the general nature of the development, the specific uses and the general layout depicted by the plans and other materials presented by the owner and the applicant.

Sec. 9-257. Enforcement and guarantees.

The Zoning Administrator shall be vested with all necessary authority on behalf of the County to administer and enforce conditions attached to a rezoning or amendment to a zoning map including:

A. The ordering in writing of the remedy of any noncompliance with such conditions;

B. The bringing of legal action to ensure compliance with such conditions including injunction, abatement or other appropriate action or proceeding; and

C. Requiring a guarantee in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced and/or released by the Zoning Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided further that failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy, or building permits as may be appropriate.

Sec. 9-258. Petition for review of decision.

Any zoning applicant who is aggrieved by the decision of the Zoning Administrator pursuant to the provisions of Section 9-257 may petition the governing body for review of such decision. Any such appeal shall be taken within thirty (30) days from the date of the action complained of and shall be instituted by filing with the Zoning Administrator and the County Administrator a notice of appeal specifying the grounds therefor.

The Zoning Administrator shall forthwith transmit to the governing body all of the papers constituting the record upon which the action appealed from was taken and the governing body shall proceed to hear the appeal at its next regularly schedule meeting.

An appeal shall stay all proceedings and furtherance of the action appealed from unless the Zoning Administrator certifies to the governing

body after notice of appeal has been filed with him that by reason of the fact stated in the certificate a stay will in his opinion cause imminent peril to life or property. In such case the proceeding shall not be stayed otherwise than by a restraining order which may be granted by the governing body or by a court of record on application or notice to the Zoning Administrator and on due cause shown.

Sec. 9-259. Relation of division to other laws.

The provisions contained in this division shall be considered separate from, supplemental to the additional to the provisions contained elsewhere in this article or other County ordinances. Nothing contained in this division shall be construed as excusing compliance with all other applicable provisions of this Code or other County ordinances.

Sec. 9-260 through 9-265. Reserved for future legislation.

Division 17. Nonconforming Uses

Sec. 9-266. Continuation of nonconforming uses.

Uses and structures not in accordance with this article may be continued subject to the following provisions:

A. If at the time of enactment of this article, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this article, such manner of use or purpose may be continued as herein provided.

B. Any nonconforming use may be changed to a use conforming with the regulations as herein established for the district in which the nonconforming use is located; provided, however, that a nonconforming use so changed shall not thereafter be changed back to a nonconforming use.

C. Structures and buildings existing at the time of adoption of this article on lots that fail to comply with minimum requirements for area, width, front yard, side yard, rear yard, height and open space for the districts in which they are located, may be improved, enlarged, and extended provided any such improvement, enlargement or extension complies with the minimum requirements as to front yard, side yard, rear yard, height and unobstructed open space for the district in which located.

D. If any change in title or possession of any such lot or structure occurs, the use existing may be continued.

E. If any nonconforming use in existence on the date of adoption of this article is discontinued for a period exceeding two (2) years after the enactment of this article, it shall be deemed abandoned and any subsequent use shall conform with all of the requirements of this article.

Sec. 9-267. Nonconforming use permit required.

A. All nonconforming uses shall obtain a nonconforming use permit after the adoption of this article or any amendment thereto which changes the status of the use. Such permit shall be issued promptly upon the written request of the owner or operator of the nonconforming use.

B. The construction or any other initiation of a nonconforming use for which a permit was issued legally prior to the adoption of this article, may proceed provided such building is completed within one (1) year or the use established within thirty (30) days after the effective date of this article.

Sec. 9-268. Extension, expansion or enlargement of nonconforming uses.

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity. This requirement shall not apply to single-

family dwellings or mobile homes used as dwellings and legally in existence at the time this article was enacted or amended. These structures may be expanded or enlarged, provided the expansions comply with the frontage, setback, side enlarged, provided the expansions comply with the frontage, setback, side yard, rear yard and height provisions of the district in which they are located and the expanded structure meets the requirements of the Health Department. Prohibited activities shall include without being limited to:

A. Extension of a nonconforming use to any building or other structure or land area other than one occupied by such use on the effective date of this article (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming).

B. Extension of a nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming), provided, however, that a nonconforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.

C. Operation of a nonconforming use in such manner as to conflict with or to further conflict with, if already conflicting, on the effective date of this article (or on the effective date of subsequent amendment thereto that results in such use becoming nonconforming), any performance standards established for the district in which the use is located.

Sec. 9-269. Restoration or replacement of nonconforming uses.

Nonconforming activities or structures may be restored or replaced subject to the following requirements:

A. When a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration as determined by the Building Official to its condition before the occurrence shall exceed seventy-five percent (75%) of the current replacement cost of the entire structure, it shall be restored only if it complies with the requirements of this article.

B. The cost of land or any factors other than the cost of the structure itself are to be excluded in the determination of cost of restoration for any nonconforming structure or conforming structure devoted to a nonconforming activity.

Sec. 9-270. Unlawful uses not made lawful.

Nothing in this article shall be interpreted as authorization for or approval of the continuation of the use of a structure or premises in

violation of any ordinance in effect at the time of the passage of this article.

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

Sec. 9-271. Effect of changes in district boundaries.

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

Sec. 9-272. Nonconforming mobile homes.

The Zoning Administrator shall issue a nonconforming use permit to all owners of property upon which a mobile home is located on December 22, 1980, and the following provisions shall apply to such mobile homes:

A. No use of the mobile home shall be made other than those specified on the nonconforming use permit unless such use shall be in conformity with the provisions of the zone in which the property is located.

B. A copy of such nonconforming use permit shall be on file at the office of the Zoning Administrator. No permit or license shall be issued to any property for which a nonconforming use permit has been issued until said permit or license has been approved by the Zoning Administrator.

C. A nonconforming use permit shall not prevent the removal of a mobile home in place and occupied as a dwelling at the time of adoption of this article and replacement of the mobile home with another mobile home, if required to protect the health and safety of the occupant; nor shall it prevent additional construction or additions to such mobile home provided the same are built in accordance with applicable building codes; provided that this provision shall not prohibit the application of Section 9-266(E) of this article.

D. A nonconforming use permit shall not affect the temporary nature of any conditional use permit granted prior to the adoption of this section for the purpose of locating a mobile home while constructing a permanent dwelling, and such mobile home shall be subject to those rules and regulations in effect at the adoption of this section.

Sec. 9-273 through 9-276. Reserved for future legislation.

Division 18. Site Plans and Performance Standards

Sec. 9-277. Purpose and review of required site plans.

For the purposes of assuring public **health,** safety, **and welfare of the citizens of New Kent County,** good **land** arrangement **and development practices, and the development** of land in harmony with the Comprehensive Plan, site plans are required for certain uses specifically designated in this article. Site plans for such uses and additions and expansions thereto shall be subject to review and approval by the Zoning Administrator. (11/29/91)

Sec. 9-XXX. Uses requiring a site plan.

The following uses shall require a site plan to be prepared and submitted to the agent for approval in accordance with this article:

A. All permitted uses in the B-1, B-2, M-1 and M-2 zoning districts.

B. All uses permitted with a conditional use permit.

D. Churches, synagogues and other houses of worship.

E. Cluster homes.

F. Community centers.

G. Condominiums.

H. Convalescent, nursing or rest homes.

I. Golf courses and country clubs.

J. Government buildings and facilities.

K. Hospitals and medical facilities.

L. Libraries.

M. Parks and Playgrounds.

N. Public and private schools.

O. Public utilities (other than those requiring a conditional use permit).

P. Yacht clubs.

Sec. 9-XXX. Fees.

The fee for site plan review shall be one-hundred dollars ($100).

Sec. 9-278. Schematic site plan submittal.

A. A schematic site plan may be submitted to the Zoning Administrator for a determination as to compliance with the requirements of this article. This step is designed to encourage an applicant to submit informal plans for comment before the expense of final plans is incurred. The schematic plan should be drawn to scale showing the existing physical features and the proposed development. The schematic plan should as a minimum contain:

1. Title of project.

2. Name and address of owner(s).

3. Name of engineer, architect, planner, landscape architect, surveyor or other preparer of the plan.

4. Location of site by an insert map at a scale of no less than one inch equals two thousand (2,000) feet.

5. Indication of the scale, north arrow, zoning and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property.

6. Boundary survey of the site or a plan drawn to scale.

7. All existing and proposed streets and easements, their names, numbers, and width; existing and proposed utilities, watercourses and their names and owners.

8. Location, type and size of all entrances to the site.

9. General location of woodlines and general locations of tree stands.

10. A clear delineation of the following environmental features:

    a. Tidal wetlands;
    b. Tidal shores;
    c. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;
    d. A 100-foot buffer area located adjacent to and landward of the components listed in subsections a through c above, and along both sides of any tributary stream;
    e. The site-specific geographic extent of the RPA;
    f. Other sensitive environmental features as determined by the Director of Planning.

11. Provisions for off-street parking, loading spaces and pedestrian walkways; calculations indicating the number of parking spaces required and the number provided.

12. A signage plan showing the location of all permanent signs.

13. A lighting plan, if applicable, indicating the location and design of each light standard and/or luminaire, and the intensity of the illumination. Such plan shall meet standards set forth in Article XX Lighting.

14. Number of floors, floor area, height and location of each building.

15. For a multi-family residential development, the number, size and type of dwelling units; location, type and percentage of total acreage of recreation facilities.

16. Indigenous vegetation required to be preserved to the maximum extent possible in accordance with Sections 9-64 and 9-469 of this chapter.

B. For the purposes of subsection A, wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1989

C. The environmental features on the site shall be drawn at the same scale as required for the final site plan, and shall be certified as complete and accurate by a professional engineer, certified land surveyor or landscape architect. This requirement may be waived by the Director of Planning when the proposed use or development would result in less than 5,000 square feet of disturbed area. (11/29/91)

Sec. 9-279. Review criteria.

The Zoning Administrator shall examine and consider site plans with respect to:

A. Intensity of land use including developable acreage, density and adequate provisions of open space and recreational facilities as appropriate to the site usage and to the Comprehensive Plan.

B. Design and layout of the site including buildings; signs; recreational facilities; garbage and trash disposal facilities; sedimentation and erosion controls; storm water management, sanitary sewer disposal and water supply exit and entrance points on the site including approximate line sizes; areas to be landscaped with approximate arrangement and plant types and sizes indicated; and provisions for pedestrian and vehicular traffic movements within and adjacent to the site. Particular emphasis shall be placed upon the review of on-site aesthetics; public safety features; environmental, historical and vegetative preservations; efficient layout of buildings, parking areas,

off-street loading and unloading; movement of people, goods and vehicles (including emergency vehicles) from access roads, within the site, between buildings and vehicles. Vehicular access to the site shall be designed to aid overall traffic flow and to permit vehicles a safe ingress and egress.

C. Design standards as contained in this article as they relate to traffic circulation, parking, performance standards, location of structures, setbacks, yards, bulk, height and building coverage shall apply to site plan approval. The design criteria established in the New Kent County Subdivision Ordinance and applicable standards of the State Department of Transportation shall apply, where appropriate, to site plan approval. (11/29/91)

Sec. 9-280. Notification of preliminary findings.

The Zoning Administrator shall notify in writing the applicant, owner or developer regarding the results of the schematic site plan review within thirty (30) business days of date of submission. (11/29/91)

Sec. 9-281. Final site plan.

A. Six (6) copies of a final site plan shall be submitted to the Zoning Administrator who shall review the plans for compliance with applicable County regulations, the requirements for final site plans and any conditions of preliminary approval. The Zoning Administrator shall provide a set of all submittals to relevant agencies or departments for their review and written comment, including the Virginia Department of Transportation, the Soil Conservation Service, and the County Health Department. The Zoning Administrator may require additional copies from the applicant, if necessary.

B. The final detailed plan shall be submitted in separate sheets or overlays as appropriate for accurate representation of the project. Insufficient submittals may be returned to the applicant with written notification of deficiencies from the Zoning Administrator. In addition to features required under § 9-278, the final plan shall as a minimum shall contain:

1. Areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes.

2. Existing topography and proposed finished contours.

3. All existing and proposed water supply and sanitary waste disposal facilities.

4. Provisions for the adequate control of storm water drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures.

5. Computations notation to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multi-family residential developments.

C. Final plans for all lands within RPAs 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. The delineation of septic tank and reserve drainfield.

5. The delineation of any vegetation required to be preserved under Article VI of this Chapter.

D. A general sign plan prepared in accordance with the requirements of Division 20 of this article.

E. The location of fire hydrants and other fire suppression systems.

F. The Administrator may waive any of the site plan submission requirements if, in his opinion, the data is not relevant or necessary due to the nature of the proposal. (11/29/91)

9-282. Action upon approval of the final plan.

A. Upon successful completion of the final site plan review process, the Administrator shall mark said plan as approved and shall transmit to the Building Official one (1) set of the approved plan. One (1) copy of the approved plan shall be transmitted to the developer, owner or authorized project agent, and one (1) copy of any correspondence and plans shall be retained by the Administrator. Final site plans shall be reviewed and approved or disapproved within sixty (60) days after all required information is submitted to the Administrator.

B. Once a site plan has been approved, no development shall occur on the parcel which is not in accordance with the approved site plan.

C. Once development has been completed in accordance with the approved site plan, one copy of final as-built drawings shall be supplied to the County showing the location of all public improvements and utilities.

Sec. 9-283. Term of validity of final approval.

After approval, a final site plan shall be valid for a period of one (1) year. If, after one (1) year from the date such plans are approved, construction has not commenced on the site, the final approval is revoked and the Administrator shall notify the Building Official that approval of such plan has terminated. An applicant may request reapproval provided the previous site plan is consistent with all applicable laws in effect at the time the reapproval is requested. All requests for reapproval shall be in writing.

Sec. 9-284. Amendment of final plan.

Upon application, an approved final plan may be amended by the Administrator provided that such proposed amendment does not:

A. Alter a recorded plat.

B. Conflict with the specific requirements of this article.

C. Change the general character or content of an approved development plan or use.

D. Have an appreciable effect on adjoining or surrounding property.

E. Result in any substantial change of major external access points.

F. Increase the approved number of units or height of buildings.

G. Decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

Sec. 9-285. Appeal from decision of Administrator.

Any decision made by the Administrator relating to site plan standards may be appealed to the planning Commission by the Applicant. All requests for appeal shall be in writing and shall be filed within thirty (30) days of the date of notification of the decision.

Sec. 9-286 through 9-295. Reserved for future legislation.

Division 19. Off-Street Parking, Driveways and Loading Areas.

Sec. 9-296. General provisions.

A. No zoning permit or certificate of occupancy shall be issued for any structure which does not comply with the requirements of this division provided, however, that structures already in use or which have already received approval are exempted if:

1. Exempted buildings remain in continuous use and at no time remain vacant or unused for a continuous period of two (2) years.

2. No parking lot for any exempted property is enlarged or materially altered. In the event an existing parking lot is to be enlarged or materially altered, the existing parking area as well as the new parking area shall be brought into conformance with this division. For purposes of this paragraph, "enlarged or materially altered" shall mean expansion or change in the parking lot which either increases the number of parking spaces by more than fifteen percent (15%) or reduces the landscaped areas by more than fifteen percent (15%). Nothing herein is intended to prohibit paving or surfacing of parking lots, the installation of curbs or bumpers or other improvements which do not affect the number of spaces, the areas of the site dedicated to landscaped open space, or the drainage of the parking area or site.

B. Required off-street parking spaces shall be located on the same lot as the structure or use to which they are necessary or on a lot adjacent thereto, not separated by any street, which has the same zoning classification and is in common ownership or under lease for a period of at least ten (10) years.

C. The off-street parking requirements for two (2) or more neighboring uses of the same or different types may be satisfied by the allocation of the required number of parking spaces for each in a common parking facility provided that the number of off-street parking spaces is not less than the sum of the individual requirements and provided further that there be compliance with all other provisions of this division. Upon the submission of operation schedules, a reduction in the number of parking spaces can be made by the Zoning Administrator, if it can be clearly demonstrated that the peak utilization of the parking facility by the users of the parking facility occurs at different times of the day.

D. Off-street parking spaces shall be used solely for the parking of vehicles in operating condition for patrons, occupants or employees of the use to which such parking is accessory. Permanent storage of vehicles shall not be allowed. Storage of vehicles for sale shall not be allowed.

E. Parking areas required by this section are intended to accommodate the off-street parking needs of the customers and employees of commercial, institutional, industrial and residential uses. They are specifically intended to eliminate the need for parking along adjoining streets and roads. As such, all required parking areas shall be generally accessible to the customers and employees they are designed to serve.

Sec. 9-297. General design criteria for off-street parking areas.

In addition to any other requirements of this article, off-street parking areas shall be designed and operated in accordance with the following regulations:

A. Access:

Access points from any one lot crossing the right-of-way line shall be limited to a maximum of two (2) along the frontage on any single street. The center lines of any separate access points shall be spaced at least sixty-five (65) feet apart, shall be at least twelve and one-half (12-1/2) feet from any side property line, shall be set back from the street line of any intersecting street at least fifty (50) feet or one-half (1/2) a lot frontage, whichever is greater, except that in no case may the setback distance exceed 200 feet. Continuous open driveways for nonresidential uses shall not exceed thirty-six (36) feet in width at the street line. All access openings shall be in accordance with and approved by the Virginia Department of Transportation.

B. Driveways

1. Major driveways providing access to exit points from the site, those driveways providing connections between entrance driveways and parking bays and any other driveways which play an integral role in the circulation of traffic on the site as determined by the Administrator, shall not be designed to share a concurrent role as an aisle for parking spaces. Major driveways within a parking area shall have lanes which are twelve (12) feet in width.

2. Sight clearance areas shall be maintained at the intersection of rights-of-way and driveways and the intersection of driveways with themselves. No grading, planting, fences or signs in excess of three (3) feet in height shall be erected or maintained in this clearance area except street signs, fire hydrants and light standards.

3. Driveways shall not have a grade of more than five (5) percent for the first twenty-five (25) feet from the

street. Additionally, driveways shall not be located where visibility is limited because of road alignment or topography.

4. Fire lanes shall be provided as required by the Fire Marshal.

C. Parking area dimensions:

Parking spaces shall have an area not less than 162 square feet and dimensions of at least nine (9) feet wide by eighteen (18) feet long.

All off-street parking shall conform to the following widths:

Parking Angle (Degrees)	Aisles (Feet)	Bay Widths-- Parking Both Sides (Feet)	Bay Width-- Parking One Side (Feet
90	24	60	42
60	18	60	39
45	13	53	33
30	12	47	29

D. Sidewalk required:

A private walk shall be provided adjacent to a business or industrial building and shall be not less than four (4) feet in width. Vehicles are not permitted to overhang any walk unless the walk is six and one half (6-1/2) feet wide. Walks shall be separated from off-street parking, loading and service areas by curbing or other protective devices.

E. Surfacing requirements:

Parking lots for use by customers in excess of ~~fifty (50)~~ **twenty-five (25)** spaces shall be surfaced with asphalt or concrete or tar and gravel. Parking lots with less than ~~fifty (50)~~ **twenty-five (25)** spaces shall be dust-free. Adequate drainage shall be provided for the removal of storm water and a drainage plan shall be submitted and approved by the Director of Public Works.

F. Lighting:

Lighting shall be provided in accordance with the standards of Section 9-64 (8) and (11).

G. Handicapped parking:

1. Where parking lots are provided, designated parking spaces for handicapped shall be required as follows:

Total Number of Parking Spaces in the Lot	Reserved for Handicapped
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
over 1,000	20 + 1 for each 100 over 1,000

2. All such spaces shall be designed and constructed in accordance with the requirements of the Americans with Disabilities Act of 1990.

~~2. Parking spaces for the physically handicapped shall be located as close as possible to elevators, ramps, walkways and entrances. Parking spaces shall be located so that the physically handicapped persons are not compelled to wheel or walk behind parked cars to reach entrances, ramps, walkways or elevators. Where the designated spaces cannot be within two hundred (200) feet of the accessible principal entrance or entrances, a drop-off area is to be provided within one hundred (100) feet of such entrance or entrances.~~

~~3. Parking spaces for individuals with handicaps shall be twelve (12) feet wide and eighteen (18) feet long with an unobstructed near level surface which is suitable for wheeling and walking.~~

~~Such parking space shall allow room for individuals in wheel chairs or individuals on braces, canes, and crutches to get in and out of either side of an automobile.~~

~~4. Curb ramps shall be provided to permit handicapped people access from parking areas to sidewalks. The curb ramp shall be inclined with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet.~~

~~5. Designated parking spaces for handicapped drivers shall be identified with a clearly visible sign mounted off the ground and displaying the International Symbol of Access.~~

H. Parking spaces beyond minimum requirements:

In addition to the minimum number of parking spaces that are required by this division to be provided on site, the developer may provide an additional ten percent (10%) above and beyond the minimum amount of parking so required. The Zoning Administrator may permit parking beyond this limit if after the facility is in operation it is clearly demonstrated by the owner that additional parking space is required.

I. Landscaping:

Parking areas shall be arranged for functional efficiency and convenience and shall be designed to be amenable to surrounding property. Parking areas containing more than ten (10) parking spaces shall comply with the following:

1. Parking areas shall be separated from the street right-of-way and property lines by a landscaped strip at least ten (10) feet in width. The required strip along side **and rear** lot lines ~~may be reduced by~~ **shall be** five (5) feet **wide** ~~if an equal amount is added to the width of the landscaping along the street right-of-way~~. Ingress and egress shall be provided through driveway openings only. In the event a joint parking lot is proposed, the required landscaped strip along the common property line may be waived.

2. The parking area shall be constructed so that spaces are grouped into bays. At the end of each bay, a landscaped island of at least ~~ten (10)~~ **five (5)** feet in width ~~and fifteen (15) feet in length~~ shall be built to separate the bays from each other or from traffic lanes. ~~When the parking bays contain double rows of parking spaces, the length of the landscaped island shall be increased to thirty (30) feet.~~

3. "Landscaped area", "landscaped setback", "landscaped strip", "landscaped island", or "perimeter open space" as herein used are defined as areas containing **any combination of** shrubs, trees, flowers, and grass. Such areas shall be shown on the site plan or a separate landscaping plan for the site which shows the size and type of existing trees, trees to be removed and new trees, shrubs, flowers, or grass to be planted. Existing trees and natural vegetation shall be retained wherever possible particularly where they border adjacent property. All landscaped acres contiguous to parking bays shall be protected from intrusion by vehicles by curbs or bumpers.

Sec. 9-298. Minimum off-street parking requirements.

There shall be provided at the time of erection of any main building or at the time any main building is enlarged, minimum off-street parking

with adequate provisions for entrance and exit by vehicles normally serving the premises as follows:

USE:	MINIMUM PARKING SPACE REQUIREMENTS:
Airport	One (1) space per employee plus one (1) space for each vehicle used in connection with the facility plus sufficient space to accommodate the largest number of vehicles that may be expected at any time, but not less than one (1) for every two (2) hangars or tie-down spaces located at the facility.
Automobile sales, rental and service establishment	One (1) space per five hundred (500) square feet of enclosed sales/rental floor area plus one (1) space per twenty-five (25) sales/rental lot area plus two (2) spaces per service bay plus one (1) space per employee but never less than five (5) spaces total.
Bank	One (1) space per two hundred fifty (250) square feet of gross floor area.
Bank with drive-in window	One (1) space per two hundred fifty (250) square feet of gross floor area plus sufficient area for eight (8) stacking spaces for each additional window.
Boarding or rooming house	One (1) space for each rental unit plus one (1) additional space for the owner or manager.
Bowling Lanes	At least four (4) spaces for each bowling lane; if additional facilities such as a bar or restaurant are provided, additional parking spaces shall be provided in accordance with the requirements for similar uses set forth in this section.
Car wash	Four (4) spaces per bay/stall plus one (1) space per employee for self-service establishments or one (1) space per employee plus sufficient area for ten (10) stacking places per bay/stall for an automated establishment.
Church/place of worship	One (1) space per four (4) seats in the principal place of worship, provided that the number of spaces that are required may be reduced by not more than fifty percent (50%) if the place of worship is located within three hundred (300) feet of any public parking lot or any commercial parking lot where sufficient spaces are available by permission

	of the owner without charge during the time of service to make up the additional spaces required.
Commercial, personal service establishment or retail store	At least one (1) space for each two hundred (200) square feet of gross floor area for the first one thousand (1,000) square feet plus six (6) spaces for each additional one thousand (1,000) square feet.
Day care facility/ nursery school	Two (2) spaces for each three (3) employees plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions.
Funeral home	Ten (10) parking spaces plus one (1) space for each fifty (50) square feet of floor space.
Furniture/ carpet store	One (1) space per five hundred (500) square feet of gross floor area.
Garden center/nursery/ landscape business	Six (6) spaces per one thousand (1,000) square feet of gross floor area of buildings plus one (1) space per one thousand (1,000) square feet of outdoor storage, sale or display area.
Golf course or club	Eight (8) parking spaces for each tee.
Hospital	Two (2) parking spaces for each patient bed.
Indoor tennis/ racket ball/ squash or handball courts	Four (4) parking spaces per court.
Industrial or manufacturing establishment	At least one (1) parking space for each employee on the maximum work shift and one (1) additional space for each vehicle used directly in the conduct of the enterprise.
Laboratory/ research use	One (1) parking space for every three hundred (300) square feet of floor area.
Medical/dental practitioner's	

office	At least five (5) spaces for each professional person occupying or using each office plus one (1) additional space for each employee.
Motel, hotel, auto court/motor lodge or tourist court	At least one (1) space for each guest or sleeping room plus one (1) space for each employee plus compliance with the requirements for each particular additional use located on the premises such as restaurants, retail stores and assembly halls.
Multiple family dwelling	At least two (2) spaces per dwelling unit.
Museum/exhibition hall/art gallery/ library or other cultural facility	One (1) space for each one and a half (1-1/2) persons of rated occupancy.
Nursing home	One (1) space for each two (2) beds.
Office/business other than medical and dental	At least one (1) space for each two hundred (200) square feet of gross floor area.
Private club or hall/ publicly owned or operated building or use/community building/social hall/ and places of public assembly	One (1) space for each one hundred (100) square feet of gross floor area.
Residential dwelling unit	At least two (2) spaces per dwelling unit.
Restaurant/bar or tavern	At least one (1) space for every three (3) seats or one (1) space for every ~~three (3)~~ **two (2)** persons of rated building capacity, whichever is greater, but in all cases a sufficient number of spaces to prevent obstruction of driveways, fire lanes and aisles; drive-in facilities shall also provide a stacking lane which shall accommodate at least six (6) vehicles.

Retail with gasoline dispensing facilities	One (1) parking space for every one hundred fifty (150) square feet of gross floor space; such spaces shall be separated by the driveway and general apron areas which give access to the gasoline and air pumps and any service areas; no designated parking space shall obstruct access to these facilities; all parking spaces shall be located between the retail facility and the gasoline dispensing pumps.
Service stations	At least six (6) spaces for the first lift, wheel alignment pit or similar work area plus three (3) spaces for each additional work area; such spaces shall be separated from the driveway and general apron areas which give access to the gasoline and air pumps and service areas; no designated parking space shall obstruct access to these areas.
Shopping center:	
10,000 to 25,000 s.f. of gross leasable area	Five (5) parking spaces per one thousand (1,000) square feet.
25,000 to 400,000 s.f. of gross area	Four (4) parking spaces per one thousand (1,000) square feet.
400,000 to 600,000 s.f. of gross leasable	Four and one-half (4.5) parking spaces per one thousand (1,000) square feet.
Over 600,000 s.f. of gross leasable area	Five (5) parking spaces per one thousand (1,000) square feet.
Stadium/ball parks/ other outdoor sports arenas	At least one (1) space for each four (4) seats.
Swimming pool/ commercial or community	One (1) space for each four (4) persons lawfully permitted in the pool at one time.
Theaters, auditoriums or indoor sports arenas	One (1) space for each four (4) seats or similar vantage accommodations provided

Wholesale/ trade and warehousing establishments	One (1) space for every one thousand (1,000) square feet of gross floor area.

Sec. 9-299. Reduction of off-street parking spaces prohibited.

No off-street parking area shall be reduced in size or encroached upon by buildings, vehicular storage, loading or unloading or any other use if such reduction or encroachment will reduce the off-street parking and/or loading spaces below that are required by this division.

Sec. 9-300. Exemptions.

In the case of residential dwellings, no parking area shall be required for less than three spaces unless adequate on-street parking in front of the site does not exist.

Sec. 9-301. Off-street loading areas.

The following off-street loading requirements shall be applied to the corresponding uses:

USE	MINIMUM LOADING SPACE REQUIREMENTS
Retail, commercial wholesaling, manufacturing and industrial uses:	
3,000 sq. feet to 15,000 sq. feet	1
15,000 sq. feet to 30,000 sq. feet	2
30,000 sq. feet to 50,000 sq. feet	3
50,000 sq. feet to 75,000 sq. feet	4
for every 100,000 sq. feet or fraction thereof	1 additional loading space
Hotels and offices	1 for every 100,000 square feet of floor area

A. Size of each loading space.

Each loading space shall be no less than twelve (12) feet in width, fifty (50) feet in length and fourteen (14) feet in height and may not be located in the front yard setback. Such space shall be screened from view.

Sec. 9-302 through 9-306. Reserved for future legislation.

Division XX. Lighting.

Sec. 9-XXX.

All parking areas, walkways, and driveways servicing commercial, public, office, industrial, apartment, condominium or other similar uses shall be adequately illuminated for security and safety purposes. Lighting in and around parking and loading areas shall provide for the following:

A. Non-glare, color-corrected lights focused downward;

B. light intensity at ground level shall conform to standards established by the Illuminating Engineering Society of North America (IES) as set forth in the RP-20 Lighting for Parking Facilities publication, and referenced in Table I[1].

C. luminaires shall be mounted at a height of not less than twenty-five (25) feet or the height of the building whichever is less, measured from the ground level to the center line of the light source;

D. light standards shall be spaced at a distance not to exceed five (5) times the mounting height;

E. no light shall shine into windows or onto streets and driveways in such a manner as to interfere or to obstruct driver vision; and,

F. light intensity, shielding, and similar characteristics shall be subject to development plan review.

Sec. 9-XXX. Types of Parking Areas.

Parking areas shall be classified as open or covered and they shall be regulated per the following:

A. The use intensity of parking areas shall be classified as the following and regulated accordingly:

1. High: Major league athletic events
Major cultural or civic events
Regional shopping centers
Fast food facilities

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[1] Table 1 references the standards in effect as of the adoption date of this ordinance and is provided for the convenience of the user only. The user is required to include the most up to date lighting standards when submitting a lighting plan for review.

2. Medium: Community shopping centers
Cultural, civic or recreational events
Office Parks
Hospital Parking
Transportation parking
Residential complex parking

3. Low: Neighborhood shopping
Industrial employee parking
Educational facility parking
Church Parking

If the level of activity involves a large number of vehicles at night, the examples provided for low and medium levels of activity belong in the next higher level.

B. In multilevel covered parking structures, the illumination of the top level, if open to the sky, is the same for an open parking lot.

Table 1
Recommended Maintained Horizontal Illuminance
for
Parking Facilities

Activity Level	Open General Parking and Pedestrian Areas			Open Vehicle Use Areas Only		
	Lux (Min. on pavement)	Footcandles (Min. on Pavement)	Uniformity Ratio (Ave/Min)	Lux (Ave. on pavement)	Footcandles (Ave. on Pavement)	Uniformity Ratio (Ave/Min)
High	10	0.9	4:1	22	2	3:1
Medium	6	0.6	4:1	11	1	3:1
Low[2]	2	0.2	4:1	5	0.5	4:1

Covered Parking Facilities					
Areas	Day		Night		Uniformity Ratio (Average / Minimum)
	Lux (Ave. on pavement)[3]	Footcandles (Ave. on Pavement)	Lux (Ave. on pavement)	Footcandles (Ave. on Pavement)	
General Parking and Pedestrian Areas	54	5	54	5	4:1
Ramps & Corners	100	10	54	5	4:1
Entrance Areas	540	50	54	5	4:1
Stairways	Range of Illuminances				
	100-150-200			10-15-20	

2 This recommendation is based on the requirement to maintain security at any time in areas where there is a low level of nighttime activity.

3 Sum of electric lighting and daylight

Division 20. Signs.

~~Sec. 9-307. Definitions.~~

~~For the purposes of this article the following words and terms shall have the meanings respectively ascribed to them by this section:~~

~~1. SIGN:~~
~~Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known, whether such display be made on, attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than two (2) square feet in area is excluded from this definition.~~

~~a. Business. A sign which directs attention to a product, commodity or service available on the premises. C-1, A-1, R-1, R-2, B-1, B-2, M-1, M-2.~~

~~b. Home Occupation. A sign not exceeding four (4) square feet in area directing attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling. A-1, R-2.~~

~~c. General Advertising. A sign which directs attention to a product, commodity, or service not necessarily available on the premises. M-1, M-2.~~

~~d. Location. A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained. B-1, M-1, M-2.~~

~~e. Directional. A directional sign is one (one end of which may be pointed, or on which an arrow may be painted), indicating the direction to which attention is called twenty-four (24) square feet in area, giving the name only of the farm, or business responsible for the erection of same. C-1, A-1, R-1, R-2, B-2.~~

~~2. SIGN STRUCTURE:~~
~~Includes the supports, uprights, bracing, and framework of any structure, be it single faced, v-type, or otherwise, exhibiting a sign.~~

~~3. SIGN, TEMPORARY:~~
~~A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions or sale of land. Temporary signs shall conform in size and type to directional signs.~~

Section 9-307. Definitions.

For the purposes of this article the following words and terms shall have the meanings respectively ascribed to them by this section:

1. SIGN. Any object, device, display or structure or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

2. SIGN AREA. The entire face of a sign including the advertising surface and any framing trim or molding but not including the supporting structure.

3. SIGN, BUSINESS. A sign which directs attention to a business or profession conducted or to a commodity or service sold, offered or manufactured or to an entertainment offered on the premises where the sign is located.

4. SIGN, CHURCH. A sign which identifies a religious institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of any individuals connected with it and general announcements of events or activities occurring at the institution or similar messages.

5. SIGN, CONSTRUCTION. A temporary sign or placard on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

6. SIGN, DIRECTIONAL, ON SITE. Signs limited to directional messages principally for pedestrian or vehicular traffic such as one-way entrance and exit.

7. SIGN, DIRECTIONAL, OFF SITE. A sign directing attention to premises other than the premises where the sign is located with its content limited to name, use, street, distance to and directional arrow.

8. SIGN, FACADE. A sign fastened to or painted on the wall or building structure in such a manner that the wall becomes the supporting

structure for or forms the background surface of the sign and which does not project more than twelve (12) inches from the building or structure, and which does not project above the height of the wall.

9. SIGN, FREE STANDING. Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

10. SIGN HEIGHT. The distance from the base of the sign at the normal grade to the top of the highest point of the sign or sign structure, the normal grade being the lower of (1) existing grade prior to construction or (2) the newly established grade after construction exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

11. SIGN, HOME OCCUPATION. A sign containing the name and/or occupation of a permitted home occupation and telephone number on premises.

12. SIGN, ILLUMINATED EXTERNALLY. A sign which does not produce artificial light from within itself but which is opaque and backlighted or illuminated by flood lights or spot lights not a part of or attached to the sign itself.

13. SIGN, ILLUMINATED INTERNALLY. Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light attached to and a part of the sign itself.

14. SIGN, POLITICAL. A temporary sign announcing or supporting political candidates or issued in connection with any national, state or local election.

15. SIGN, PRESTIGE IDENTIFICATION. A sign identifying the entrance to a subdivision, farm estate or other facility, which is a permitted principal use in the zoning district, including commercial or industrial facilities. This sign shall provide the name of the subdivision, farm, estate or other facility only and shall be surrounded by special landscaping treatment.

16. SIGN, PRIVATE SALE OR EVENT. A temporary sign advertising private sales of personal property such as house sales, garage sales, rummage sales, and the like or private, not for profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.

17. SIGN, REAL ESTATE RESIDENTIAL. A sign pertaining to the sale or lease of residential premises or a portion of the premises on which the sign is located.

18. SIGN, REAL ESTATE OFF SITE. A sign pertaining to the sale or lease of real property other than the premises on which the sign is located.

19. SIGN, REAL ESTATE NON-RESIDENTIAL. A sign pertaining to the sale or lease of business premises or a portion of the business premises on which the sign is located.

20. SIGN, SHOPPING CENTER -- ON SITE. A sign located on the same premises as a shopping center which directs attention to the shopping center or to businesses conducted therein.

21. SIGN, TEMPORARY. A sign or advertising display, including portable signs, constructed of cloth, canvas, fabric, plywood, sheet metal or other material and designed or intended to be displayed for a short period of time.

Section 9-308. Permitted signs.

In addition to those requirements contained elsewhere in the ordinance, the following sign regulations shall apply:

A. Not more than one (1) freestanding sign shall be permitted for each side of a parcel with frontage on a street.

B. Not more than one facade sign per establishment shall be permitted for each side of a parcel with frontage on a street.

C. One prestige identification sign shall be permitted for each entrance into the subdivision, estate, or facility.

D. Signs permanently affixed to motor vehicle fuel pumping islands shall be limited to a total of thirty square feet per side of island, exclusive of signs affixed to the canopy.

E. No sign attached to a building shall extend over or above the ridge line of any roof or the top of any parapet wall of a building.

F. No sign shall be attached to trees, utility poles or other supporting structures unauthorized by the County.

G. All signs located within six hundred and sixty (660) feet of the nearest edge of the right-of-way of any interstate or federal aid primary highway shall be subject to the provisions of Chapter 7, Section 33.1-351 et seq. of the Code of Virginia, (1950, as amended), entitled "Outdoor Advertising in Sight of Public Highways", if such standards are more restrictive than local ordinances.

H. No signs other than an official traffic sign approved and/or installed by the Virginia Department of Transportation shall be located within any public right-of-way line or property line.

I. Flags, banners, streamers and all other fluttering, spinning or similar type signs and advertising devices are prohibited except for national flags and flags of political subdivisions of the United States, flags of bona fide civic, charitable, fraternal, and welfare organizations, and flags of corporations provided that during nationally recognized holiday periods or during a special civic event flags, banners, streamers and other fluttering, spinning or similar type advertising devices pertaining to said periods or events may be displayed. Flags, banners and streamers and similar advertising devices used for a promotional campaign shall be allowed for a period not to exceed thirty (30) days per twelve (12) month period.

J. Flashing signs or exposed gas-filled or illuminated tubing such as neon are not permitted for exterior use.

K. No sign shall be constructed, erected, used, operated or maintained which displays intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger or such as are customarily used by police, fire or ambulance vehicles or for navigation purposes.

L. No sign shall be constructed, erected, used, operated or maintained which is so located and so illuminated as to provide a background of colored lights blending with traffic signal lights to the extent of confusing a motorist when viewed from normal approaching positions of a vehicle at a distance of twenty-five (25) to three hundred (300) feet.

M. All signs shall be maintained in good condition and appearance. After due notice has been given, the Zoning Administrator may cause to be removed any sign which shows gross neglect or becomes dilapidated or unnecessary due to abandonment of the use.

N. The only sign which shall be permitted in conjunction with a home occupation, either on or off the site, is a home occupation sign as defined.

O. Signs permitted within New Kent County shall only be permitted in the districts specified in Table I.

Table I
Signs Permitted
By Zoning District

Type of Sign	C-1	A-1	R-R	R-O	R-OA	R-A	R-1A	MHP	B-1	B-2	M-1	M-2
Business Sign	Yes	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Construction Sign	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
On-Site Directional Sign	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Off-Site Directional Sign	Yes	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Facade Sign	No	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Home Occupation Sign	No	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No
External Illumination	Yes	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Internal Illumination	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Political Sign	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Portable Sign	No	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Prestige Identification Sign	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Private Sale/Event Sign	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Real Estate/Restricted	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Real Estate/Off-Premises	No	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Other Real Estate[1]	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Shopping Center Sign	No	No	No	No	No	No	No	No	Yes	Yes	Yes	Yes
Temporary Sign	Yes	Yes	No	No	No	No	No	No	Yes	Yes	Yes	Yes

1. This sign classification is only permitted within the district in which the business premises are located.

Sec. 9-309. Sign Area and Height Limitations.

A. The following area and height limitations shall apply regardless of zoning district:

1. Home Occupation Sign. Such signs shall not exceed two (2) square feet in area and four (4) feet in height.

2. Off-Site Directional Sign. Such signs shall not exceed 32 square feet in area and eight (8) feet in height.

3. On-Site Directional Sign. Such signs shall not exceed four (4) square feet in area and 4 feet in height.

4. Portable Sign. Such signs shall not exceed 32 square feet in area and eight (8) feet in height.

5. Prestige Identification Sign. Such signs shall not exceed 64 square feet in area and eight (8) feet in height.

6. Private Sales/Event Sign. Such signs shall not exceed 16 square feet in area and four (4) feet in height.

7. Real Estate Sign/Other. Such signs shall not exceed 32 square feet in area and eight (8) feet in height.

8. Real Estate Sign/Off-Premises. Such signs shall not exceed 32 square feet in area and eight (8) feet in height.

9. Real Estate Sign/Restricted. Such signs shall not exceed two (2) square feet in area and four (4) feet in height.

10. Temporary Sign. Such signs shall not exceed 32 square feet in area and eight (8) feet in height.

B. The provisions of Sec. 9-308.A. notwithstanding, the following area and height limitations shall apply to the various zoning districts:

1. C-1. No sign shall exceed 32 square feet in area and eight (8) feet in height.

2. A-1. No sign shall exceed 32 square feet in area and eight (8) feet in height.

3. R-R, R-O, R-OA, R-A, R-1A. No sign shall exceed 32 square feet in area and eight (8) feet in height.

4. MHP. No sign shall exceed 32 square feet in area and eight (8) feet in height.

5. B-1. No sign shall exceed 100 square feet and 25 feet in height.

6. B-2. No sign shall exceed 150 square feet and 25 feet in height.

7. M-1. No sign shall exceed 150 square feet and 25 feet in height.

8. M-2. No sign shall exceed 200 square feet and 30 feet in height.

C. The following shall apply to all churches and schools regardless of the zoning district in which they are located:

1. Churches. One sign not to exceed 48 square feet in area and eight (8) feet in height. One additional sign not to exceed 12 square feet in area and five feet in height is permitted for child care centers, schools, other buildings or uses, or changeable copy message boards all of which are directly associated with the church and located on the same premises.

2. Schools. One sign not to exceed 48 square feet in area and eight (8) feet in height.

Section 9-310. Exemptions.

The following signs are exempted from the provisions of these regulations:

A. Official traffic signs or sign structure or provisional warning signs or sign structures when erected or required to be erected by a governmental agency, and temporary signs indicating danger.

B. Changing of the copy of a bulletin board, poster board, display encasement or marquee.

C. Temporary non-illuminated signs not more than twenty (20) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the

actual construction work is in progress, one (1) such sign for each street frontage.

D. Non-illuminated signs not exceeding ten (10) square feet in area with letters not exceeding one (1) square foot as part of an awning, canopy, roller curtain or umbrella.

E. Non-illuminated signs warning trespassers or announcing property is posted. Such signs shall not exceed four (4) square feet in area.

F. Signs on a truck, bus, or other vehicle while in use in the course of normal business; however, this shall not be interpreted as permitting parking, for display purposes, of a vehicle to which signs are attached in a district where such signs are not permitted.

G. Temporary non-illuminated or indirectly illuminated signs giving notice of public, semi-public or civic events, including public meetings, political campaigns and elections. All such signs shall be removed within thirty (30) days following such event, public meeting, political campaign, or election.

H. Demonstrations or promotions for nonpartisan civic purposes.

I. Signs indicating support of individuals or political parties during the course of a campaign for elected office. Such signs shall be less than fifteen (15) square feet in area. All such signs shall be removed within thirty (30) after the election.

J. Area and height limitations shall not apply to facade signs.

K. Temporary signs not exceeding six (6) square feet in area and four feet in height in use for a period not to exceed 30 days.

L. Externally illuminated prestige identification signs located in residential zoning districts.

Section 9-311. Permits.

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

A. Permit required. No sign, unless hereinafter excepted, shall be erected, constructed, structurally altered or relocated until a zoning permit has been issued by the Zoning Administrator. Before any such zoning permit is issued, an application shall be filed with the Zoning Administrator together with three (3) sets of drawings or specifications, one (1) of which shall be returned to the applicant. Such drawings and specifications shall advise and acquaint the zoning administrator fully with the location in relation to adjacent buildings, construction materials, manner of illuminating or securing or fastening, number of signs applied for, and the wording of the sign or advertisement to be carried on the sign. Realty signs permitted by this division are exempted from the requirements of this paragraph.

B. Other permits. All applicants shall obtain all necessary building permits or other required approvals prior to the erection of any sign.

C. Permit time limit. All signs shall be erected on or before the expiration of one (1) year from the date of issuance of the zoning permit; otherwise, the permit shall become null and void and a new permit shall be required.

Section 9-312. Nonconforming signs.

Any sign lawfully existing on the effective date of this division and not conforming to the terms of this division is hereby declared a nonconforming sign and may not be structurally altered or replaced unless such sign conforms to the requirements of this division. Upon the cessation or termination of a particular use on a parcel of real property, the owner thereof shall within ninety (90) days of such cessation or termination remove all nonconforming signs whether on or off premises. If the owner shall not comply with this requirement, then written notice shall be given by the Zoning Administrator to the owner advising him of the violation. If such signs are then not removed within ten (10) days, the Zoning Administrator shall cause such removal and charge the cost to the owner of the premises.

Section 9-313. Remedies.

In addition to any other remedy available to the Zoning Administrator under the terms of this article, if any violation of this division is not corrected within ten (10)

days after receipt of notice of violation, the Zoning Administrator may remove or cause to be removed, at the owner's or tenant's expense, such sign. If any such sign so removed is not claimed by the owner within fifteen (15) days of notice by the Zoning Administrator may dispose of the sign.

Section 9-314 through 9-317. Reserved for future legislation.

Division 21. ~~Restrictions Adjacent to Airport.~~ Airport Safety Overlay Zones.

Sec. 9-XXX. Purpose.

The purpose of airport safety zones is to regulate and restrict the height of structures, objects, and natural growth in the vicinity of airports located within New Kent County, such restrictions being necessary to provide for the general health, safety and welfare of the citizens of the county and minimize obstructions that are hazardous to air navigation.

Sec. 9-XXX. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

AIRPORT ELEVATION. The highest point on any usable landing surface expressed in feet above mean sea level.

APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface, and at the same slope as the approach zone height limitation slope set forth in Sec. 9-319 of this ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone. Such zones shall conform to design standards in accordance with current Federal Air Regulations.

APPROACH TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES. The airspace zones set forth in Sec. 9-318 of this ordinance. Such zones shall conform to design standards in accordance with current Federal Air Regulations.

CONICAL SURFACE. A surface extending and sloping horizontally and vertically from the periphery of the horizontal surface. Such surface shall conform to design standards in accordance with current Federal Air Regulations.

HAZARD TO AIR NAVIGATION. An obstruction determined by the Virginia Department of Aviation or the Federal Aviation Administration to have a substantial adverse effect on the safe and effective utilization of navigable airspace in the Commonwealth.

HEIGHT. For the purposes of determining the height limits in all zones set forth in this Division and shown on the zoning map, the datum shall be mean sea level (M.S.L.) elevation unless otherwise specified.

HORIZONTAL SURFACE. A horizontal plane above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone. Such surface shall conform to design standards in accordance with current Federal Air Regulations.

NONCONFORMING USE. Any preexisting structure or object of natural growth which is inconsistent with the provisions of this ordinance or any amendment to this ordinance.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

OBSTRUCTION. Any structure, growth, or other object including a mobile object, which exceeds a limiting height, or penetrates any surface or zone floor, set forth in Sec. 9-319 of this ordinance.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PA). It also means a runway for which a precision approach system is planned and is so indicated on an FAA approved airport layout plan; a military service's approved military airport layout plan; any other FAA planning document, or military service's military airport planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. Such surface shall conform to design standards in accordance with current Federal Air Regulations.

RUNWAY. A specified area on an airport prepared for landing and takeoff of aircraft.

TRANSITIONAL SURFACES. Surfaces which extend outward perpendicular to the runway centerline sloping from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Such zones shall conform to design standards in accordance with current Federal Air Regulations.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure, and no instrument designation indicated on a Federal Aviation Administration's approved airport layout plan, a military service's approved military airport layout plan, or by any planning document submitted to the Federal Aviation Administration by competent authority.

Sec. 9-318. Creation of airport flight zones.

There are hereby created and established certain zones which include all of the land lying within the approach zones, transitional zones, horizontal zones, and conical zones as they apply to a particular airport. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

A. Utility Runway Visual Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface of the airport. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface, its center line being the continuation of the center line of the runway.

B. Utility Runway Non-Precision Instrument Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface of the airport runway. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface, its center line being a continuation of the center line of the runway.

C. Runway Larger than Utility Visual Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface of the airport. The approach zone expands outward uniformly to a width of 1,5000 feet at a horizontal distance of 5,000 feet from the primary surface, its center line being the continuation of the center line of the runway.

D. Runway Larger than Utility with a Visibility Minimum greater than 3/4-Mile Non-precision Instrument Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface of the airport. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface, its center line being the continuation of the center line of the runway.

E. Runway Larger than Utility with a Visibility Minimum as Low as 3/4-Mile Non-precision Instrument Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface, its center line being the continuation of the center line of the runway.

F. Precision Instrument Runway Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface, its center line being the continuation of the center line of the runway.

~~G. Heliport Visual Flight Rules (VFR) Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface of the airport. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface, its center line being the continuation of the center line of the primary surface.~~

~~H. Heliport Instrument Flight Rules (IFR) Approach Zone -- The inner edge of this approach zone coincides with the width of the primary surface and is 300 feet wide. The approach zone expands outward uniformly to a width of 3,400 feet at a horizontal distance of 10,000 feet from the primary surface, its center line being the continuation of the center line of the primary surface.~~

~~I. STOL Precision Instrument Approach Zone -- The inner edge of this approach zone coincides with the primary surface and is 300 feet wide. The approach zone expands outward uniformly to a width of 3,400 feet at a horizontal distance of 10,000 feet from the primary surface, its center line being the continuation of the center line of the runway.~~

J. Transitional Zones -- These zones are hereby established as the area beneath the transitional surfaces. These surfaces extend outward and upward at ninety (90) degree angles to the runway center line and the runway center line extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional zones for those portions of the precision approach zones which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach zones and at ninety (90) degree angles to the extended runway center line.

~~K. Heliport VFR Transitional Zones -- These zones extend outward from the side of the primary surface and the approach zones a horizontal distance of 250 feet from the primary surface center line and the extended primary surface center line.~~

~~L. Heliport IFR Transitional Zones -- These zones extend outward from the sides of the primary surface and a portion of the sides of the approach zones a horizontal distance of 350 feet from the primary surface center line and the extended primary surface center line.~~

~~M. STOL Precision Instrument Transitional Zones -- These zones extend outward from the sides of the primary surface a horizontal distance of 400 feet and from a portion of the sides of the approach zones a variable horizontal distance of 1,500 feet measured outward along the extended primary surface center line.~~

N. Horizontal Zone - The horizontal zone is hereby established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway, and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

O. Conical Zone -- The conical zone is hereby established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet. The conical zone does not include the precision instrument approach zones and the transitional zones.

Sec. 9-319. Height limitation.

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

1. Utility Runway Visual Approach Zone -- Slopes upward twenty (20) feet horizontally for each foot vertically, beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.

2. Utility Runway Non-precision Instrument Approach Zone -- Slopes upward twenty (20) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.

3. Runway Larger than Utility Visual Approach Zone -- Slopes upward twenty (20) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway center line.

4. Runway Larger than Utility with a Visibility Minimum Greater than 3/4-Mile Non-precision Instrument Approach Zone -- Slopes upward thirty-four (34) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line.

5. Runway Larger than Utility with a Visibility Minimum as Low as 3/4-Mile Non-precision Instrument Approach Zone -- Slopes upward thirty-four (34) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line.

6. Precision Instrument Runway Approach Zone -- Slopes upward fifty (50) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway center line; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway center line.

~~7. Heliport VFR Approach Zones -- Slopes upward eight (8) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the extended primary surface center line.~~

~~8. Heliport IFR Approach Zones -- Slopes upward fifteen (15) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface, and extending to a distance of 10,000 feet along the extended primary surface center line.~~

~~9. STOL Approach Zones -- Slopes upward fifteen (15) feet horizontally for each foot vertically beginning at the end of and at the same elevation as the primary surface, and extending to a distance of 10,000 feet along the extended runway center line.~~

10. Transitional Zones -- Slopes upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach zones, and extending to a height of 150 feet above the airport elevation. In addition to the foregoing, there are established height limits sloping upward and outward seven (7) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the approach zones, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, height limits sloping upward and outward seven (7) feet horizontally for each foot vertically shall be maintained beginning at the sides of and at the same elevation as precision instrument runway approach surface, and extending to a horizontal distance of 5,000 feet measured at ninety (90) degree angles to the extended runway center line.

~~11. Heliport VFR Transitional Zones -- Slopes upward and outward two (2) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and the approach surfaces, and extending a distance of 250 feet measured horizontally from and at ninety (90) degree angles to the primary surface center line and extended center line.~~

~~12. Heliport IFR Transitional Zones -- Slopes upward and outward four (4) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and a portion of the sides of the approach surface and extending a distance of 350 feet measured horizontally from and at ninety (90) degree angles to the primary surface center line and extended center line.~~

~~13. STOL Transitional Zones -- Slopes upward and outward four (4) feet horizontally for each foot vertically beginning at the sides of and at the same elevation as the primary surface and a~~

~~portion of the sides of the approach surface and extends to an elevation of 100 feet above the primary surface.~~

14. Horizontal Zone -- One hundred and fifty (150) feet above the airport elevation.

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

B. Excepted height limitations -- Nothing in this section shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to thirty-five (35) feet above the surface of the land. Where an area is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

Sec. 9-320. Prohibited activities.

A. Notwithstanding any other provisions of this article, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport or otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport.

B. Places of public assembly, such as schools, churches, hospitals, apartment houses, theaters, and assembly halls shall not be erected or otherwise located in any area which would be classified as an approach zone under this division.

Sec. 9-321. Vested rights not impaired.

A. The requirements of this section shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this article, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun

prior to the effective date of this article, and is diligently prosecuted.

B. Notwithstanding paragraph A of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operating, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of New Kent County, Virginia.

Sec. 9-322. Special provisions relating to zoning permits.

The following provisions shall apply to zoning permits issued within any zone created by this division:

A. Compliance by a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for the respective zone.

B. The application for a permit within any of the zones established by this section shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure or tree would conform to the regulations prescribed.

C. No permit shall be granted that would allow the establishment or creating of an airport hazard or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this article or any amendments thereto or than it is when the application for a permit is made.

D, Any person aggrieved by the decision of the Zoning Administrator may appeal to the Board of Zoning Appeals.

Secs. 9-323 through 9-328. Reserved for future legislation.

Division 22. Board of Zoning Appeals.

Sec. 9-329. Board established; membership; organization; etc.

A. There is hereby established a Board of Zoning Appeals which shall consist of five (5) residents of New Kent County appointed by the Circuit Court of New Kent County. Their terms of office shall be for five (5) years each except that original appointments shall be made for such terms so that the term of one member shall expire each year. The secretary of such board shall notify the court at least thirty (30) days in advance of the expiration of any term of office and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. Members of the board shall hold no other public office in the County except that one may be a member of the local Planning Commission. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

B. The board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all of the members of the board. The board may make, alter, and rescind rules and forms for its procedures consistent with the ordinances of this County and the general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the Board of Supervisors at least once a year. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by the court which appointed him after a hearing held after at least fifteen (15) days notice.

C. Members of the board shall serve without pay other than for traveling expenses. Within the limit of funds approved by the governing body, the Board of zoning Appeals may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. The contracting for any such services must be approved by the governing body.

D. Meetings of the board shall be held at the call of its chairman or at such time as a quorum of the board may determine. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, records indicating such facts. All records of the board shall be filed immediately with the

Zoning Administrator's office and shall be matters of public record.

Sec. 9-330. Powers and duties.

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

A. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article.

B. To authorize upon appeal or original application in specific cases such variance from the terms of this article as will not be contrary to the public interest when owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this article shall be observed and substantial justice done as follows:

1. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this article or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of the property immediately adjacent thereto, the strict application of the terms of the article would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this article. No such variance shall be authorized by the board unless it finds: (1) that the strict application of this article would produce undue hardship; (2) that the hardship is not shared generally by other properties in the same zoning district and the same vicinity; (3) that the authorization of such variance will not be of substantial detriment to adjacent property; and (4) that the character of the district will not be changed by the granting of the variance.

2. No variance shall be authorized except after notice and hearing as required by State law. No variance shall be authorized unless the board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this article. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

C. To hear and decide appeals from decisions of the Zoning Administrator. No such appeal shall be heard except after notice and hearing as provided by State law.

D. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such questions, and after a public hearing as required by State law, the board may interpret the map in such a way as to carry out the purpose and intent of this article for the particular section or district in questions. The board shall not have the power to change substantially the location of the district boundaries as establish by this article.

E. No provision of this section shall be construed as granting the board the power to rezone any property.

F. To hear and decide applications for conditional use permits, if specifically provided for in this article. If not specifically provided for in this article, such application shall be heard by the governing body or its designee. The Board of Zoning Appeals may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. No such conditional use may be granted by the board except after notice and hearing as provided by State law.

Sec. 9-331. Application to board, procedures.

The following procedures shall apply to appeals taken to the Board of Zoning Appeals:

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the board, an application for appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the board that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case a restraining order may be granted by the board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

B. Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the Zoning Administrator in accordance with rules adopted by the board. The application and accompanying maps, plans and other information shall be transmitted promptly to the secretary of the board who will place the matter upon the docket to be acted upon by the board. No such variance shall be authorized except after notice and public hearing as required by State law. The Zoning Administrator shall transmit a copy of the application to the Planning Commission which may send a recommendation to the board or appear as a party at the hearing.

C. The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof, as well as due notice to the parties in interest and decide the same within sixty (60) days. In exercising its powers, the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision, or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is require to pass under this article or to effect any variance from this article. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Zoning Administrator and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

D. In passing upon applications for Variances from Floodplain requirements, the Board of Zoning Appeals shall

satisfy all relevant factors and procedures specified in this section 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 area that will cause any increase in the one hundred (100) - year flood elevation.

2. The danger that materials may be swept on to 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. Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or

agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increased in flood heights, (b) additional threats to public safety, (c) extraordinary public expense, and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

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

The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the one hundred (100) - year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator. (10/8/90)

Sec. 9-332. Court review.

The following procedures apply to the review of the Board of Zoning Appeals decisions by the Circuit Court:

A. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the County, may present to the Circuit Court of the County, a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the board's decision in the office of the Zoning Administrator.

B. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (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,

after notice to the board and on due cause shown, grant a restraining order.

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

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 his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

E. Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

Secs. 9-333 through 9-335. Reserved for future legislation.

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