

TITLE 6

Planning and Development

Chapter 1	Planning Commission
Chapter 2	Subdivision Regulations
Chapter 3	Zoning
Chapter 4	Dangerous Buildings
Chapter 5	Establishing Street Addresses

CHAPTER 1

Planning Commission

State Law Reference: Authority of town to establish planning commission, Va. Code, Sec. 15.2-2210 et seq.

§ 6-1-1 Created.

§ 6-1-2 Appointment, terms of office and removal of members; filling of vacancies.

§ 6-1-3 Powers and duties.

Sec. 6-1-1 Created.

A town planning commission is hereby created pursuant to the provisions of section 15.2-2210 et seq. of the Code of Virginia.

Sec. 6-1-2 Appointment, terms of office and removal of members; filling of vacancies.

(a) The commission shall consist of seven members, appointed by the council, all of whom shall be residents of the town qualified by knowledge and experience to make decisions on questions of community growth and development.

(b) The commission members shall be appointed on an ad hoc basis to deal with specific request(s) and issue(s).

State Law Reference: Va. Code, Sec. 15.2-2212.

Sec. 6-1-3 Powers and duties.

The planning commission shall exercise such powers and have such duties as are conferred upon such commissions by state law.

State Law Reference: Duties of planning commissions, Va. Code, Sec. 15.1-444.

CHAPTER 2
Subdivision Regulations
(Reserved)

CHAPTER 3

Zoning

State Law Reference: Municipal authority as to zoning, Va. Code, Sec. 15.2-2280 et seq.

ARTICLE A

General Provisions

- § 6-3-1 Districts.
- § 6-3-2 Definitions.

ARTICLE B

Conservation District A-1

- § 6-3-3 Statement of Intent.
- § 6-3-4 Use Regulations.
- § 6-3-5 Area Regulations.
- § 6-3-6 Regulations.
- §§ 6-3-7 through 6-3-10 reserved.

ARTICLE C

Residential District R-1

- § 6-3-11 Purpose.
- § 6-3-12 Use regulations.
- § 6-3-13 Area regulations.
- § 6-3-14 Setback regulations.
- § 6-3-15 Frontage regulations.
- § 6-3-16 Yard regulations.
- § 6-3-17 Height regulations.
- § 6-3-18 Special provisions for corner lots.
- §§ 6-3-19 through 6-3-30 reserved.

ARTICLE D

Residential District R-2

- § 6-3-31 Purpose.
- § 6-3-32 Use regulations.
- § 6-3-33 Area regulations.
- § 6-3-34 Setback regulations.
- § 6-3-35 Frontage regulations.
- § 6-3-36 Yard regulations.
- § 6-3-37 Height regulations.
- § 6-3-38 Special provisions for corner lots.
- §§ 6-3-39 through 6-3-50 reserved.

ARTICLE E

Business District B-1

- § 6-3-51 Purpose.
- § 6-3-52 Use regulations.
- § 6-3-53 Area regulations.
- § 6-3-54 Frontage and yard regulations.
- § 6-3-55 Height regulations.

§ 6-3-56 Requirements for permitted uses.
§§ 6-3-57 through 6-3-70 reserved.

ARTICLE F
Industrial District M-1

§ 6-3-71 Purpose.
§ 6-3-72 Use regulations.
§ 6-3-73 Requirements for permitted uses.
§ 6-3-74 Area regulations.
§ 6-3-75 Setback regulations.
§ 6-3-76 Frontage and yard regulations.
§ 6-3-77 Height regulations.
§ 6-3-78 Coverage regulations.
§§ 6-3-79 through 6-3-90 reserved.

ARTICLE G
Nonconforming Uses

§ 6-3-91 Continuation.
§ 6-3-92 Permits.
§ 6-3-93 Repairs and maintenance.
§ 6-3-94 Changes in district boundaries.
§ 6-3-95 Expansion or enlargement.
§ 6-3-96 Restoration or replacement.
§§ 6-3-97 through 6-3-110 reserved.

ARTICLE H
General Regulations

§ 6-3-111 Zoning permits.
§ 6-3-112 Certificate of occupancy.
§ 6-3-113 Conditional use permit.
§ 6-3-114 Uses not provided for.
§ 6-3-115 Widening of highways and streets.
§ 6-3-116 Minimum off-street parking.
§ 6-3-117 Emergency mobile home.
§§ 6-3-118 Burkeville Flood Plan.
§§ 6-3-119 through 6-3-130 reserved.

ARTICLE I
Provisions for Appeal

§ 6-3-131 Board of zoning appeals.
§ 6-3-132 Powers of the board of zoning appeals.
§ 6-3-133 Rules and regulations.
§ 6-3-134 Appeal to the board of zoning appeals.
§ 6-3-135 Appeal procedure.
§ 6-3-136 Public hearing.
§ 6-3-137 Decision of board of zoning appeals.
§§ 6-3-138 through 6-3-150 reserved.

ARTICLE J
Violation and Penalty

§ 6-3-151 Permits.
§ 6-3-152 Penalties.
§§ 6-3-153 through 6-3-160 reserved.

ARTICLE K
Amendments

§ 6-3-161 Procedure.
§§ 6-3-162 through 6-3-170 reserved.

ARTICLE L
Administration and Interpretation

§ 6-3-171 Administrator.
§ 6-3-172 Construction prior to effective date.
§ 6-3-173 Interpretation.
§ 6-3-174 Effective date.
§ 6-3-175 Severability.
§ 6-3-176 Conflicting ordinances.

ARTICLE A
General Provisions

Sec. 6-3-1 Districts.

For the purpose of this chapter, the incorporated area of Burkeville, Virginia, is hereby divided into the following districts:

- (1) Conservation A-1
- (2) Residential R-1
- (3) Residential R-2
- (4) Business B-1
- (5) Industrial M-1

Sec. 6-3-2 Definitions.

For the purpose of this chapter, certain words and terms are defined as follows: Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

Abattoir - A commercial slaughterhouse.

Accessory use or structure - A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building. Attached structures shall be considered part of the main building.

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

Administrator - The official charged with the enforcement of this chapter. The Town of Burkeville Clerk-Treasurer is designated as the administrator of the zoning ordinance.

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

Area - That portion of a parcel of land which the owner or developer demonstrates is usable by the inhabitants or future inhabitants of that parcel. Excessive slopes and flood plains may be deemed unusable.

Automobile graveyard - Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated, are placed.

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

Boarding house - A building where, for compensation, lodging and meals are provided for at least five and up to 14 persons.

Building - Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or chattels.

Building, accessory - A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

Building, height of - The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof, or the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

Building, main - The principal structure or one of the principal buildings on the lot, or the building or one of the principal buildings housing the principal use on the lot.

Building Permit - A document issued by Nottoway County authorizing construction or modification of a structure based on zoning approval from the Town of Nottoway and subject to compliance with applicable building codes as determined by the County Building Inspector.

Church - A structure originally designed for worship and normal church function, not to include converted residential structures.

Commission - The Planning Commission of Burkeville, Virginia.

District - Districts as referred to in the state code, section 15.2-2280.

Dwelling - Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments and mobile homes.

Dwelling, multiple-family - A structure arranged or designed to be occupied by more than one family.

Dwelling, duplex - A structure arranged or designed to be occupied by two families, the structure having only two dwelling units.

Dwelling, single-family - A structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling unit - One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen.

Dump heap (trash pile) - Any area of 100 square feet or more lying within 1,000 feet of a state highway, a residence, a dairy barn or food handling establishment where trash, garbage or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

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.

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

Garage, private - Accessory building designed or used for the storage of not more than three 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 times as many automobiles as there are dwelling units.

Group - Not more than four.

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

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 defined herein.

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 Town Council of Burkeville, Virginia.

Guest room - A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.

Home occupation - An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display and where no one is employed other than members of the family residing on the premises, such as dressmaking, millers, hairdressing and manicuring, preserving and home cooking, provided that not more than the equivalent of the area of one floor shall be used for such occupation and no display of products made shall be visible from the street.

Hospital - An institution rendering medical, surgical, obstetrical or convalescent care, including nursing homes, homes for the aged and sanatoriums, but in all cases excluding veterinary and hospitals specializing in the care and treatment of mental illnesses, narcotic addicts or alcoholics, unwed mothers and those about to become mothers out of wedlock.

Hospital, special care - A special care hospital shall mean an institution rendering care primarily for mental or feeble-minded patients, alcoholics or drug addicts.

Hotel - A building designed or occupied as the more or less temporary abiding place for 14 or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

Junk yard - The use of any area of land lying within 100 feet of a state highway or the use of more than 200 square feet of land area in any location for the storage, keeping or abandonment of junk including scrap metals or other scrap materials. The term "junk yard" shall include the term "automobile graveyard" as defined in chapter 304, Acts of 1938, Code of Virginia.

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

Livestock market - A commercial establishment wherein livestock is collected for sale and auctioned off.

Lodge - The local chapter or hall of a fraternal organization, not including college fraternities.

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

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

Lot, depth of - The average horizontal distance between the front and rear lot lines.

Lot, double frontage - An interior lot having frontage on two streets.

Lot, interior - Any lot other than a corner lot.

Lot, width of - The average horizontal distance between side lot lines.

Lot of record - A lot which has been recorded in the clerk's office of the circuit court.

Manufacture and/or manufacturing - The processing and/or converting of raw, unfinished material, or products, or either of them into articles or substances of different character, or for use for a different purpose.

Mobile home - A mobile home is a unit originally designed as a living unit and also designed for transportation, after fabrication, on streets and highways on its own wheels or on a flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy; except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. The term "mobile home" does not include travel trailers nor does it include modular housing.

Mobile home court/park - Any area of five acres or more, the density of which shall not be less than 8,000 square feet per unit.

Modular home - A dwelling unit primarily manufactured off-site in accordance with the state uniform statewide building code standards and transported to the building site for final assembly on a permanent foundation.

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

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

Nonconforming structure - An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter, for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

Off-street parking area - Space provided for vehicular parking outside the dedicated street right-of-way.

Public water and sewer systems - A water or sewer system owned and operated by a municipality or county, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the state corporation commission, and subject to special regulations as herein set forth.

Required open space - Any space required in any front, side or rear yard.

Restaurant - Any building in which, for compensation, food or beverages are dispensed for consumption on the premises, including among other establishments, cafes, tea rooms, confectionery shops or refreshment stands.

Restaurant, drive-in - An establishment from which, for compensation, food or beverages are dispensed for consumption within automobiles or on informal facilities on the premises.

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 illustrations: drug store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barbershop and beauty shop.

Rooming house - A house which provides sleeping quarters but not kitchen facilities for one or more persons outside of the immediate family.

Sawmill - A portable sawmill located on a private property for the processing of timber cut only from that property or from property immediately contiguous and adjacent thereto.

Schools.

- (a) Elementary, intermediate and secondary - Educational institutions offering instruction between the grades of one and 12 or as defined by the state department of education.
- (b) Trade or vocational - Facility where instruction is given in business, industrial and cultural arts, other than that normally provided in colleges and secondary schools.
- (c) Day and kindergarten - Facility for care and/or instruction of children of preschool age.

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

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 one square foot in area is excluded from this definition.

Sign structure - Includes the supports, uprights, bracing and framework of any structure, be it single-faced, double-faced, V-type, or otherwise, exhibiting a sign.

Store - See Retail stores and shops.

Street, road - A public thoroughfare which affords principal means of access to abutting property.

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

Structure - Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings and signs; utility poles are excluded.

Tourist court, auto court, motel, hotel, cabins or motor lodge - One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

Tourist home - A dwelling where only lodging is provided for compensation for up to 14 persons (in contradistinction to hotels and boarding houses) and open to transients.

Transmission line, electrical - Any electrical line carrying a voltage exceeding 60,000 volts.

Travel trailer - A mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation, but not used for permanent residence. No appendage such as tongue, stoop or awning shall be used in computing length.

Use, accessory - A subordinate use, customarily incidental to and located upon the same lot occupied by the main use.

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

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

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

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

ARTICLE B

Conservation District A-I

Sec. 6-3-3 Statement of Intent.

This district is intended to be composed of land now being used for conservation purposes such as grazing, grain crops, pasture, wooded areas, and land not in visible use. The use of these lands for conservation purposes is expected to decrease over succeeding years, thus making available additional areas for development as residential or business purposes. Such use changes can be accomplished by re-zoning as provided within this ordinance.

Sec. 6-3-4 Use Regulations.

(a) The following uses are permitted in this district:

- (1) Single family dwellings.
- (2) Two family dwellings if part of dwelling is occupied by the owner of the dwelling.
- (3) Schools, churches, parks, playgrounds.
- (4) Home occupations.
- (5) General agriculture, except stockyards, poultry operations and other intense agriproduct industries which by virtue of noise, dust, or odor generation would render them incompatible with adjoining land uses within the Town.
- (6) Public utility and service facilities as may be necessary to serve residents of this district.
- (7) Up to one domestic horse per five acres of grazing land.

(b) The following uses may be permitted upon issuance of a Conditional Use Permit by the Town Council (Refer to Article H, Sec. 6-3-113):

- (1) Motels and Restaurants.
- (2) Outdoor advertising (Refer to Code of VA).
- (3) Summer camps and campgrounds.

- (4) Dance halls, county clubs or similar recreational clubs if properly regulated as to operating hours, behavior and noise.
- (5) Additional domestic horses per five acres of grazing land for up to six months subject to conditional use permit.

Sec. 6-3-5 Area Regulations.

The minimum lot area shall be 43,560 square feet unless a greater area is otherwise required.

Sec. 6-3-6 Regulations.

Regulations governing setback, frontage, yard, height of structures, off street parking, and signs shall be not less restrictive than corresponding regulations for the residential district joining or abutting this district.

Secs. 6-3-7 through 6-3-10 reserved.

ARTICLE C
Residential District R-1

Sec. 6-3-11 Purpose.

Residential District R-1 encompasses low-density single-family residential areas, both existing and planned. The following regulations are designed to stabilize, protect and promote this type of development. This district should provide a suitable environment for families who desire quiet, spacious homesites with the amenities of suburban living, without fear of encroachment of dissimilar uses.

Sec. 6-3-12 Use regulations.

Only one main building and its accessory buildings may be erected on any lot or parcel of land in Residential District R-1. Structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Single-family dwellings.
- (2) Churches.
- (3) Elementary, intermediate and secondary schools, with a conditional use permit.
- (4) Parks and playgrounds.
- (5) Off-street parking as required by this chapter.
- (6) Accessory uses and structures customarily incident to any use permitted by this section, such as servants' quarters, greenhouses or workshops, provided none shall be conducted for gain and that no accessory buildings shall be inhabited by other than those who are employees of the owner, lessor or tenant of the premises. No accessory building may be closer than five feet to any property line.
- (7) Private garage in the same lot with the building, not maintained for the service of the public or operated or conducted for commercial or industrial use, but no such private garage shall be hereafter located or erected on any residential block closer to the street than the setback line for the residence on that street or side street.
- (8) Private group garages, not exceeding four, fronting on alleys, provided no commercial repair work is done, must be setback not less than five feet from alley.
- (9) Public utilities, including poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities. Electrical transmission lines and substations are excluded.
- (10) Home occupations, conducted by occupant, with conditional use permit.
- (11) Identification signs, not exceeding two square feet in area.
- (12) Church bulletin boards and church identification signs for church activities only not exceeding 12 square feet in area.
- (13) Temporary real estate signs not exceeding six square feet in area no part of which shall be nearer than five feet from any property line and used only to advertise the premises upon which erected.

(14) Day schools and kindergartens, with conditional use permit.

(15) Home occupations which are compatible with the residential neighborhood, with conditional use permit.

Sec. 6-3-13 Area regulations.

The minimum lot area shall be 15,000 square feet unless a greater area is otherwise required.

Sec. 6-3-14 Setback regulations.

Setbacks shall be located 30 feet or more from any street or State right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."

Sec. 6-3-15 Frontage regulations.

The minimum lot width at the setback line and at the street frontage shall be 60 feet.

Sec. 6-3-16 Yard regulations.

(a) Side - The minimum side yard for each main structure shall be 15 feet, or 30 feet from the nearest dwelling.

(b) Rear - The minimum rear yard for each main structure shall be 35 feet.

Sec. 6-3-17 Height regulations.

Structures may be erected up to 35 feet in height except that:

(1) The height limit for dwellings may be increased up to 45 feet and up to three stories provided each side yard is 30 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) Churches may be erected to a height of 60 feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, municipal water towers, chimneys, flues, flagpoles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(4) Accessory buildings over one story in height shall be at least 20 feet from any lot line. All accessory buildings shall be less than the main building in height.

Sec. 6-3-18 Special provisions for corner lots.

(a) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(b) The side yard on the side facing the side street shall be 30 feet or more for both main and accessory buildings.

(c) For subdivisions platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line of 125 feet.

Secs. 6-3-19 through 6-3-30 reserved.

ARTICLE D
Residential District R-2

Sec. 6-3-31 Purpose.

Residential District R-2 encompasses medium density residential areas, both existing and planned, as well as certain compatible public, semi-public, and very limited commercial land uses. The following regulations are designed to stabilize, protect and promote this type of development. This district should provide a suitable

environment for persons desiring the amenities of apartment living and the convenience of being close to shopping and employment centers and other community facilities.

Sec. 6-3-32 Use regulations.

Only one building and its accessory buildings may be erected on any lot or parcel of land in Residential District R-2. Structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Single-family dwellings.
- (2) Multiple-family dwellings.
- (3) Rooming and boarding houses.
- (4) Tourist homes.
- (5) College and campus related facilities.
- (6) Elementary, intermediate and secondary schools, both public and private, with a conditional use permit.
- (7) Day schools and kindergartens, with conditional use permit.
- (8) Churches, lodges, armories and other public and semipublic facilities including hospitals, excepting veterinary and hospitals specializing in the care and treatment of mental illnesses, narcotic addicts or alcoholics, unwed mothers and those about to become mothers out of wedlock. A conditional use permit may be required for these uses.
- (9) Rest, convalescent or nursing homes, but not penal or mental institutions.
- (10) Parks and playgrounds.
- (11) Professional offices.
- (12) Home occupations, conducted by the occupant.
- (13) Mobile home courts/parks, with conditional use permit and subject to the conditions of Section 6-3-33 (c).
- (14) Off-street parking as required by this chapter.
- (15) Accessory uses and structures customarily incident to any use permitted by this section, such as servants' quarters, greenhouses or workshops, provided none shall be conducted for gain and that no accessory buildings shall be inhabited by other than those who are employees of the owner, lessor or tenant of the premises. No accessory building may be closer than two feet to any property line and no overhand may project closer than one foot to any property line.
- (16) Private garage on the same lot with the building, not maintained for the service of the public or operated or conducted for commercial or industrial use, but no such private garage shall be hereafter located or erected on any residential block closer to the street than the setback line for the residence on that street or side street.
- (17) Private group garages, not exceeding four, fronting on alleys, provided no commercial repair work is done, must be set back not less than five feet from an alley.
- (18) Public utilities including poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities. Electrical transmission lines and substations are excluded.
- (19) Businesses or identification signs not exceeding six square feet in area per side and not more than two sides, no part of which shall be nearer than five feet to any town property line.
- (20) Church bulletin boards and church identification signs for church activities only not exceeding 12 square feet in area, no part of which shall be nearer than five feet to any town property line.
- (21) Temporary real estate signs not over six square feet in area, no part of which shall be nearer than five feet to any property line and used only to advertise the premises upon which erected.

Sec. 6-3-33 Area regulations.

(a) The minimum lot area shall be 5,000 square feet, plus 2,500 square feet for each additional dwelling unit under one roof for lots served by public water and sewer; however, the overall density shall not exceed 10 dwelling units per acre.

(b) For single-family residential lots not served by water and/or sewer, the minimum area shall be as required by the health official. The administrator may require a greater area if considered necessary by the health official. All other permitted uses shall be served by public water and sewerage systems.

(c) Mobile home courts must have a minimum area of at least five acres and must be served by both public water and public sewer utilities. All internal roads serving a mobile home court must be constructed to appropriate Virginia Department of Transportation secondary road standards serving a local neighborhood. Within a mobile home court, no structure, outbuilding or mobile home may be placed within 25 feet of an adjoining residential district.

Sec. 6-3-34 Setback regulations.

Setbacks shall be located 30 feet or more from any street or State right-of-way which is 50 feet or greater in width, or 60 feet or more from the center of any street right-of-way less than 50 feet in width. This shall be known as the "setback line."

Sec. 6-3-35 Frontage regulations.

For multi-family structures the minimum lot width at the setback line shall be 50 feet, plus 15 feet for each additional dwelling unit more than one. Minimum lot width shall be 60 feet for individual structures.

Sec. 6-3-36 Yard regulations.

(a) Side - The minimum side yard for each main structure shall be seven feet or ten percent of lot width but not less than four feet.

(b) Rear - Each main structure shall have a rear yard of 15 feet.

Sec. 6-3-37 Height regulations.

Structures may be erected up to 35 feet in height from grade except that:

- (1) The height limit for structures may be increased up to 45 feet and up to three stories provided each side yard is seven feet, plus one foot of side yard for each additional foot of building height over 35 feet.
- (2) A public or semi-public building such as school, church, library or hospital may be erected to a height of 70 feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (3) College structures may be erected to a height of 125 feet from grade provided that required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.
- (4) Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flag poles, television antennae and radio aeriels are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

Sec. 6-3-38 Special provisions for corner lots.

(a) Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

(b) The side yard on the side facing the side street shall be 20 feet or more for both main and accessory building.

(c) For subdivision platted after the enactment of this chapter, each corner lot shall have a minimum width at the setback line of 75 feet or more.

Secs. 6-3-39 through 6-3-50 reserved.

ARTICLE E
Business District B-1

Sec. 6-3-51 Purpose.

Generally, this district covers that portion of the community intended for the conduct of general 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 occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, restaurants and taverns.

Sec. 6-3-52 Use regulations.

In Business District B-1, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) All use regulations in R-1 and R-2 are permitted, subject to the regulations of the applicable district.
- (2) Retail food stores.
- (3) Bakeries.
- (4) Dry cleaners.
- (5) Laundries.
- (6) Wearing apparel stores.
- (7) Drug stores.
- (8) Barbershops and beauty shops.
- (9) Auto and home appliance services.
- (10) Theaters, assembly halls.
- (11) Hotels, motels and inns.
- (12) Office buildings.
- (13) Churches.
- (14) Libraries.
- (15) Hospitals, general.
- (16) Animal hospital or clinic.
- (17) Funeral home.
- (18) Service stations & auto body shops (with major repair under cover).
- (19) Clubs and lodges.
- (20) Auto sales and service.
- (21) Lumber and building supply (with storage under cover).
- (22) Plumbing and electrical supply (with storage under cover).
- (23) Wholesale and processing not objectionable because of dust, noise or odors with a conditional use permit.
- (24) Machinery sales and service.
- (25) Furniture stores.
- (26) Restaurants.
- (27) Public utilities.
- (28) Convenient stores.
- (29) Banks.
- (30) Off-street parking as required by this chapter.
- (31) Within any B-1 district, amusement parlors, as defined hereafter, bowling alleys (except for regulation size ten pin or duck pin bowling alleys of at least four alleys), dance halls and similar forms of public amusement, shall be prohibited, provided, however, that the same may be authorized with

any such restrictions or conditions as may be approved and authorized with any such restrictions or conditions as may be approved and authorized by conditional use permit under the procedures of Sec. 6-3-113 of Article H (General Regulations), of Chapter 3 of Title 6 of this Code; provided, however that before a conditional use permit is granted, a public hearing shall have been held by the governing body on an application submitted to the body for such use. The governing body may request that the planning commission submit a recommendation to them concerning such use applications. In approving any such application, the governing body may establish such special requirements and regulations for the protection of adjacent property, set the hours of operation and make requirements as they may deem necessary in the public interest; it being understood, that a conditional use permit is in addition to the zoning permit and certificate of occupancy required by other sections.

Amusement Parlors, Define:

- (i) Amusement parlors are defined as any building, structure or lot in or on which is located more than three, separately or in combination (whether or not operated by coin in a slot principal), electric or electronic video, pinball, or slot machines, or game machines, used or designed to be used for entertainment or games by the insertion of coin, currency or tokens, or by paying any valuable consideration to activate the machines;
- (ii) Any business establishment wherein or whereon is located one or more pool or billiard tables for use by the patrons of such place or business, whether or not there exists in or on the same premises any such devices as are set forth in subparagraph (a) above.
- (iii) The aforesaid definitions shall not be deemed to include jukeboxes or similar machines designed only for the playing of recorded, taped or electronic music, nor to hobby horses or similar mechanical rides designed and intended for use by children under the age of twelve.
- (iv) The aforesaid definitions shall likewise not be deemed to include bona fide public or private schools or churches with a regular congregation or other charitable organization, recognized by Section 501 (c) (3) of the Internal Revenue Code, and provided that such school, church or other exempt organization, shall restrict the use of the devices as set forth in Paragraphs (a) and (b) above to the provisions of this paragraph dealing with exempt organizations shall apply regardless of the zoning district in which said institution may be located.

(32) Business signs.

(33) Directional signs.

(34) Church bulletin boards and church identification signs for church activities only not exceeding 12 square feet in area.

(35) General advertising signs.

Sec. 6-3-53 Area regulations.

None, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the health official.

Sec. 6-3-54 Frontage and yard regulations.

For permitted uses, the minimum side yard or rear yard adjoining or adjacent to a residential or conservation district shall be 25 feet and off-street parking shall be in accordance with the provisions contained herein.

Sec. 6-3-55 Height regulations.

(a) Buildings may be erected up to 45 feet in height from grade.

(b) Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

Sec. 6-3-56 Requirements for permitted uses.

Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, detailed site plans in sufficient detail to show the operations and processes shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission for their recommendations. Modification of the plans may be required.

Secs. 6-3-57 through 6-3-70 reserved.

ARTICLE F
Industrial District M-1

Sec. 6-3-71 Purpose.

Industrial District M-1 is intended to provide areas to accommodate non-offensive industries which would have a minimal nuisance effect on adjacent land uses. Industrial District M-1 should accommodate what are commonly known as "light" industries and allow for their location near the other developed areas of the community.

Sec. 6-3-72 Use regulations.

In Industrial District M-1, structures to be erected or land to be used shall be for one or more of the following uses:

- (1) Assembly of electrical appliances, electronic instruments, components and devices, radios and phonographs.
- (2) Automobile sales, assembling, painting, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling and tire retreading or recapping.
- (3) Blacksmith shop, welding or machine shop, excluding punch presses exceeding 40 ton rated capacity and drop hammers.
- (4) Laboratories, pharmaceutical and/or medical.
- (5) Manufacture, compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceutical, perfumed toilet soap, toiletries and food products.
- (6) Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious or semiprecious metals or stones, shell, straw, textiles, tobacco, wood, yam and paint.
- (7) Manufacture or pottery and figures or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
- (8) Manufacture of musical instruments, toys, novelties and rubber and metal stamps.
- (9) Building material sales yards, plumbing supplies storage.
- (10) Coal and wood yards, lumber yards, feed, seed and fertilizer stores.
- (11) Contractor's equipment storage yards or plants, or rental of equipment commonly used by contractors.
- (12) Cabinet, furniture and upholstery shops.
- (13) Monumental stone works.
- (14) Rock quarry.
- (15) Boat building.
- (16) Veterinary or dog or cat hospital, kennels.
- (17) Wholesale businesses, sales and storage warehouses.
- (18) Truck terminals.
- (19) Petroleum storage.

- (20) Junk storage, with conditional use permit and subject to conditions of Section 6-3-23 (t).
- (21) Off-street parking as required by this chapter.
- (22) Public utilities generating, booster or relay stations, transformer substations, transmission lines and towers and other facilities for the provision and maintenance of public utilities, including railroad and facilities, and water and sewerage installations.
- (23) Business or identification signs.

Sec. 6-3-73 Requirements for permitted uses.

(a) Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the plan, in sufficient detail to show the operations and processes, shall be submitted to the zoning administrator for study. The administrator may refer these plans to the planning commission and/or the council for their recommendations. Modification of the plans may be required.

(b) Permitted uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid masonry wall, a uniformly painted solid board fence or evergreen hedge of sufficient density to screen from view at least six feet in height. Public utilities and signs requiring natural air circulation, unobstructed view, or other technical consideration necessary for proper operation may be exempt from this provision. This exception does not include storing of any materials.

(c) Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards. Landscaping may be permitted up to a height of three feet, and to within 50 feet from the corner of any intersecting streets.

(d) Sufficient area shall be provided (i) to adequately screen permitted uses from a adjacent business and residential districts and (ii) for off-street parking of vehicles incidental to the industry, its employees and clients.

(e) The administrator shall act on any application received within 30 days after receiving the application. formal notice in writing is given to the application, the time for action may be extended for a 30-day period.

(f) In no case should a junk yard be within 100 feet from any conservation or residential district.

Sec. 6-3-74 Area regulations.

None, except if permitted uses utilize individual water or sewage disposal systems, the required area for any such use shall be established by the health official.

Sec. 6-3-75 Setback regulations.

Setbacks shall be located ten feet or more from any street right-of-way which is 50 feet or greater in width, or 35 feet or more from the center line of any street right-of-way less than 50 feet in width except that signs advertising sale or rent of premises may be erected up to the property line. This shall be known as the "setback line."

Sec. 6-3-76 Frontage and yard regulations.

For permitted uses the minimum side yard adjoining or adjacent to a residential zoning district or conservation district shall be 25 feet. The side yard of corner lots shall be 25 feet or more. Off-street parking shall be in accordance with the provisions contained in this chapter.

Sec. 6-3-77 Height regulations.

Buildings may be erected up to a height of 45 feet. Chimneys, flues, cooling towers, flag poles, radio or communication towers, grain elevators or their accessory facilities not normally occupied by workmen are excluded from this limitation. Parapet walls are permitted up to four feet above the limited height of the building on which the walls rest.

Sec. 6-3-78 Coverage regulations.

Buildings or groups of buildings with their accessory buildings may cover up to 70 percent of the area of the lot.

Secs. 6-3-79 through 6-3-90 reserved.

ARTICLE G
Nonconforming Uses

Sec. 6-3-91 Continuation.

(a) If at the time of enactment of this chapter, 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 chapter, such manner of use or purpose may be continued as herein provided, except that advertising structures that become nonconforming because of a rezoning have 24 months within which to relocate in permitted area.

(b) If any change in title of possession or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

(c) If any nonconforming use (structure or activity) is discontinued for a period exceeding two years, after the enactment of this chapter, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this chapter.

(d) Whenever a nonconforming structure, lot or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

Sec. 6-3-92 Permits.

The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this chapter may proceed, provided such building is completed within one year, or such use of land established within 30 days after the effective date of this chapter.

Sec. 6-3-93 Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the structure; provided that the cubic content of the structure as it existed at the time of passage or amendment of this chapter shall not be increased. Nothing of this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

Sec. 6-3-94 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 change shall become subject to the provisions of this article.

Sec. 6-3-95 Expansion or enlargement.

(a) A nonconforming structure to be extended or enlarged shall conform with the provisions of this chapter.

(b) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this chapter.

Sec. 6-3-96 Restoration or replacement.

(a) If a nonconforming activity is destroyed or damaged in any manner, to the extent that the cost of restoration to its condition before the occurrence shall exceed 50 percent of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this chapter.

(b) If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration of its condition before the occurrence shall exceed 75 percent of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this chapter. Nonconforming residential structures may be restored; however, any expansion of the original structure must conform to the requirements of this chapter.

(c) Where a conforming structure devoted to a nonconforming activity is damaged less than 50 percent of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored; provided any such repair or restoration is started within 12 months and completed within 18 months from the date of partial destruction.

(d) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost or restoration for any structure or activity devoted to a nonconforming use.

Sec. 6-3-97 through 6-3-110 reserved.

ARTICLE H General Regulations

Sec. 6-3-111 Zoning permits.

(a) No buildings or structures shall be started, reconstructed, enlarged or altered until a zoning permit has been obtained from the administrator. The administrator may refer any request for a zoning permit to the planning commission and council.

(b) The Commission may request a review of the zoning permit approved by the administrator in order to determine if the contemplated use in accordance with the district in which the construction lies.

(c) Each application for a zoning permit shall be accompanied by two copies of a drawing showing dimensions of the structure and lot. The drawing shall show 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 or land, and the location of such building or use with respect to the property lines of that parcel of land and to the right-of-way of any street or highway adjoining the parcel of land. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit.

Sec. 6-3-112 Certificate of occupancy.

No land may be used or occupied and no buildings structurally altered or erected shall be used or changed in use until a certificate of occupancy has been issued by the administrator. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. A certification of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter.

Sec. 6-3-113 Conditional use permit.

Where required by this chapter the location of certain permitted uses shall require, in addition to the zoning permit and certificate of occupancy, a conditional use permit. These permits shall be subject to such conditions

as the governing body deems necessary to carry out the intent of this chapter. These conditions may include, but not be limited to parking, screening, setbacks, area, hours of operation, illumination, noise level, pollution control and control of odors, control of traffic and public safety.

Sec. 6-3-114 Uses not provided for.

If in any district establishment under this chapter, a use compatible with the district is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator may refer the application to the planning commission which shall make its recommendations to the governing body within 60 days. If the recommendation of the planning commission is approved by the governing body, this chapter shall be interpreted to list the use as a permitted use in that district.

Sec. 6-3-115 Widening of highways and streets.

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

Sec. 6-3-116 Minimum off-street parking.

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 space with adequate provision for entrance and exit by standard sized automobiles as follows:

- (1) In all residential districts there shall be provided either in a private garage or on the lot, space for parking of two automobiles for each dwelling unit in a new building, or each dwelling unit added in the case of the enlargement of an existing building.
- (2) Tourist homes and motels shall provide on the lot, parking space for one automobile for each accommodation.
- (3) For church, high school, college and university auditoriums, and for theaters, general auditoriums, stadiums and other similar places of assembly, at least one parking space for every five fixed seats provided in the building.
- (4) For hospitals, at least one parking space for each two beds capacity, including infants' cribs and children's beds.
- (5) For medical and dental clinics, at least 10 parking spaces. Three additional parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of three doctors or dentists.
- (6) For motels, hotels and apartments, at least one parking space for each individual sleeping or living unit.
- (7) For funeral homes and liquor stores, at least 30 parking spaces.
- (8) For retail stores selling direct to the public, one parking space for each 200 square feet of retail floor space in the building.
- (9) Any other commercial building or land use not listed above hereafter erected or converted shall provide one parking space for each 200 square feet of business floor space in the building or in commercial land use. Utility substations and telephone exchanges are excluded.
- (10) Parking space as required in the foregoing shall be 10 feet by 20 feet and shall be on the same lot with the main building, except that in the case of buildings other than dwellings, spaces may be located as far away as 600 feet. Every parcel of land hereafter serving as a parking area shall be surfaced with concrete or a four inch stone base surface with asphalt, except in the case of one or two family dwellings, in which case the parking area may be surfaced with gravel or stone. It shall be accessible and have appropriate guards where needed as determined by the administrator. Any lights

used to illuminate these parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

Sec. 6-3-117 Emergency Mobile Home

A special use permit for a temporary mobile home may be issued by the governing body, subject to the following conditions:

- (1) That the permit be granted only to the owner of a fully-completed dwelling which has been damaged or destroyed by fire, explosion or other act of nature or by a third party not acting at the request or direction of the owner, to such an extent that the dwelling is rendered uninhabitable in the judgement of the governing body.
- (2) That the permit be granted to the owner only for the purpose of providing temporary shelter for the person who resided in the damaged or destroyed residence at the time of its damage or destruction.
- (3) That the permit authorizes the placing of a mobile home on the lot on which the damaged or destroyed premises was located and/or a lot or lots immediately adjacent to such lot.
- (4) That the period for the placement and use of an Emergency Mobile Home shall concur with the anticipated period of the construction. Applications for renewal may be submitted if more time is required to complete the project. However, such renewal applications must be filed at least 90 days prior to the expiration of the original special use permit.
- (5) That a building permit shall be obtained from the County and the mobile home shall be set up and connected to utilities in accordance with applicable building codes as determined by the County Building Inspector.

Sec. 6-3-118 Burkeville Flood Plain

Contents

ORDINANCE NO. 6-3-118

ARTICLE I - GENERAL PROVISIONS

- Section 1.1 – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]
- Section 1.2 – Applicability
- Section 1.3 - Compliance and Liability
- Section 1.4 – Records [44 CFR 59.22(a)(9)(iii)]
- Section 1.5 - Abrogation and Greater Restrictions [44 CFR 60.1(b)]
- Section 1.6 - Severability
- Section 1.7 - Penalty for Violations [44 CFR 60.2(e)]

ARTICLE II - ADMINISTRATION

- Section 2.1 - Designation of the Floodplain Administrator [44 CFR 59.22(b)]
- Section 2.2 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]
- Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]
- Section 2.4 - Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]
- Section 2.5 - District Boundary Changes
- Section 2.6 - Interpretation of District Boundaries
- Section 2.7 – Submitting Model Backed Technical Data [44 CFR 65.3]
- Section 2.8 – Letters of Map Revision

Section 3.1 - Description of Special Flood Hazard Districts [44 CFR 59.1, 60.3]

Section 3.2 - Overlay Concept

ARTICLE IV - DISTRICT PROVISIONS [44 CFR 59.22, 60.2, 60.3]

Section 4.1 – Permit and Application Requirements

Section 4.2 - General Standards

Section 4.3 - Elevation and Construction Standards [44 CFR 60.3]

Section 4.4 - Standards for Subdivision Proposals

ARTICLE V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

ARTICLE VI - VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]

ARTICLE VII - GLOSSARY [44 CFR 59.1]

ARTICLE VIII – ENACTMENT

ORDINANCE NO. 6-3-118

AN ORDINANCE AMENDING ORDINANCE NO. 6-3-118, THE ZONING ORDINANCE OF THE TOWN OF BURKEVILLE, VIRGINIA, BY ESTABLISHING FLOODPLAIN DISTRICTS, BY REQUIRING THE ISSUANCE OF PERMITS FOR DEVELOPMENT, AND BY PROVIDING FACTORS AND CONDITIONS FOR VARIANCES TO THE TERMS OF THE ORDINANCES.

BE IT ENACTED AND ORDAINED BY THE Town of Burkeville Virginia, as follows:

ARTICLE I - GENERAL PROVISIONS

Section 1.1 – Statutory Authorization and Purpose [44 CFR 59.22(a)(2)]

Va. Code § 15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of § 15.2-2200 which encourages localities to improve the public health, safety, convenience, and welfare of their citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this ordinance is specifically adopted pursuant to the authority granted to localities by Va. Code § 15.2 – 2280.

The purpose of these provisions is to prevent: the loss of life, health, or 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:

- A. 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;
- B. Restricting or prohibiting certain uses, activities, and development from locating within districts subject

to flooding;

- C. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and,
- D. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 1.2 – Applicability

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of the Town of Burkeville and identified as areas of special flood hazard shown on the flood insurance rate map (FIRM) or included in the flood insurance study (FIS) that are provided to the Town of Burkeville by FEMA.

Section 1.3 - Compliance and Liability

- A. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
- B. 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, but does not imply total flood protection. 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 districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
- C. This ordinance shall not create liability on the part of Burkeville or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 1.4 – Records [44 CFR 59.22(a)(9)(iii)]

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

Section 1.5 - Abrogation and Greater Restrictions [44 CFR 60.1(b)]

To the extent that the provisions are more restrictive, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

Section 1.6 - Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatsoever, 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.

Section 1.7 - Penalty for Violations [44 CFR 60.2(e)]

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the Town of Burkeville shall be guilty of the appropriate violation and subject to the penalties thereof.

The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of the Town of Burkeville are addressed in Section 6-3-152 of the Zoning Ordinance.

In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this article may be declared by the Town of Burkeville to be a public nuisance and abatable as such. Flood insurance may be withheld from structures constructed in violation of this article.

ARTICLE II - ADMINISTRATION

Section 2.1 - Designation of the Floodplain Administrator [44 CFR 59.22(b)]

The Burkeville Mayor is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

- A. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are

conducted by the Town of Burkeville chief executive officer.

- B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, planners, examiners, inspectors, and other employees.
- C. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

Section 2.2 - Duties and Responsibilities of the Floodplain Administrator [44 CFR 60.3]

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

- A. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
- B. Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.
- C. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
- D. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
- E. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE), and have submitted copies of such notifications to FEMA.
- F. Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on Flood Insurance Rate Maps as Coastal Barrier Resource System Areas (CBRS) or Otherwise

Protected Areas (OPA).

- G. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
- H. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
- I. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
- J. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Town of Burkeville within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.
- K. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
 - 1. Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps), and Letters of Map Change; and
 - 2. Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
- L. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
- M. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
- N. Administer the requirements related to proposed work on existing buildings:
 - 1. Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - 2. Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain

a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

- O. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
- P. Notify the Federal Emergency Management Agency when the corporate boundaries of the Town of Burkeville have been modified and:
 - 1. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
 - 2. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.
- Q. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
- R. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 2.3 - Use and Interpretation of FIRMs [44 CFR 60.3]

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

- A. Where field surveyed topography indicates that adjacent ground elevations:

1. Are below the base flood elevation in riverine SFHAs, or below the 1% storm surge elevation in coastal SFHAs, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations.
2. Are above the base flood elevation and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

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

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

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

E. If a Preliminary Flood Insurance Rate Map and/or a Preliminary Flood Insurance Study has been provided by FEMA:

1. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.
2. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Article III, Section 3.1.A.3 and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.
3. Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 2.4 - Jurisdictional Boundary Changes [44 CFR 59.22, 65.3]

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets

the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIR for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the Code of Federal Regulations, Title 44 Subpart (B) Section 59.22(a)(9)(v) all NFIP participating communities must notify the Federal Insurance Administration and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all Flood Insurance Rate Maps accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 2.5 - District Boundary Changes

The delineation of any of the Floodplain Districts may be revised by the Town of Burkeville 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 such change. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency. A completed LOMR is a record of this approval.

Section 2.6 - Interpretation of District Boundaries

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

Section 2.7 - Submitting Model Backed Technical Data [44 CFR 65.3]

community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data. The community may submit data via a LOMR. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Section 2.8 – Letters of Map Revision

When development in the floodplain will cause or causes a change in the base flood elevation, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision and then a Letter of Map Revision.

ARTICLE III - ESTABLISHMENT OF ZONING DISTRICTS

Section 3.1 - Description of Special Flood Hazard Districts [44 CFR 59.1, 60.3]

A. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for the Town of Burkeville prepared by the Federal Emergency Management Agency, Federal Insurance Administration, dated May 3, 2022, and any subsequent revisions or amendments thereto.

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

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance, and which shall be kept on file at the Town of Burkeville offices.

1. The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

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

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to or above the base flood level plus eighteen (12) inches..

During the permitting process, the Floodplain Administrator shall obtain:

- a. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,
- b. If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

Base flood elevation data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

2. The mapped floodplain includes all of the above regions and also the regions designated as having a 0.2 percent annual chance of flooding on any flood map or flood insurance study. In this area no emergency service, medical service, or governmental records storage shall be allowed except by special exception using the variance process.ⁱ

Section 3.2 - Overlay Concept

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

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

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

ARTICLE IV - DISTRICT PROVISIONS [44 CFR 59.22, 60.2, 60.3]

Section 4.1 – Permit and Application Requirements

A. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform state-wide Building Code (VA USBC) and the Town of Burkeville Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable State and Federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodway of any watercourse, drainage ditch, or any other drainage facility or system.

B. Site Plans and Permit Applications

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

1. The elevation of the Base Flood at the site.
2. For structures to be elevated, the elevation of the lowest floor (including basement).

3. For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
4. Topographic information showing existing and proposed ground elevations.

Section 4.2 - General Standards

The following provisions shall apply to all permits:

- A. New construction and substantial improvements shall be built according to this ordinance and the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
- B. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
- C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- D. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- E. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

- I. 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 Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and the Federal Emergency Management Agency.

- J. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 4.3 - Elevation and Construction Standards [44 CFR 60.3]

In all identified flood hazard areas where base flood elevations have been provided in the FIS or generated by a certified professional in accordance with Article III, Section 3.1.A.3 the following provisions shall apply:

A. Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated to or above the base flood level plus twelve (12) inches.

B. Non-Residential Construction

1. New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level plus eighteen (12) inches.

2. Non-residential buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus 12 inches. are watertight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by The Burkeville Mayor.

C. Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

1. Not be designed or used for human habitation, but shall be used solely for parking of vehicle building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
2. Be constructed entirely of flood resistant materials below the regulatory flood protection elevation.
3. Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
 - a. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
 - b. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
 - c. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
 - d. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
 - e. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - f. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

D. Accessory Structures

1. Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of Article IV, Section 4.3.B or, if not elevated or dry floodproofed, shall:
 - a. Not be used for human habitation.
 - b. Be limited to no more than 600 square feet in total floor area.

- c. Be useable only for parking of vehicles or limited storage.
- d. Be constructed with flood damage-resistant materials below the base flood elevation.
- e. Be constructed and placed to offer the minimum resistance to the flow of floodwaters.
- f. Be anchored to prevent flotation.
- g. Have electrical service and mechanical equipment elevated to or above the base flood elevation.
- h. Shall be provided with flood openings which shall meet the following criteria:
 - (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
 - (2) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.
 - (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
 - (4) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

E. Standards for Manufactured Homes and Recreational Vehicles

- 1. In zones A, AE, AH, and AO, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in Article III, Section 3.1.A.6 and Article IV, Sections 4.2 and 4.3.
- 2. All recreational vehicles placed on sites must either:
 - a. Be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is

attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or

- b. Meet all the requirements for manufactured homes in Article IV, Section 4.3.E.1.

Section 4.4 - Standards for Subdivision Proposals

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- D. Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a Flood Insurance Study for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

ARTICLE V – EXISTING STRUCTURES IN FLOODPLAIN AREAS

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improvedⁱⁱ unless one of the following exceptions is established before the change is made:

- A. The floodplain manager has determined that:
 - 1. Change is not a substantial repair or substantial improvement AND
 - 2. No new square footage is being built in the floodplain that is not complaint AND
 - 3. No new square footage is being built in the floodway AND
 - 4. The change complies with this ordinance and the VA USBC AND

B. The changes are required to comply with a citation for a health or safety violation.

C. The structure is a historic structure and the change required would impair the historic nature of the structure.

ARTICLE VI - VARIANCES: FACTORS TO BE CONSIDERED [44 CFR 60.6]

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

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

Variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this Section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

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

B. The danger that materials may be swept on to other lands or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.

- E. The importance of the services provided by the proposed facility to the community.
- F. The requirements of the facility for a waterfront location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access by ordinary and emergency vehicles to the property in time of flood.
- K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- L. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- M. No variance shall be granted for an accessory structure exceeding 600 square feet. (*Note: See Article IV, Section 4.3.D.2).*)
- N. 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 increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

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

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 percent (1%) chance 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 that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

ARTICLE VII - GLOSSARY [44 CFR 59.1]

- A. Appurtenant or accessory structure - A non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed 600 square feet.
- B. Base flood - The flood having a one percent chance of being equalled or exceeded in any given year.
- C. Base flood elevation - The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.
- D. Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.
- E. Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.
- F. Coastal A Zone - Flood hazard areas that have been delineated as subject to wave heights between 1.5 feet and 3 feet.
- G. Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, temporary structures, mining, dredging, filling, grading, paving, excavation, drilling or other land-disturbing activities or permanent or temporary storage of equipment or materials.
- H. Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

- I. Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.
- J. Existing construction - For the purposes of the insurance program, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."
- K. Flood or flooding -
1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters; or,
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudflows which are approximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
 2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.
- L. Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- M. Flood Insurance Study (FIS) - a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.
- N. Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.
- O. Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- P. Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point within the community.

- Q. Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.
- R. Functionally dependent use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- S. Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- T. Historic structure - Any structure that is:
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or,
 - b. Directly by the Secretary of the Interior in states without approved programs.
- U. Hydrologic and Hydraulic Engineering Analysis - Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.
- V. Letters of Map Change (LOMC) - A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA) - An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by meets and bounds or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR) - A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of

Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR) - A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

- W. Lowest adjacent grade - the lowest natural elevation of the ground surface next to the walls of a structure.
- X. Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.
- Y. Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- Z. Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- AA. Mean Sea Level - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which base flood elevations shown on a community's FIRM are referenced.
- BB. New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after June 2, 2009, 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.
- CC. Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after June 2, 2009.
- DD. Pre-FIRM structures - A structure for which construction or substantial improvement occurred before June 2, 2009.

FE. Primary frontal dune - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms.

FF. Recreational vehicle - A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and,
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use.

GG. Repetitive Loss Structure - A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a 10-year period, in which the cost of the repair, on the average, equalled or exceeded 25 percent of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

HH. Severe repetitive loss structure - a structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

II. Shallow flooding area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

JJ. Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.1 of this ordinance.

KK. Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. - 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; 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 the construction means the first alteration

of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- LL. Structure - for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- MM. 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.
- NN. Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term does not, however, include either:
1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
 3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places, or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.
- OO. Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- PP. Watercourse-A Lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

ARTICLE VIII – ENACTMENT¹

Enacted and ordained this 12th day of April 2022. This ordinance, number 6-3-118 of the Town of Burkeville, Virginia, shall become effective upon passage. Ordinance was passed by Town Council with a vote of 6-0 on the 12th day of April 2022.

Sec. 6-3-119 through 6-3-130 reserved.

ARTICLE I
Provisions for Appeal

Sec. 6-3-131 Board of zoning appeals.

- (a) A board consisting of five members shall be appointed by the Circuit Court of Nottoway County. The board shall serve without pay other than for traveling expenses, and members shall be removable for cause upon written charges and after a public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- (b) The term of office shall be for five years, except that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years, and one for one year. One of the five appointed members shall be an active member of the planning commission.
- (c) Members may be removed for cause by the appointing authority upon written charges and after a public hearing.
- (d) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.
- (e) The board shall choose annually its own chairman and vice chairman, who shall act in the absence of the chairman.

Sec. 6-3-132 Powers of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

- (1) 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 or of any ordinance adopted pursuant thereto.
- (2) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done, as follows:
 - (i) 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 chapter, 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 property immediately adjacent thereto, the strict application of the terms of this chapter 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 demonstrate 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 chapter.
 - (ii) No such variance shall be authorized by the board unless it finds: (i) that the strict application of this chapter would produce undue hardships, (ii) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity, and (iii) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - (iii) No such variance shall be authorized except after notice and hearing as required by section 15.2-2204 of the Code of Virginia 1950, as amended.
 - (iv) 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 a nature

as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

- (v) In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

Sec. 6-3-133 Rules and regulations.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.
- (b) The meeting of the board shall be held at the call of its chairman or at such times as quorum of the board may determine.
- (c) The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.
- (d) The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact. It shall keep records of its examinations and other official actions all of which shall be immediately filed in the office of the board and shall be a public record.
- (e) All meetings of the board shall be open to the public.
- (f) A quorum shall be at least three members.
- (g) A favorable vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass.

Sec. 6-3-134 Appeal to the board of zoning appeals.

An appeal to the board may be taken by any person aggrieved or by an officer, department, board or bureau of the county or municipality affected by any decision of the zoning administrator. Such appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator and with the board, a notice of 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 proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

Sec. 6-3-135 Appeal procedure.

- (a) Appeals shall be mailed to the board of zoning appeals in care of the zoning administrator and a copy of the appeal mailed to the secretary of the planning commission. A third copy should be mailed to the individual, official, department or agency concerned, if any.
- (b) Appeals requiring an advertised public hearing shall be accompanied by a certified check for \$20 payable to the clerk-treasurer.

Sec. 6-3-136 Public hearing.

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 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 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 required to pass under this chapter or to affect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board 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.

Sec. 6-3-137 Decision of board of zoning appeals.

(a) Any person or person 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 or municipality, may present to the Circuit Court of Nottoway County a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board.

(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 realtor's attorney, which shall not be less 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause 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. 6-3-138 through 6-3-150 reserved.

ARTICLE J
Violation and Penalty

Sec. 6-3-151 Permits.

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

Sec. 6-3-152 Penalties.

Any person, firm or corporation, whether as principal, agent, employed or otherwise, violating, causing or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to \$250. 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 chapter is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.

Secs. 6-3-153 through 6-3-160 reserved.

**ARTICLE K
Amendments**

Sec. 6-3-161 Procedure.

The regulations, restrictions and boundaries established in this chapter may, from time to time, be amended, supplemented, changed, modified or repealed by a favorable majority of votes of the governing body; provided:

- (1) That a public hearing shall be held in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.
- (2) Notice shall be given of the time and place of such hearings by publication once a week for two successive weeks in some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (3) Changes shall be made by the governing body in this chapter or the zoning map only after such changes have been referred to the planning commission for a report. Action shall be taken by the governing body only after a report has been received from the planning commission, unless a period of 60 days has elapsed after date of referral to the commission, after which time it may be assumed the commission has approved the change or amendment.
- (4) Any area annexed shall be considered as Residential R-1 until and unless designated otherwise after the required public hearings.

Secs. 6-3-162 through 6-3-170 reserved.

**ARTICLE L
Administration and Interpretation**

Sec. 6-3-171 Administrator.

This chapter shall be enforced by the administrator who shall be appointed by the governing body. The administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

Sec. 6-3-172 Construction prior to effective date.

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 chapter. However, such construction must commence within 30 days after this chapter becomes effective. If construction is discontinued for a period of six months or more, further construction shall be in conformity with the provisions of this chapter for the district in which the operation is located.

Sec. 6-3-173 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:

- (1) Where district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys or railroad main tracks, such centerlines shall be construed to be such boundaries as the case may be.
- (2) Where a district boundary is indicated to follow a river, creek or branch or other body of water, the boundary shall be construed to follow the centerline 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.

(3) 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 the zoning map. In case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.

Sec. 6-3-174 Effective date.

The effective date of this chapter shall be from and after its passage and legal application, and its provisions shall be in force thereafter until repealed.

Sec. 6-3-175 Severability.

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

Sec. 6-3-176 Conflicting ordinances.

All conflicting ordinances or parts thereof which are inconsistent with the provisions of this chapter are hereby repealed.

CHAPTER 4
Dangerous Buildings

State Law Reference: Authority to require, removal, repair, etc., of buildings and other structures, Va. Code Sec. 15.2-906.

- § 6-4-1 Owner responsible for dangerous buildings.
- § 6-4-2 Town repair of dangerous buildings; notice to owner.
- § 6-4-3 Owner responsible for costs.
- § 6-4-4 Collection of costs.

Sec. 6-4-1 Owner responsible for dangerous buildings.

The owners of property located in the Town of Burkeville, shall at such time or times as the Town Council of the Town of Burkeville may prescribe, remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town of Burkeville.

Sec. 6-4-2 Town repair of dangerous buildings; notice to owner.

The Town Council of the Town of Burkeville through its agents and employees may remove, repair or secure any building, wall or any other structure which might endanger the public health or safety of other residents of the Town of Burkeville, wherein the owner and lienholder of such property after reasonable notice and a reasonable time to do so, has failed to remove, repair or secure said building, wall or other structure. For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice shall include a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published in a newspaper having general circulation in the Town of Burkeville in accordance with the applicable provisions of Section 15.2-906 of the Code of Virginia. No action shall be taken by the Town of Burkeville to remove, repair or secure any building, wall or other structure for at least 30 days following the later of the return of the receipt or newspaper publications.

Sec. 6-4-3 Owner responsible for costs.

In the event the Town Council of the Town of Burkeville, through its own agents or employees removes, repairs or secures any building, wall or other structure after complying with the notice provisions of this section, the cost of expenses thereof shall be chargeable to and paid by the owners of such property and maybe collected by the Town of Burkeville as taxes and levies are collected.

Sec. 6-4-4 Collection of costs.

Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid, shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia.

CHAPTER 5
Establishing Street Addresses

6-5-1 Map - Duty of Town Clerk.

§ 6-5-2 Duty of owners.

6-5-3 Location - Size of Numbers.

§ 6-5-4 Penalties.

Sec. 6-5-1 Map - Duty of Town Clerk.

(a) A map described as "Town of Burkeville Street Address Map Scale: 1 in. = 200 ft. +-, July 1986", is hereby adopted as a guide for all houses, building or lot numbers in the Town.

(b) A copy of such map shall be placed in the office of the Town Clerk and the Town Clerk is hereby directed to assign, in accordance with said Map, the proper numbers to all existing lots, houses or buildings and to future houses or buildings as they may be constructed.

Sec. 6-5-2 Duty of Owners

All owners or persons in charge of buildings or houses within the Town shall secure from the Town Clerk the number assigned to said building or house and shall place and maintain said number or numbers upon said house or houses or building or buildings within sixty days after due notice has been given through publication in a newspaper having general circulation in the Town, or otherwise, that the proper numbers have been assigned by the Town Clerk.

Sec. 6-5-3 Location - Size of Numbers.

(a) Numbers of uniform design shall be used and the numbers shall not be less than three inches in height.

(b) Numbers shall be firmly affixed in a conspicuous place and shall be clearly visible from the street or may be placed at the street entrance (driveway) to said house or houses, or buildings.

Sec. 6-5-4 Penalties.

(a) Any person, firm, or corporation who shall fail to secure the proper number for his house or building and place and maintain the same thereon shall, upon his conviction, be guilty of a misdemeanor.

(b) Any unauthorized person who shall remove or cause to be removed the number assigned to any building or house, pursuant to this ordinance, after it has been affixed thereto shall be guilty of a misdemeanor.
