

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

ARTICLE I. ~~II~~ ADMINISTRATION

DIVISION 1. - GENERAL PROVISIONS

Sec. 34-1. ~~Title; effective date.~~ **Enabling legislation; state law references.**

~~(a) This chapter establishes the City's zoning ordinance, as authorized by the various provisions of the Virginia Code, Title 15.2, Chapter 22. The zoning ordinance consists of (i) a map or maps, referred to within Sec. X, showing the division of the city into areas or districts, and (ii) text setting forth regulations applying within each district.~~

~~(b) Where specific procedures or requirements are prescribed by state law, reference is given to the governing statutory provision(s). All references within this chapter to specific titles, chapters, articles and sections of the Virginia Code shall refer to those in effect on the effective date of this chapter, and shall also be construed as references to successor titles, chapters, articles and sections *mutatis mutandis*.~~

Sec. 34-X. **Title; effective date**

~~(a) The provisions of this chapter are adopted pursuant to Code of Virginia, § 15.2-2280 et seq., as amended. This chapter, and all provisions contained herein, together with the city's zoning district map, shall be known and may be cited as "The Zoning Ordinance of the City of Charlottesville, Virginia."~~

~~(b) This chapter, including the zoning district map of the city, shall become effective on X, 20XX.~~

~~(1)~~

~~The boundaries of the city's zoning districts, and the zoning district classifications of property within the city, are shown upon a map made part of this chapter, dated September 15, 2003, and readopted April 6, 2009, which map is designated, and shall be known and referred to within this chapter, as the "zoning district map," or "district map." The district map shall be attested by the clerk of the city council and shall be kept on file within the office of the department of neighborhood development services. The district map and all the notations, references and other information shown thereon are hereby incorporated as part of this zoning ordinance by reference.~~

~~(2) This chapter, including the zoning district map of the city, shall become effective on September 15, 2003. Any permits and other significant, affirmative governmental acts or approvals validly granted or issued under the terms of the city's zoning regulations in effect immediately prior to the adoption of this chapter shall remain valid for the normal period of time; however, no such permits, acts or approvals shall be extended or renewed unless the property which is the subject of the permit, acts or approvals shall comply with the provisions of this chapter.~~

Sec. 34-2. ~~General applicability.~~ **Jurisdiction.**

~~(a) This chapter applies. The provisions of this chapter shall apply to the use and development of to all land property located within the corporate limits of the City of Charlottesville, including any new territory which comes within the City limits by annexation, boundary adjustment or otherwise.~~

Comment [RL1]: Moved to a new Article

Comment [RL2]: Whether or not an approval will be or remain valid, and whether the approval must be extended, is a matter of state law ("vested rights"), e.g. Va. Code 15.2-2307. Not necessary to include a repetitive provision in the ZO

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- (b) ~~Any~~ The provisions of this chapter shall also apply to new territory which comes within the city limits by annexation, boundary adjustment or otherwise. Whenever new territory that comes within the territorial city limits jurisdiction of the city by annexation or otherwise shall be temporarily assigned a zoning district classification most like its previous zoning in terms of permitted uses, as determined by the NDS Director, pending the orderly amendment of the comprehensive plan and Zoning Map by City Council, the city council, upon recommendation of the planning commission, shall determine which of the city's zoning districts most closely approximates the zoning applicable to the territory immediately prior to the annexation, and such determination shall become the interim zoning applicable to such territory. Within six (6) months following the effective date of the final court order of annexation, such temporary zoning shall either be affirmed by the city council or new zoning shall be established in accordance with law.

¹~~Sec. 34-3. --~~ **General purposes and intent of chapter.**

- (a) ~~This chapter shall be for the general purpose of promoting the health, safety and general welfare of the public. To these ends, this chapter is designed:~~ City Council has adopted this chapter to promote the health, safety, convenience and general welfare of the community and to plan for the future development of the community, to the end that transportation systems will be carefully planned; that new community centers be developed with adequate streets, utilities, health, educational and recreational facilities; that the needs of industry and business be recognized in future growth; that residential areas be provided with healthy surroundings for family life; that open spaces be provided; and that the growth of the community be consonant with the efficient and economical use of public funds. To these ends, the provisions set forth within this chapter have been designed to give reasonable consideration to the following purposes:

- (1) To provide for adequate light, air, and convenience of access, and to protect against obstruction of light and air;
- (2) To regulate and restrict the location of trades, industries and residences;
- (3) To reduce or prevent congestion in the public streets, to facilitate transportation and to provide for safe and convenient vehicular and pedestrian travel;
- (4) To facilitate the creation of a convenient, attractive and harmonious community, to protect against overcrowding of land and undue density of population in relation to the community facilities existing or available, and to protect the natural beauty and special features of the city;
- (5) To provide for safety from fire, flood, crime and other dangers, and to facilitate the provision of adequate public safety services, disaster evacuation, civil defense, and flood protection;
- (6) To facilitate the provision of water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- (7) To protect and enhance the character and stability of neighborhoods;
- (8) To protect against destruction of or encroachment upon historic areas;
- (9) To encourage economic development activities that provide desirable employment and enlarge the tax base;
- (10) To provide a balance of housing opportunities suitable for meeting the current and future needs of residents of the city;
- (11) To protect and maintain the environmental quality in the city; and
- (12) To assure the orderly subdivision of land and its development.

¹Va. Code 15.2-2200; -2283, and -2284.

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(b) The zoning regulations and zoning districts established within this chapter have been established with reasonable consideration given to the matters set forth in Virginia Code §15.2-2284.

Sec. 34-4. - Severability.

- (a) Except where otherwise expressly provided, should any section or provision of this chapter be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the remainder of this chapter and such remainder shall continue in full force and effect.
- (b) Should the application of any section or provision of this chapter to any particular land, property, building, structure or use be adjudged invalid by a court of competent jurisdiction such judgment shall not affect the application of said section or provision to any other landproperty, building, structure or use.

Sec. 34-5. - Effect of prior ordinance.

The provisions of this chapter, insofar as they are the same as those in effect immediately preceding this chapter shall be considered as continuations thereof and not as new enactments. ~~All provisions of such prior zoning ordinance in conflict with this chapter are hereby repealed.~~

Comment [RL3]: No need to state this; this is what happens, in effect, every time Council adopts an amendment of any zoning ordinance provision(s).

DIVISION 2--ADMINISTRATION

Sec. X. Zoning administrator

(a) City council hereby designates the NDS Director as its zoning administrator. The NDS Director shall have all necessary authority on behalf of city council to administer and enforce this chapter. Whenever the term "zoning administrator" is used within this chapter, the term refers to the NDS Director and any employee(s) to whom responsibilities are delegated pursuant to paragraph (b), below.

(b) The NDS Director may delegate duties for administration and enforcement of this chapter to one or more employees under his or her supervision or control. Upon such delegation each such individual shall be deemed the agent of the zoning administrator and an "administrative officer".

(1) The scope of authority of each administrative officer shall be limited to the specific duties delegated by the NDS Director.

(2) The NDS Director may adopt policies and procedures to provide for uniformity of administration and enforcement of the city's zoning regulations by the employee(s) to whom any aspect(s) of the zoning administrator's duties or authority has/ have been delegated.

(c) No provision of this section shall be construed as granting the zoning administrator or any administrative officer the power to rezone land, or to base his or her orders, requirements, decisions or determinations on (i) the purpose and intent of any provisions of this chapter, (ii) the purpose and intent of the provisions of any other ordinances adopted by city council, or (iii) on his or her judgment as to the merits of any such provisions.

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Sec. X. Board of zoning appeals

(a) The board of zoning appeals ("BZA") shall consist of five (5) residents of the city, appointed by the circuit court of the city. Their appointments and terms of office shall be as set forth within Va. Code §15.2-2308.

(b) The BZA shall have the powers and duties set forth within Virginia Code §15.2-2309. The BZA's powers and duties shall include the authority to decide, after notice and hearing, such special exceptions as are authorized within **sec. X (Flood Protection Overlay District)**, with such conditions and safeguards as it may deem necessary in the public interest, and with the authority to require a guarantee or bond to ensure that any conditions imposed are being and will continue to be complied with.

(c) No provision of this section shall be construed as granting the BZA the power to rezone land, or to base its decisions on (i) the purpose and intent of any provisions of this chapter, (ii) the purpose and intent of the provisions of any other ordinances adopted by city council, or (iii) on its judgment as to the merits of any such provisions.

(d) Transaction of BZA business

(1) The BZA may adopt such rules and forms as it may deem necessary to carry out its powers and duties, and to implement the various processes and procedures set forth within Virginia Code Sec. 15.2-2308 through 15.2-2312.

(2) Each application or appeal to the BZA shall be accompanied by a fee to defray the expense of processing such application or appeal, as set forth within the most recent fee schedule adopted by city council. In the event the final decision in the appeal is favorable to the applicant, the city shall refund this fee.

(3) The BZA shall fix a reasonable time for the hearing of an application or appeal, and shall give public notice in accordance with applicable provisions of Virginia Code Sec. 15.2-2309 through 15.2-2312. In addition to the notice required by state law: within three (3) working days of the filing of an application for a variance or special exception, the landowner or the zoning administrator shall post a sign on each lot that is the subject of the application. The sign shall state that an application has been filed with the BZA seeking a variance or special exception. Such signs shall be furnished by the zoning administrator and shall be placed on the subject lot so as to be visible from adjacent streets or other public places.

(4) A majority of the members of the BZA shall constitute a quorum for the transaction of business.

(5) The BZA shall keep minutes of its proceedings.

(6) The BZA shall submit a report of its activities to the city council at least once each year.

(e) Any person(s) aggrieved by any decision of the BZA, any taxpayer, or any officer, department, board or bureau of the city may file with the Charlottesville Circuit Court a petition

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specifying the grounds on which the petitioner is aggrieved. The petition shall be filed and considered by the court in accordance with the requirements of Virginia Code Sec. 15.2-2314.

Sec. 34-6. - Interpretation of district boundaries; rules of construction.

~~(a) Where uncertainty exists as to the boundaries of zoning districts shown on the official zoning map,~~ When uncertainty exists as to the boundaries of any zoning district(s), a request for interpretation of the boundaries shall be made by application to the BZA. The provisions of Va. Code Sec. 15.2-2309(4) shall govern such applications, and the BZA shall apply the following rules of construction shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets, rights-of way, or alleys shall be construed to follow such centerlines;
- (2) Boundaries indicated as approximately following platted lot lines shall be construed to follow such platted lot lines;
- (3) Boundaries indicated as approximately following the centerlines of bodies of water shall be construed to follow such centerlines. In the event such centerlines move as the result of natural forces, the boundaries shall also move; and
- (4) Whenever any dedicated street, alley or other public right of way is vacated by the city council, the zoning district boundaries adjoining each side of such street, alley or public right of way shall automatically be extended to the centerline of the vacated premises.

Sec. 34-X. Interpretation of zoning ordinance

~~(a)~~ The zoning administrator shall respond within 90 days to a request for a written order, decision or determination on zoning matters within the scope of his or her authority, unless the requester has agreed to a longer time period. If the person requesting the determination is not the owner of land that is subject to the order, decision or determination, then the zoning administrator shall comply with the requirements of Virginia Code sec. 15.2-2204(H).

~~(b)~~ The following rules shall apply in the interpretation of the city's zoning ordinance district regulations and standards:

- (1) If any regulation or standard ~~the standards~~ specified in this chapter ~~is are~~ in conflict with the requirements of any other lawfully adopted rules, regulations or laws, then the more restrictive ~~or higher regulation or~~ standards shall govern.
- (2) If any regulation or standard specified in this chapter ~~as being applicable to any use, structure, activity or undertaking~~ conflicts with any other regulation or standard set forth within this chapter herein, then the more restrictive ~~or higher standard regulation or standard~~ shall govern. When two regulations or standards apply to the same subject matter, the more specific shall prevail over the more general. When multiple sections within this chapter apply to the same subject matter, all of the provisions within such sections shall be read and construed together and effect given to all of their provisions. Every part of this zoning ordinance shall be presumed to have some effect; no provision shall be treated as meaningless unless such provision appears to have been inserted through inadvertence or mistake, and is incapable of any sensible meaning.
- (3) This chapter is intended to be inclusive, permitting only such uses, buildings, structures and activities as are specifically named herein. Unless otherwise specifically indicated, any uses, buildings, structures and activities not expressly provided for within the provisions of this chapter shall be deemed prohibited ~~uses, structures and activities.~~

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- (4) The headlines of the several articles, divisions, and sections of this chapter are intended as mere catchwords to indicate the contents thereof and shall not be deemed or taken to be titles of such sections, nor any part thereof.
- (5) The word "shall" is mandatory. The word "may" is permissive.
- (6) A word importing the masculine gender shall extend and be applied to females as well as to males.
- (7) A word importing the singular number may extend and be applied to several persons or things as well as to one (1) person or thing. A word importing the plural number may extend and be applied to one (1) person or thing as well as to several persons or things.

(8) ~~In the absence of a definition, words within this chapter shall be presumed to have their usual and ordinary meaning, within the context of this zoning ordinance. Where terms are not defined, they shall have their ordinarily accepted meanings, or such meaning as the context may imply.~~

(9) ~~h~~ The regulations and standards set forth within this ~~chapter zoning ordinance~~ shall be held to be the minimum requirements for the promotion of the public safety, necessity, convenience, general welfare, and good zoning practice.

(10) ~~i~~ Where a time limitation or requirement is expressed in a number of days, it shall be interpreted as referring to the number of calendar days, unless otherwise ~~specifically stated~~ provided.

(11) Any parcel of land unclassified by the official Zoning Map, and to which none of the rules of interpretation in this chapter apply, shall be deemed to be within the R-1 zoning district classification, until otherwise designated by the city council.

(12) Height—

(i) In any zoning district where minimum or maximum permitted height of a building or structure is expressed in building stories rather than feet, the height of a building or structure with the specified number of stories shall be as follows:

Two (2) stories: Thirty-five (35) feet, max.

Three (3) stories: Forty-five (45) feet, max.

Four (4) stories: Fifty (50) feet, max.

Five (5) stories: Sixty (60) feet, max.

Six (6) stories: Seventy (70) feet, max.

Seven (7) stories: Eighty (80) feet, max.

Eight (8) stories: Ninety (90) feet, max.

Nine (9) stories: One hundred one (101) feet, max.

(ii) The height of a building or structure is the distance measured from "grade", as defined in §34-1200, to the highest point on such building or structure. The highest point on a building is the level of a flat roof, the deck line of a mansard roof, or, for gable hip or gambrel roofs, the average height level between the eaves and ridge.

(iii) For the purposes of measuring the height of a telecommunications facility, all antennas or other equipment or attachments mounted on an attachment structure or support structure shall be included in measurements to determine overall (i.e., combined) height.

Comment [RL4]: This paragraph reflects provisions currently found within Sec. 34-1100(b)

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~~(13) Wherever this chapter refers to the "zoning administrator" the term shall refer to the Director of NDS, and shall include any city employee(s) authorized to act on the Director's behalf in accordance with sec. 34-XXX of this chapter. Any employee performing delegated duties of the zoning administrator shall be deemed to be acting as the agent of the zoning administrator.~~

~~Sec. 34-7. —References to Virginia Code.~~

Comment [RL5]: Moved

~~All references within this chapter to specific titles, chapters, articles and sections of the Virginia Code shall refer to those in effect on the effective date of this chapter, and shall also be construed as references to successor titles, chapters, articles and sections mutatis mutandis.~~

~~Sec. 34-8. —Disclosure of real parties in interest.~~

Comment [RL6]: Moved

~~(a) An applicant for a special exception, a special use permit, an amendment to the zoning ordinance or a variance shall make complete disclosure of the equitable ownership (i.e., the real parties in interest) of the real estate to be affected. The applicant shall provide the names and addresses of all of the real parties in interest, including, without limitation: each of the stockholders, officers and directors of a corporate entity (corporations, professional corporations, limited liability companies, professional limited liability companies, etc.). However, the requirement of listing names of stockholders shall not apply to a corporation whose stock is traded on a national or local stock exchange and which corporation has more than five hundred (500) shareholders.~~

~~(b) All petitions initiated by property owners or the agents thereof, shall be sworn to under oath before a notary public, stating: (i) whether or not any member of the planning commission, or their immediate family member, has any personal interest in the property or transaction that is the subject of the application; and (ii) whether or not any member of the city council, or their immediate family member, has any such interest. A personal interest arises when a financial benefit or liability may accrue to a member of the planning commission or city council, or their immediate family member, as a result of an individual or business interest in the subject application. For the purposes of this section, the term "personal interest" shall have the meaning set forth within the State and Local Government Conflicts of Interests Act, Code of Virginia, § 2.2-3101, and may refer to an interest accruing to a person individually, as a result of business or professional relationships.~~

~~Sec. 34-9. —Vested rights.~~

Comment [RL7]: Deleted.. all of this is addressed/ mandated within Va. Code 15.2-2307 , which is amended from time to time, and which was amended several times from 2003 to the present. We should not repeat these provisions in our local code; they are self-executing provisions of state law.

~~(a) Nothing in this zoning ordinance shall be construed to authorize the impairment of any vested right.~~

~~Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use, and such vesting shall not be affected by a subsequent amendment to a zoning ordinance, when the landowner: (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project; (ii) relies in good faith on the significant affirmative governmental act; and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.~~

~~(b) For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project:~~

- ~~(1) The city council has accepted proffers or proffered conditions which specify use(s) related to a zoning amendment;~~
- ~~(2) The city council has approved an application for a rezoning for a specific use or density;~~
- ~~(3) The city council or board of zoning appeals, where authorized by this chapter, has granted a special exception or use permit with conditions;~~
- ~~(4) The board of zoning appeals has approved a variance;~~

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~~(5) The city council or its designated agent has approved a final subdivision plat, site plat or plan of development for the landowner's property.~~

~~(c) In the event of a conflict between any provision(s) of this section and those set forth within Code of Virginia, § 15.2-2307, the state statute shall prevail.~~

~~Sec. 34-10. Fee schedule; delinquent taxes.~~

~~(a) The city council will, from time to time, approve a schedule of the fees and charges associated with the various applications, petitions, inspections, permits and approvals required by this chapter. At the time an application, petition, or other request for any permit or approval is submitted to the city, it shall be accompanied by the required fee(s) and charges as designated in the most recent fee schedule adopted by city council. Fees shall be made payable to the city treasurer.~~

~~(b) Prior to acceptance of an application for any special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the city may require the applicant to produce satisfactory evidence that any delinquent real estate taxes owed to the locality have been paid.~~

Comment [RL8]: Moved to new Article II (Zoning Procedures)

~~Sec. 34-11. Meetings open to public.~~

~~All meetings of any city boards and commissions referenced within this chapter, and of any committee, subcommittee or other entity created to perform delegated functions thereof, shall be open to the public as required by the Virginia Freedom of Information Act, except as otherwise specifically provided in Code of Virginia, § 2.2-3711.~~

Comment [RL9]: Deleted. State FOIA law preempts any local provisions; also, it's not necessary to repeat requirements of FOIA within a local ordinance. FOIA broadly applies, and is self-executing, without any reference in this ZO

~~Sec. 34-12. Affordable dwelling units.~~

~~(a) Upon approval of a rezoning or special use application approving a residential project, or the residential portion of a mixed-use project with a density equal to or greater than 1.0 floor-area ratio (FAR), or an equivalent density based on units per acre, the applicant shall provide on-site affordable dwelling units as part of the project, and the total gross square footage of such units shall be five (5) percent of the amount of the gross floor area of the project that exceeds 1.0 FAR or an equivalent density based on units per acre.~~

~~(b) For purposes of this section, "applicant" shall mean the person or entity submitting a rezoning or special use application for approval of a residential or mixed-use project that contains residential dwelling units in the city and shall include the successors or assigns of the applicant.~~

~~(c) For purposes of this section, "affordable dwelling units" means dwelling units that are affordable to households with incomes at not more than 80% of the area median income and that are committed to remain affordable for a term of not more than thirty (30) years. However, the city may establish a minimum term as it deems necessary to ensure the establishment of committed affordable dwelling units provided pursuant to subsection (a), above, or (d)(1), below.~~

~~(d) As an alternative, upon approval of a rezoning or special use application approving a residential project, or the residential portion of a mixed-use project with a density equal to or greater than 1.0 FAR, or an equivalent density based on units per acre, the applicant may elect to provide any one (1) of the following:~~

~~(1) Affordable dwelling units at an off-site location in the city, the total gross square footage of such units shall be five (5) percent of the amount of the gross floor area of the project that is over 1.0 FAR, or an equivalent density based on units per acre; or~~

~~(2) A cash contribution to the city's affordable housing fund, which contribution shall be calculated as follows for each of the density tiers described below:~~

~~a. Two dollars (\$2.00) per square foot of gross floor area for residential projects greater than 1.0 FAR or an equivalent density based on units per acre.~~

Comment [RL10]: Move to a new division devoted to Affordable Housing regulations, in the Generally applicable regulations. Otherwise, no edits

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~~b. For mixed-use projects, cash contributions shall be calculated by applying the proportionate amount of residential gross floor area at two dollars (\$2.00) per square foot.~~

~~(e) The cash contribution shall be indexed to the Consumer Price Index for Housing in the South Urban Region as published by the Bureau of Labor Statistics and shall be adjusted annually based upon the changes made in January to such index.~~

~~(f) Except as otherwise provided, upon approval of a rezoning or special use permit that is subject to this section, any site plan submitted for review in conjunction therewith shall be acted upon by the director of neighborhood development services or planning commission within twenty-one (21) days after the date such plan was officially submitted.~~

~~(g) The city council may from time to time adopt regulations by resolution, for the administration of the provisions of this section. Pursuant to section 34-82(b)(1), the failure of any person to comply with such regulations shall constitute unlawful conduct in violation of this section.~~

~~Sec. 34-13. Unzoned parcels.~~

Comment [RL11]: Moved

~~Any parcel of land unclassified by the official zoning map and for which none of the rules of interpretation in this chapter apply, and land newly annexed to the city, is hereby designated as being within the R-1 single-family residential district until otherwise designated by the city council.~~

~~Secs. 34-14—34-25. - Reserved.~~

DIVISION 32. - COMPREHENSIVE PLAN

Sec. 34-26. - Adoption.

In accordance with the requirements of Title 15.2, Chapter 22, Article 3 of the Code of Virginia, as amended, the planning commission shall prepare and recommend, and the city council shall adopt, a comprehensive plan for the physical development of the city. ~~The plan may include any other policy areas deemed by the planning commission and city council to be important to the long-term development of the city. At least once every five (5) years the planning commission shall review the comprehensive plan to determine whether it would be advisable to amend the plan.~~ The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character and extent of each feature referenced in Virginia Code §15.2-2232(A). The comprehensive plan shall comply with the requirements of Virginia Code §15.2-2223 et seq.

Comment [RL12]: State law prescribes the scope of a comprehensive plan, Va. Code 15.2-2223 et seq.

Sec. 34-27. - ~~Periodic review;~~ aAmendment.

The comprehensive plan may be amended, in accordance with Virginia Code § 15.2-2229. The planning commission shall review the comprehensive plan periodically, but no less frequently than once every five (5) years, in accordance with Virginia Code Sec. 15.2-2230, to determine whether it is advisable to amend the plan.

~~(a) An amendment of the comprehensive plan may be initiated by the planning commission, by city council, or by any person.~~

Comment [RL13]: The amendment process is specified by state law. No need to repeat or paraphrase within the local ordinance.

~~(1) The planning commission may initiate an amendment at any time.~~

~~(2) The city council may initiate an amendment at any time, by submitting a written request to the planning commission directing the planning commission to prepare an amendment and submit it to a public hearing within sixty (60) days after such request. Alternatively, the city council may initiate an amendment at any time by preparing an amendment and referring it to the planning commission for public hearing within sixty (60) days or such longer timeframe as may be specified in the written request. If the planning commission fails to make a recommendation on the amendment within the sixty (60) day timeframe, the governing body may conduct a public hearing, which shall be advertised as required by Code of Virginia, § 15.2-2204.~~

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- ~~(3) Applicants seeking approval of a telecommunications facility pursuant to Article IX, section 34-1070, et seq. may initiate an amendment at any time.~~
- ~~(4) All other applications for an amendment to the land use plan of the comprehensive plan shall be accepted annually, between November 1 and January 2 of the succeeding calendar year.~~
- ~~(b) All other amendments to the comprehensive plan shall be recommended, approved and adopted, respectively, in accordance with the requirements set forth within Title 15.2, Chapter 22, Article 3 of the Code of Virginia, as amended. In considering any amendments to the plan, the city council shall act within ninety (90) days of the planning commissions' recommending resolution.~~

Sec. 34-28. - Review of public facilities.

~~Unless otherwise provided in Va. Code §15.2-2232, no street, connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the planning commission as being substantially in accord with the adopted comprehensive plan or part thereof. The commission's review of such facilities shall be conducted in accordance with the provisions of Virginia Code §15.2-2232.~~

- ~~(a) The comprehensive plan shall control the general or approximate location, character and extent of each feature shown on the plan. Following approval and adoption of the comprehensive plan, no public facility may be constructed, established, or authorized unless and until the general or approximate location, character and extent thereof has been submitted to and approved by the planning commission as being substantially in accord with the adopted comprehensive plan. Widening, narrowing, extension, enlargement, vacation, development, sale, or change of use of streets or public land and other public areas shall likewise be submitted for review and approval. Improvements undertaken by the city shall be referred to the planning commission by city council, for review under this section.~~
 - ~~(1) The commission shall communicate its findings to the city council, indicating its approval or disapproval with written reasons. Council may overrule the action of the planning commission by a vote of a majority of the members of city council. Failure of the planning commission to act within sixty (60) days of a submission (or in the case of a telecommunications facility: ninety (90) days), unless the time is extended by action of the city council, shall be deemed approval.~~
 - ~~(2) On appeal, the city council shall hear and make a final determination upon the petition within sixty (60) days of the date on which the appeal was filed with the clerk of council. The owner or his agent may appeal the decision of the planning commission to the city council within ten (10) days after the commission's final decision. The appeal shall be by written petition to the city council, and shall set forth the specific factual and legal reasons for the appeal.~~
- ~~(b) Paving, repair, reconstruction, improvement, drainage or similar work, and normal service extensions of public utilities or public service corporations, shall not require review and approval pursuant to this section unless involving a change in the location or extent of a street or public area.~~
- ~~(c) Any public facility that is identified within, but not the entire subject of, a submission for approval of a subdivision or site plan, may be deemed a feature already shown on the adopted comprehensive plan, and therefore excepted from the requirement for submittal to and approval by the commission, provided that the city council has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public facility or has approved it through acceptance of a proffer approved in connection with a rezoning application.~~
- ~~(d) Telecommunications facilities.~~
 - ~~(1) Approval and funding of a public telecommunications facility by the Virginia Public Broadcasting Board shall be deemed to satisfy the requirements of this section, with the exception of television and radio towers and structures not necessary to house electronic apparatus. The~~

Comment [RL14]: Va. Code 15.2-2232 prescribes all of this, and is amended periodically. It's been amended several times from 2003 to the present; there is no need for us to repeat or paraphrase the applicable state requirements.

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~exemption provided for in this paragraph shall not apply to facilities existing or approved by the Virginia Public Telecommunications Board prior to July 1, 1990.~~

- ~~(2) On any application for a telecommunications facility, the planning commission's failure to act on such application within ninety (90) days shall be deemed approval unless the time is extended by action of city council. City council may extend the time required for action by the planning commission by no more than sixty (60) additional days. If the planning commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application shall be deemed approved by the planning commission.~~

~~(e) Public uses and facilities defined.~~

- ~~(1) Public facilities, structures and uses as those terms are used herein, shall include, but not be limited to: any street, connection to an existing street, park or other public land or public area, public building or public structure, and any public utility facility or public service corporation facility, whether publicly or privately owned. The term shall not include any office facility of any of the foregoing.~~

- ~~(2) Public facilities, structures and uses as those terms are used herein, shall not include the following: railroad facilities, high power electrical transmission lines in excess of one hundred fifty (150) kilovolts which are subject to review and approval by the Virginia State Corporation Commission, or any office facility of any of the foregoing.~~

~~(f) In the event of any conflict between the provisions set forth within this section and those within Code of Virginia, § 15.2-2232, the state code provisions shall prevail.~~

Secs. 34-29—34-40. - Reserved.

~~DIVISION 3. ZONING AMENDMENTS~~

DIVISION 4. ZONING AMENDMENTS

Sec. 34-41. - Amendments to the zoning ordinance.

(a) ²Whenever the public necessity, convenience, general welfare or good zoning practice requires, the city council may, by ordinance, amend, ~~supplement or change the city's zoning district regulations, district boundaries or zoning district classifications of property~~ the city's zoning ordinance established by sec. 34-1. Zoning amendments ~~ny such amendments~~ may be initiated as followsby:

- (1) Resolution of the city council;
- (2) Motion of the planning commission; or
- (3) Petition of a landowner, ~~any person who is the owner, the landowner's agent, or a~~ contract purchaser (with the landowner's written consent) ~~of property~~, where such petition proposes a change of the zoning district classification of such landproperty ("zoning map amendments").
- (4) For purposes of this ~~section~~, the term "zoning ~~map~~ amendment" includes, without limitation: petitions seeking to change the zoning district classification of land; petitions seeking amendments or variations of proffered development conditions; petitions seeking to establish or to amend a planned unit development; ~~petitions to amend established proffers; and~~ petitions seeking for approval of a special use permit or exceptions to the general regulations of a zoning district; and motions or resolutions initiating zoning text or zoning map amendments.

²Va. Code 15.2-2286(7)

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

(b) The NDS Director shall establish and maintain appropriate application forms for zoning amendments. Upon receipt of an application, the NDS Director shall within ten (10) business days review the application for completeness. Petitions for zoning map-amendments shall be considered complete, only when they include all of the following:

(1) A written petition ("application"), on a form provided by the city, signed by all landowner(s); by individual(s) who provide a power of attorney or other written evidence of an agency relationship with the landowner(s); or by a contract purchaser who presents evidence of the landowner's written permission to make the application; made in writing, shall be addressed to the city council, and shall be filed in the department of neighborhood development services. Each application shall be composed of a completed city-provided application form and supplemental information required in order for the city to review and act on the application. At a minimum, a complete application shall include:

(2.4) Verification of the applicant's attendance at a pre-application meeting with a city planner, at which the ~~applicant~~ landowner was provided a list of the meeting materials, including required supplemental information, required for an application;

(2) A city-provided application form, signed by the owner of the property. Alternatively, the application form may be signed by the owner's authorized representative, if the application form is accompanied by the owner's written authorization;

(3) Written certification of compliance with the following provisions:

³(i) An landowner who seeks a zoning amendment shall make complete disclosure of the equitable ownership (i.e., the real parties in interest) of the real estate to be affected. The landowner shall provide the names and addresses of all of the real parties in interest, including, without limitation: each of the stockholders, officers and directors of a corporate entity (corporations, professional corporations, limited liability companies, professional limited liability companies, etc.). However, the requirement of listing names of stockholders shall not apply to a corporation whose stock is traded on a national or local stock exchange and which corporation has more than five hundred (500) shareholders.

⁴(ii) All zoning amendments initiated by petition shall contain a certification as to: (i) whether or not any member of the planning commission, or the member's immediate family member, has any personal interest in the land or transaction that is the subject of the application; and (ii) whether or not any member of the city council, the member's immediate family member, has any such interest. A personal interest arises when a financial benefit or liability may accrue to a member of the planning commission or city council, or an immediate family member, as a result of an individual or business interest in the subject application. For the purposes of this section, the term "personal interest" shall have the meaning set forth within the State and Local Government Conflicts of Interests Act, Code of Virginia, § 2.2-3101, and may refer to an interest accruing to a person individually, or as a result of business or professional relationships. ~~section 34-10(b);~~

(4) The required application fee, as set forth within the most recent fee schedule adopted by city council;

(5) All ~~of the following~~ information required by any provision of this zoning ordinance (including, without limitation: ~~section 34-158 and any other applicable city ordinances, or state law;~~

(i) Graphic materials illustrating the applicant's plans for development of the land, and providing context in relation to existing patterns of development on adjacent land.

(ii) Proposed development *Project concept plan*. For any zoning amendment to establish a conventional zoning district (i.e., a district other than a PUD), or seeking approval of a

³ Va. Code 15.2-2289; currently Sec. 34-8

⁴ Va. Code 15.2-2287; currently Sec. 34-8

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

~~special use permit, a preliminary site conceptual plan (graphic) shall be provided containint the information specified in sec. 34-XXX. showing, as applicable: (i) street network, including circulation within the project and connections to existing and planned streets within and outside the project; (ii) general location of existing and proposed pedestrian and bicycle facilities; (iii) building envelopes, and elevation drawings showing the proposed size, height, area and bulk of proposed buildings and structures; (iv) parking layout; (v) public spaces and amenities; (vi) layout plan showing stormwater management facility locations and types; (vii) conceptual grading plan and vegetation removal areas, including identification of existing trees that will be removed; (viii) conceptual landscape plan; (ix) topography, and identification of the source of the topographical information, supplemented where necessary by spot elevations, and identification of areas of the site containing slopes in excess of 25%; (x) general location of central features or major elements within the project that are essential to the design of the project, such as parking areas and structures, civic areas, open spaces, green spaces, recreation areas and other amenities.~~

Comment [RL15]: All of this is redundant of things that should be required in a preliminary site plan.

~~(iii) PUDs development plan. In addition to any information required by City Code section 34-517(a)(3), a PUD development plan shall include: (i) typical cross sections to show proportions, scale, and streetscape/cross sections/circulation; (ii) layout plan showing stormwater management facility locations and types; (iii) conceptual a preliminary grading plan showing and vegetation removal areas, including identification of existing trees that will be removed; (iv) a use table listing the specific uses to be included by right, and the number of dwelling units, by type; (v) building envelopes; (vi) topography, and identification of the source of the topographical information, supplemented where necessary by spot elevations, and identification of areas of the site containing slopes in excess of 25%; (vii) general layout for water and sewer systems; (viii) the general location of central features or major elements within the project that are essential to the design of the project, such as parking areas and structures, civic areas, open spaces, green spaces, recreation areas and other amenities; and a (ix) a code of development code identifying dimensions and design standards for proposed yards, open spaces characteristics, and any landscape or architectural characteristics relating to scale, proportions, and massing; and (x) a lot layout, giving the general or approximate location of lot lines.~~

Comment [RL16]: Move all of this to the PUD section, and then edit to remove Items that are redundant with respect to items that would be required within a preliminary site plan.

~~(iv) Proposed proffers to address impacts, consisting of a written statement of conditions, limitations, restrictions or amenities that the landowner offers as a means of mitigating impacts of a project or enhancing the public benefits of a project. See Sec. X.~~

(6) All required supplemental information, ~~see paragraph (d), following below.~~

Comment [RL17]: Instead of making reference to a nearby paragraph, move and incorporate the referenced paragraph into this paragraph (6).

~~The director of neighborhood development services shall establish and maintain appropriate application forms for zoning map amendments. Upon receipt of an application, the director shall within ten (10) business days review the application for completeness. Incomplete applications shall be rejected and shall not proceed for review or decision, and the applicant shall be notified in writing of the rejection and the reasons therefor.~~

(c) Following receipt of a complete application for a zoning ~~map~~ amendment:

(1) Either the city council or the ~~NDS D~~irector may request work sessions or other public presentations to be scheduled before the city council, the planning commission, the board of architectural review (if ~~landproperty~~ is within an historic district), or other public bodies, as the ~~NDS D~~irector determines to be appropriate, taking into consideration the nature of the approval requested, the acreage affected, potential impacts of an approved application, applicable legal requirements, and any other factors consistent with good zoning practices. The purpose of a work session or other public presentation is to allow an ~~applicant~~ landowner to present a proposed project, to allow the department of neighborhood development services to present a preliminary scoping of major issues, to seek directions as to the board's or commission's expectations in addressing those issues, and to allow the board or commission to receive public comments. The applicant's consent to a work session is required, if the work

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

session would extend the time for action by the board or commission beyond applicable deadlines established by law.

- (2) The ~~applicant- landowner~~ shall hold a community meeting for the application. The purposes of a community meeting are to provide citizens an opportunity to receive information about a proposed project, about applicable zoning processes and procedures, about applicable policies of the comprehensive plan and city ordinances or regulations that may apply to the project, and to give citizens an opportunity to ask questions about the project. The ~~NDS Director of neighborhood development services~~ is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process such meetings should be conducted, the manner in which the meeting should be conducted, and how (and to whom) notice of the community meeting should be given. The applicant's consent to a community meeting is required, if the community meeting cannot, due to no fault of the applicant, be scheduled in sufficient time to allow action by the board or planning commission within applicable deadlines established by law. The ~~NDS Director~~ may waive the requirement for a community meeting, in accordance with the approved zoning regulations for community meetings, upon a determination that the meeting is not likely to achieve the public purposes intended to be served, after consideration of the following: (i) the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and potential impacts, (ii) any other factors deemed relevant upon applying sound zoning principles, (iii) whether other public work sessions or meetings have already been held regarding the application, so as to make a community meeting unreasonably duplicative.
- (3) Unless otherwise directed by city council, upon the ~~NDS Director's~~ receipt of proof by the ~~applicant- landowner~~ that a community meeting has been held in accordance with applicable policies and procedures, the ~~NDS Director~~ is authorized to refer the matter to the planning commission for review in accordance with section 34-42(c), by written notice given to the planning commission chair.
- (d) ~~For each application for a zoning map amendment, the NDS Director may require supplemental information to be submitted along with the application. In determining what supplemental information must be submitted, the NDS Director shall consider the proposed use, the proposed density, the proposed zoning district classification, and other considerations the NDS Director determines to be relevant according to sound zoning practices. Required supplemental information may consist of any or all of the following:~~
 - (1) ~~Project proposal narrative, consisting of a detailed written statement of the proposal, its public need or benefit, and of how the project satisfies the purpose, intent or objectives of the applicable zoning district classification.~~
 - (2) ~~Comprehensive plan analysis, consisting of a detailed written statement of the project's consistency with the various components of the comprehensive plan, including the land use map and any small area, strategic investment area or other plan for the applicable development area.~~
 - (3) ~~Impacts on public facilities and infrastructure. A detailed narrative statement detailing the project's impacts on public facilities and infrastructure, including, without limitation: sidewalks and other pedestrian facilities; bicycle, public transit and motor vehicle transportation facilities; storm sewers; existing platted rights-of-way which have not previously been improved or accepted by the city for maintenance, etc.~~
 - (4) ~~Maps. One or more maps showing the proposed project's neighborhood context, existing natural and man-made conditions, and existing topography. If the proposal is to amend an existing planned unit development district, and the proposed amendment would affect less area than the entire district, the applicant- landowner shall submit a map showing the entire existing PUD and identifying any area to be added to or deleted from the district, or identifying the area to which the amended PUD plan or any amended proffers, would apply. If the proposal is for a~~

Comment [RL18]: Move all of this up and incorporate into paragraph (c)(6)

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

~~special use permit, and the area proposed to be subject to the special use permit is less than an entire lot (or less than an entire PUD, if applicable) a map shall be provided showing the area proposed to be subject to the special use permit.~~

~~(5) *Impacts on environmental features.* A narrative of environmental features of the land property that would be affected by the project, including, without limitation: trees, existing pervious surfaces, steep slopes, streams, etc. Photographs shall be provided of features described in the narrative.~~

~~(6) *Other information, including, without limitation, special studies or documentation, identified by the NDS Director as being necessary for a full and complete review of the proposed zoning amendment consistent with good zoning practice.*~~

(e)

(6) *Project concept plan.* For any zoning map amendment to establish a conventional zoning district (i.e., a district other than a PUD) or seeking approval of a special use permit, a conceptual plan shall be provided showing, as applicable: (i) street network, including circulation within the project and connections to existing and planned streets within and outside the project; (ii) general location of pedestrian and bicycle facilities; (iii) building envelopes; (iv) parking envelopes; (v) public spaces and amenities; (vi) conceptual stormwater management facility locations and types; (vii) conceptual grading; (viii) conceptual landscape plan; (ix) topography, and identification of the source of the topographical information, supplemented where necessary by spot elevations, and identification of areas of the site containing slopes in excess of 25%; (x) general location of central features or major elements within the project that are essential to the design of the project, such as parking areas and structures, civic areas, open spaces, green spaces, recreation areas and other amenities.

Comment [RL19]: Moved up to (b)(5)

(7) *PUD concept plan.* In addition to any information required by City Code section 34-517, a PUD concept plan shall include: (i) typical cross sections to show proportions, scale, and streetscape/cross-sections/circulation; (ii) conceptual stormwater management facility locations and types; (iii) conceptual grading; (iv) a use table listing the specific uses to be included by right, and the number of dwelling units, by type; (v) building envelopes; (vi) topography, and identification of the source of the topographical information, supplemented where necessary by spot elevations, and identification of areas of the site containing slopes in excess of 25%; (vii) general layout for water and sewer systems; (viii) the general location of central features or major elements within the project that are essential to the design of the project, such as parking areas and structures, civic areas, open spaces, green spaces, recreation areas and other amenities; (ix) a code of development identifying standards for proposed yards, open space characteristics, and any landscape or architectural characteristics relating to scale, proportions, and massing; and (x) a conceptual lot layout.

Comment [RL20]: Moved

(8) *Proposed proffers to address impacts,* consisting of a written statement of conditions, limitations, restrictions or amenities that the property owner offers as a means of mitigating impacts of a project or enhancing the public benefits of a project.

Comment [RL21]: Moved

~~(9) *Other information, including, without limitation, special studies or documentation, identified by the director as being necessary for a full and complete review of the proposed zoning map amendment consistent with good zoning practices.*~~

Comment [RL22]: Moved

Sec. 34-42. - Commission study and action.

~~(a)~~ All proposed amendments to this chapter shall be reviewed by the planning commission, and the planning commission shall report its findings and recommendations to city council, in accordance with Virginia Code Sec.15.2-2285.

~~The planning commission shall review and study each proposed amendment to determine:~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(1) Whether the proposed amendment conforms to the general guidelines and policies contained in the comprehensive plan;~~
- ~~(2) Whether the proposed amendment will further the purposes of this chapter and the general welfare of the entire community;~~
- ~~(3) Whether there is a need and justification for the change; and~~
- ~~(4) When pertaining to a change in the zoning district classification of property, the effect of the proposed change, if any, on the property itself, on surrounding property, and on public services and facilities. In addition, the commission shall consider the appropriateness of the property for inclusion within the proposed zoning district, relating to the purposes set forth at the beginning of the proposed district classification.~~
- ~~(b) Prior to making any recommendation to the city council, the planning commission shall advertise and hold at least one (1) public hearing on a proposed amendment. The planning commission may hold a joint public hearing with the city council.~~
- ~~(c) The planning commission shall review the proposed amendment and shall report its findings and recommendations to the city council, along with any appropriate explanatory materials, within one hundred (100) days after the proposed amendment was referred to the commission for review. Owner-initiated petitions for zoning map amendments shall be deemed referred to the commission as of the date on which: (i) city council, by motion or by resolution, refers an amendment to the commission for review, or (ii) the first planning commission meeting following referral by the **NDS Director of neighborhood development services** pursuant to **section 31-41(c)(3)**. Failure of the commission to report to city council within the 100-day period shall be deemed a recommendation of approval, unless the petition is withdrawn. In the event of and upon such withdrawal, processing of the proposed amendment shall cease without further action.~~

Comment [RL23]: The language proposed to be deleted is repetitive of requirements of Va. Code 15.2-2285, 15.2-2286.

Sec. 34-43. - Council study and action.

- (a) Before enacting any proposed zoning amendment to the zoning ordinance, the city council shall advertise and hold at least one (1) public hearing thereon, as prescribed within Virginia Code Sec. 15.2-2285. The city council may hold a joint public hearing with the planning commission.
- (b) Council may make appropriate changes or corrections in the proposed ordinance or amendment as a result of the public hearing, in accordance with Virginia Code Sec.15.2-2285(C); ~~provided, however, that no land may be rezoned to a more intensive use classification than was identified in the public notice of the public hearing without an additional public hearing conducted after notice as required by law. Where substantial changes have been made in a rezoning application following a public hearing, the city council may hold an additional public hearing.~~
- (c) Once a petition seeking an amendment of the zoning ordinance has been advertised for a public hearing, the city council shall not consider another petition which is substantially the same as that advertised, for a period of one (1) year from the last date on which the advertisement was published ~~advised petition was accepted by the director of neighborhood development services.~~

Comment [RL24]: No need to repeat language set forth within mandatory state code provisions.

Sec. 34-44. - Advertisement of plans, ordinances, etc.; notice of certain amendments.

- (a) The planning commission shall not recommend, nor the city council adopt, any plan or ordinance, or any amendment thereof, until public notice has been given as required by Va. Code Sec. 15.2-2285 and the statutes referenced therein ~~of intention to do so has been given by newspaper publication and written notice to property owners, in accordance with the requirements of Code of Virginia, § 15.2-2204. Costs of any notice required by this section shall be charged to the applicant.~~
- (b) In addition to the public notice required by Virginia Code Sec.15.2-2285 and the statutes referenced therein, w ~~where~~ a petition proposes a zoning map amendment ~~change in the zoning district classification of any property~~, the person seeking the zoning map amendment shall be required to post signs on or near the subject land ~~property~~. The required signs shall be furnished by the city

Comment [RL25]: Va. Code Sec. 15.2-2204

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~zoning administrator to a petitioning party~~ and shall be posted within two (2) working days from the date the amendment has been referred to the planning commission for study and recommendation.

(1) The ~~landowner person responsible for posting the signs~~ shall also be responsible for monitoring and maintaining the signs through the date on which the city council takes final action on the proposed amendment, and shall replace the signs if they are stolen, damaged, destroyed or otherwise removed. ~~At the public hearing on the proposed amendment, a petitioner may be asked to affirm that the required posting of signs was done in accordance with this section.~~

(2) Every sign shall be posted so as to be visible from a street adjacent to ~~the~~ land which is the subject of ~~the a~~ proposed ~~zoning map~~ amendment, within ten (10) feet of the edge of the street right-of-way. The number and location of posted signs shall be as follows:

- a. Where a petition involves a single parcel, one (1) sign shall be required.
- b. Where a petition involves an assemblage of two (2) to ten (10) contiguous parcels, one (1) sign shall be posted at each end of each street adjacent to the assembled parcels. At least one (1) sign shall be visible from each adjacent street.
- c. Where a petition involves an assemblage of more than ten (10) contiguous parcels, two (2) signs shall be posted along the frontage of each street adjacent to the assembled parcels. Each pair of signs shall be spaced at least twenty (20) feet apart.

(3) The requirement ~~for of~~ posting ~~of~~ signs ~~in connection with a petition~~ is a measure prescribed by council as an extra level of public notice; under no circumstances shall this requirement be deemed or construed as a prerequisite to the authority of the planning commission or city council to review or act upon any proposed ~~zoning map~~ amendment. ~~However, the planning commission or city council may choose to postpone consideration of an application, subject to additional advertisement and written notice as may be required by law, in the event a petitioner cannot verify compliance with the sign posting requirement.~~

(c) In addition to any specific advertisement, written notice or posting of signs required by this section, the planning commission and city council may provide notice of any planning or zoning matter by any other means they deem appropriate.

(d) In the event of a conflict between the requirements of this section and those set forth within ~~Virginia Code of Virginia §§ 15.2-2285 or any statute referenced therein~~ ~~15.2-2204~~, the ~~state statutory requirements of Code of Virginia § 15.2-2204~~ shall govern.

~~Sec. 34-45. Affordable dwelling units (rezoning).~~

~~Rezoning applications considered pursuant to this chapter shall be subject to the affordable dwelling unit requirements of section 34-12 of this Code.~~

Secs. 34-46—34-60. - Reserved.

~~DIVISION 4. CONDITIONAL ZONING~~

~~Sec. 34-61. Authorization.~~

~~The provisions set forth within this division are enacted by authority of Code of Virginia § 15.2-2303, and shall be applied and interpreted in accordance with that statute.~~

Sec. 34-62. — Conditional zoning authorized; purpose ~~Applicability.~~

(a) As part of a zoning amendment initiated by petition of a ~~property landowner pursuant to sec. 34-41(a)(3)~~, the agent thereof, or a contract purchaser of property (with the consent of the property owner) the city council may, in addition to the regulations provided for in a zoning district, adopt reasonable ~~development~~ conditions proffered by the petitioner.

Comment [RL26]: I can't recall this happening— can we delete from the ordinance? Why make it discretionary: applications could include a form on which an applicant could be required to provide the certification for each case

Comment [RL27]:
See preceding comment

Comment [RL28]: This is already stated in 34-12. Deleted as being unnecessarily repetitive

Comment [RL29]: Moved to next section

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~(b) The conditional zoning authority set forth within this section is enacted pursuant to Code of Virginia Sec. 15.2-2296 and 15.2-2303, and shall be applied and interpreted in accordance with those statutes.~~

~~The conditions shall not, however, include a requirement that the applicant create a property owners' association under Chapter 26 (§ 55-508 et seq.) of Title 55 of the Code of Virginia, where the members of such property owners' association would be required to pay an assessment for maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, or any other public facilities not provided for within the city's subdivision ordinance; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.~~

Sec. 34-63. ~~Form of proffers.~~

All proffered development conditions ("proffers") must be submitted in a written format, which may ~~shall~~ include narrative written statements, development plans containing schematic representations of land and/or building, profiles and elevations, or ~~and~~ other demonstrative documents depicting, describing, or otherwise pertaining to a proposed development. The NDS Director of neighborhood development services may establish specific forms for use by persons who wish to submit proffered development conditions, if such forms are approved in advance ~~subject to the approval of the~~ by the city attorney. Each submission shall be accompanied by the required fee, as set forth within the most recent fee schedule adopted by city council.

Sec. 34-64. ~~Procedure for offer and acceptance of proffers~~ Preliminary proffers.

- (a) ~~Preliminary P~~proffers must be received by the NDS Director ~~may be submitted as part of the original rezoning application, or may be submitted, as a modification of an existing zoning amendment application, no fewer than ten (10) days prior to a~~ the scheduled public hearing. ~~The director of neighborhood development services shall distribute copies of the preliminary proffers to the city attorney and other appropriate city departments for review and comment prior to the public hearing. The staff report presented to the planning commission shall analyze the impact of the preliminary proffers and whether they comply with existing laws, ordinances and regulations.~~
- (b) During a joint public hearing, preliminary proffers may be modified by a petitioner ~~n~~ applicant, orally or in writing, if they do not materially affect the overall proposal; however, where proffers are made for the first time at the public hearing, or are substantially modified by the petitioner at the public hearing, consideration of the petition ~~the application~~ shall be continued by the planning commission to allow for review by neighborhood development services and other city departments, and to allow an opportunity for public comment on such modifications on the new components of the application.
- (c) If the planning commission takes final action on a zoning petition ~~application~~ that includes proffered conditions, then the applicant shall reduce all proffers, as acted upon by the planning commission, to a final written proffer statement. The final proffer statement shall be submitted to the director of neighborhood development services within seven (7) days following the planning commission meeting. The director shall NDS Director shall transmit the final proffer statement ~~proffers that were acted on by the commission~~ to city council for consideration along with the other components of the petition ~~rezoning application.~~

Comment [RL30]: Per Va. Code 15.2-2303(A), proffers just need to be received in writing prior to the public hearing

Sec. 34-65. ~~Modification of final proffer statement.~~

~~An applicant may seek to add to, expand, clarify or otherwise modify the proffers acted upon by the planning commission prior to the meeting at which the city council will consider the rezoning application of which the proffers are a part. In the event any such modification is proposed, the applicant shall prepare the final proffer statement as required by section 34-64(c) above, as well as a cover sheet listing the proposed modifications. If a modification is proposed, council shall take one (1) of the following actions:~~

- ~~(1) Council may decline to consider the modifications, and may proceed to consider the rezoning application and final proffer statement, as acted upon by the planning commission;~~

Comment [RL31]: Section deleted: this process is not required by law, and is not generally followed by staff, the commission or council at the present time. I recommend that the provisions be deleted.

State law allows proposed proffers to be amended after the public hearing has begun, if the amendments do not materially affect the overall proposal. Va. Code 15.2-2303(A).

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(2) Council may continue the application to a subsequent meeting date, in which case council shall conduct an additional public hearing on the application (including the final proffer statement and all proposed modifications thereof), following advertisement and notice as required by law; or~~
- ~~(3) Council may refer the modified application to the planning commission for review and recommendation, upon an additional public hearing of the modification (including the final proffer statement and all proposed modifications thereof), following advertisement and notice as required by law. Council shall re-refer the modified application to the planning commission if the proposed modification is to delete any substantive provision from any proffer that was reviewed and acted upon by the commission.~~

~~(9-15-03(3); 11-19-07(2))~~

Sec. 34-66. - Effect of approved proffers.

- (a) Once accepted ~~adopted~~ as part of a zoning ~~an~~ amendment ~~to the zoning ordinance~~, proffers proffered conditions shall constitute ~~become a part of the~~ zoning regulations in addition to the regulations provided for the applicable zoning district, and such proffers to the property and shall continue in effect as provided within until a subsequent amendment changes the zoning on the property covered by the conditions Virginia Code Sec. 15.2-2303. A landowner may petition city council for amendments or variations of proffers, in accordance with Virginia Code sec. 15.2-2302; ~~however, the conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.~~
- (b) Upon adoption, the existence of proffers proffered conditions shall be noted by an appropriate symbol on the city's zoning district map, and the zoning administrator shall comply with the record-keeping requirements of Virginia Code Sec. 15.2-2300. ⁵ The zoning administrator shall keep and make available for public inspection a conditional zoning index, in accordance with Va. Code §15.2-2300. The zoning administrator shall have all necessary authority on behalf of city council to administer and enforce proffered development conditions, consistent with Virginia Code Sec. 15.2-2299.
- (c) So long as any proffers proffered conditions remain in effect no city employee or officer official or agency shall grant any permit or approval, except in accordance ~~approve any site plan, subdivision plat or development plan, unless such plan or plat substantially conforms with all~~ proffers proffered conditions applicable to the land and improvements property which are is the subject of the plan or plat requested permit or approval.
- (d) ~~Any petition initiated by a person seeking to amend conditions that were voluntarily proffered and accepted by the city council shall be considered a proposed amendment of the city's zoning ordinance and shall be advertised and reviewed as such.~~
- (e) Nothing in this section shall be construed to affect or impair the authority of city council to:
 - (1) Accept proffers proffered conditions which include provisions for timing or phasing of dedications, payments or improvements consistent with Virginia Code §§ 15.2-2303.1:1 through 15.2-2303.4; or
 - (2) Accept or impose reasonable conditions when granting any special exception.

⁵ Va. Code 15.2-2300

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

Secs. 34-67—34-80. - Reserved.

DIVISION 45. - COMPLIANCE AND ENFORCEMENT

Sec. 34-81. - Compliance with chapter required.

- ~~(a) The regulations set forth in this chapter shall be considered the minimum requirements to protect public health, safety, comfort, prosperity and general welfare, and to provide a remedy for existing conditions that are detrimental thereto.~~
- (b) Except as otherwise expressly provided within this chapter, or as modified through an authorized approval process, all land, buildings, structures and premises shall be used, and all buildings and structures shall be erected, constructed, altered, removed or demolished, only in conformity with the regulations of this chapter. No land, building, or structure shall be erected, converted, enlarged, altered, used or occupied, and no building or structure shall hereafter be located, erected, constructed, reconstructed, altered, repaired or moved except in conformity with the regulations specified within this zoning ordinance.
- (c) Nothing set forth within this ordinance ~~No lot or parcel shall be reduced or diminished in area such that required yard or other spaces shall be smaller than prescribed by this zoning ordinance. This provision shall not preclude the construction of a~~ building containing a single dwelling unit residence ~~on a lot of record existing before January 21, 1958. Notwithstanding the foregoing, any lot, parcel, building or structure originally established in conformity with city regulations, which is later placed in violation thereof by or on account of the acquisition, purchase or condemnation of a portion thereof by an agency of the federal, state or local government possessing the power of eminent domain shall not be considered nonconforming.~~

Sec. 34-82. - ~~Violations—General~~ Administrative inspections.

As authorized within Va. Code §15.2-2286(A)(16), the zoning administrator may present sworn testimony to a magistrate or court of competent jurisdiction and, if such sworn testimony establishes probable cause that a zoning ordinance violation has occurred, may request that the magistrate or court grant an inspection warrant to authorize the zoning administrator or agent to enter onto land, or into a building or structure, for the purpose of determining whether violations of the requirements of this chapter exist.

The following persons are hereby declared to be subject to the enforcement provisions of this division:

- ~~(1) An owner of property determined to be in violation of this chapter or of any regulation adopted pursuant to this chapter found to exist on his property.~~
- ~~(2) Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates a provision of this chapter, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or structure or uses any building or land in violation of the provisions of this chapter.~~
- (b) ~~The following conduct is hereby declared to be unlawful and subject to the enforcement provisions of this division:~~
 - ~~(1) Violation of any provision of this chapter or of any regulation adopted pursuant to authority conferred by it.~~
 - ~~(2) Any building erected or improvements constructed contrary to any of the provisions of this chapter and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this chapter or contrary to any detailed statement, plan, permit, certificate, variance or approval issued under the provisions of this chapter.~~
 - ~~(3) Failure to maintain improvements required under the terms of an approval granted under this chapter in a condition that ensures protection of the public safety and general welfare. It is the purpose of this~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~section to ensure that those site improvements intended for benefit of the public or protection of adjacent properties, but not dedicated to public use or otherwise transferred to city ownership, are maintained in a condition that permits those intentions to be fulfilled.~~

- ~~(4) Failure to maintain or repair a contributing structure or protected property as required by Article II, section 34-282.~~
- ~~(5) Procurement of any amendment or any required permit, certificate or approval through misrepresentation of any material fact.~~
- ~~(6) Initiating any land disturbing activity, or any activity for which a building permit or demolition permit is required, without obtaining all necessary approvals and permits.~~
- ~~(c) Upon becoming aware of any violation of any provision of this chapter, the zoning administrator may proceed to remedy the violation as provided in sections 34-83 through 34-89 of this division.~~

Sec. 34-83. - Violations—Violation notice and correction order; appeals.

Comment [RL32]: Deleted: governed by various provisions of state law

- ~~(a) Except as otherwise specifically provided in this chapter, the zoning administrator may, upon finding that an owner or any person is or has been engaging in conduct declared unlawful by this chapter, issue a violation notice and/or correction order directing such person to stop engaging in such conduct.~~
- ~~(b) The issuance of a violation notice and/or correction order shall suspend the effect of any approval, permit, plan, variance or certificate previously issued that relates to the property or premises subject to the order until such time as the violation notice and/or correction order is withdrawn by the zoning administrator or is stayed by an appeal to the board of zoning appeals.~~
- ~~(c) The zoning administrator may, if so specified in the violation notice and/or correction order, revoke any permit or certificate previously issued by him.~~
- ~~(d) Any written notice of a zoning violation or a written order of the zoning administrator shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order to the board of zoning appeals as provided in section 34-137, and that the decision shall be final if not appealed within the applicable time period. The appeal shall be taken by filing with the zoning administrator, and with the board of zoning appeals, a notice of appeal specifying the grounds thereof.~~
- ~~(e) The appeal period for a violation notice and correction order shall be thirty (30) days except that the appeal period shall be ten (10) days for violations involving the following: (i) temporary or seasonal commercial uses; (ii) parking; (iii) temporary signs; (iv) occupancy requirements in residential zones; and (v) home occupation or office of resident regulations in residential zones.~~
- ~~(f) Where a violation notice and/or correction order is issued and such violation has not ceased within such reasonable time as the zoning administrator has specified, he shall institute such action as may be necessary to terminate the violation. The zoning administrator may initiate injunction, mandamus, abatement, criminal or civil warrant, or any other appropriate action to prevent, enjoin, abate or remove such violation of any provision of this chapter.~~

Sec. 34-84. - Violations; enforcement authority—Criminal penalties.

- ~~(a) With the exception of violations which may be subject to civil penalties as set forth within X, violations of this chapter shall be criminal misdemeanor offenses, punishable as set forth within City Code Sec. 1-11. In the event that the zoning administrator determines that there has been any violation of this chapter, the administrator may seek criminal process against the alleged violator. The issuance of a violation notice and/or correction order shall not be deemed a precondition to the issuance of a warrant or summons pursuant to this section.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

Sec. 34-XXX Enforcement authority

- (b) The zoning administrator's enforcement authority shall include, without limitation:
- (1) ordering in writing the remedying of any condition found in violation of this chapter;
 - (2) giving written notice of a violation of this chapter;
 - (3) the imposition of civil penalties; and
 - (4) bringing legal action, including injunction, abatement, criminal prosecution or other appropriate action

~~An owner or any other person convicted of any violation of this chapter shall be subject to the following:~~

- ~~(1) The person shall have committed a misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00).~~
- ~~(2) If the violation is uncorrected at the time of conviction, the court shall order the person convicted to abate or remedy the violation in compliance with this chapter within a time period established by the court. Failure to remove or abate such violation within the time period established by the court shall constitute a separate misdemeanor offense punishable by a fine of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period, punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand five hundred dollars (\$1,500.00).~~

Sec. 34-85. - Violations—Civil summons or ticket.

- (a) ~~For the zoning violations referenced in section 34-86(a), the zoning administrator may issue a civil summons or ticket or permits any such violation, shall be subject to the imposing civil penalties as scheduled in section 34-86.~~ An owner or any other person who violates any provision of this chapter as scheduled in section 34-86(a), the zoning administrator may issue a civil summons or ticket or permits any such violation, shall be subject to the imposing civil penalties as scheduled in section 34-86.
- (b) ~~The issuance of a violation notice and correction order shall not be deemed a precondition to the issuance of a civil summons or ticket pursuant to this section. The zoning administrator may cause a summons or ticket to be issued for any scheduled violation and served upon an owner or any other person responsible for that violation in any other manner of service authorized by law.~~
- (c) ~~The Such summons or ticket shall be in a form approved by the clerk of the city's general district court contain the following information:~~ civil summons or ticket shall be in a form approved by the clerk of the city's general district court contain the following information:
- ~~(1) The name and address of the alleged violator.~~
 - ~~(2) The nature of the violation, the chapter section(s) being violated and the applicable section(s) of the civil penalty schedule as set forth herein.~~
 - ~~(3) The location, date and time that the violation occurred or was observed.~~
 - ~~(4) The amount of the civil penalty assessed for the violation.~~
 - ~~(5) The manner, location and time in which the civil penalty may be paid to the city.~~
 - ~~(6) The right of the recipient of the summons to elect to stand trial for the violation and the date for such trial, or the date for scheduling of such trial by the court.~~
- (cd) Any person summoned for a scheduled violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the city treasurer prior to the date fixed for trial in court. A person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. A signature to an admission of liability shall have the same force and effect as a judgment of court. However, such an admission shall not be deemed a criminal conviction for any purpose.

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- (e) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the Charlottesville General District Court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.
- (f) The designation of a particular violation in the schedule of civil penalties under section 34-86 shall be in lieu of any criminal penalty under section 34-84 and, except for any violation resulting in injury to persons, such a designation shall preclude the prosecution of the particular violation as a criminal misdemeanor, but shall not preclude any other remedy available under this chapter. The existence of a civil penalty shall not preclude action by by the zoning administrator under subdivision A 4 of Virginia Code § 15.2-2286, any action under Virginia Code § 15.2-2208, or any other action authorized within Title 15.2, Chapter 22 of the Virginia Code.
- (g) Each day during which a violation is found to exist shall be a separate offense. However, the same scheduled violation arising from the same operative set of facts may be charged not more than once in a ten (10) day period, and the total civil penalties from a series of such violations arising from the same set of operative facts shall not exceed five thousand dollars (\$5,000.00).
- ~~(h) The designation of a particular violation in the schedule of civil penalties shall not be construed to allow the imposition of civil penalties: (i) for activities related to land development; (ii) for violation of any provision of the zoning ordinance relating to the posting of signs on public property or public rights-of-way; (iii) for enforcement of the Uniform Statewide Building Code; or (iv) for violation of an erosion and sediment control ordinance.~~
- ~~(i) Any reference herein to a section of this chapter shall include all subsections and paragraphs of that section.~~

Sec. 34-86. ~~— Civil Schedule of civil penalties.~~

- (a) A person who violates any of the following provisions of the zoning ordinance ~~Any violation of the following provisions of this chapter~~ shall be subject to a civil penalty of two hundred dollars (\$200.00) for the first violation, and a civil penalty of five hundred dollars (\$500.00) for each subsequent violation arising from the same set of operative facts:
 - ~~(1) The placement, allowance of, erection or maintenance of a material impediment to visibility so as to restrict sight distance in violation of section 34-1121.~~
 - ~~(2) Violation of Article IX, Division 2, sections 34-970, et seq., regulating parking.~~
 - ~~(3) Each use of a lot, including the use of any structure thereon, not authorized either as a matter of right or by special use permit, provisional use permit, or temporary use permit by the zoning regulations applicable to the district in which the lot is located.~~
 - ~~(4) Any violation of sections 34-1170 through 34-1193, establishing supplementary regulations for certain uses authorized in the several zoning districts.~~
 - ~~(5) Any violation of the zoning district regulations contained within Articles III through VI, pertaining to dimensional requirements.~~
 - ~~(6) Any violation of any approved proffers, planned unit development plans, special use permits, provisional use permits, temporary use permits, variances, site plans, certificates of appropriateness or any condition related thereto.~~
 - ~~(7) Any violation of the regulations set forth within sections 34-1100 through 34-1126 (buildings and structures).~~
 - ~~(8) Any violation of sections 34-1140 through 34-1151, regulating nonconforming uses, lots and structures.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~(9) Violation of sections 34-1020 through 34-1054, regulating permanent and temporary signs, except as otherwise provided in this division.~~

~~(10) Any violation of Article II, Divisions 1—5, sections 34-240, et seq., regarding requirements for overlay districts.~~

~~(11) Any violation of Article VIII, Divisions 1—6, sections 34-850, et seq., regarding improvements required for developments.~~

~~(12) Any violation of Article IX, Division 5, sections 34-1070, et seq., regarding requirements for telecommunications facilities.~~

(b) Any person who demolishes, razes or moves any building or structure in violation of sections which is subject to the regulations set forth within section 34-277 or section 34-340 ~~without approval of the BAR or city council,~~ shall be subject to a civil penalty not to exceed twice the fair market value of the building or structure, as determined by the city real estate tax assessment at the time of the demolition, razing or moving.

~~(1) For purposes of this section, the term "person" shall include any individual, firm, partnership, association, corporation, company or organization of any kind, which is deemed by the Charlottesville Circuit Court to be responsible for the demolition, razing or moving.~~

~~(2)~~—An action seeking the imposition of the penalty shall be instituted by petition filed by the zoning administrator city in the Circuit Court of the City of Charlottesville. The action, ~~which~~ shall be tried in the same manner as any action at law. It shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(3) The defendant may, within twenty-one (21) days after the filing of the petition, file an answer and, without admitting liability, agree to restore the building or structure as it existed prior to demolition. If the restoration is completed within the time agreed upon by the parties or as established by the court, the petition shall be dismissed from the court's docket.

(4) The filing of the action pursuant to this section shall preclude a criminal prosecution for the same offense, except where the demolition, razing or moving has resulted in personal injury.

State Law reference— Code of Virginia, § 15.2-2209-

City Charter reference—Sec. 50.6

Sec. 34-87. - Violations—Injunctive relief, court order to correct and other remedies.

(a) Upon finding a violation of this chapter, the zoning administrator may bring an action to restrain, enjoin, correct, or abate such violaton. ~~Any violation of this chapter may be restrained, corrected or abated by injunction~~ or to obtain other appropriate relief (including, but not limited to, a court order directing a person determined to have engaged in conduct declared unlawful by this chapter to conform to the requirements of this chapter or any authorized regulations and to the provisions, requirements, conditions or standards contained in any required plan, permit, certificate, variance or approval issued thereunder).

(b) The issuance of a violation notice and correction order shall not be deemed a precondition to the initiation of legal action seeking an injunction, ~~mandamus~~ or to any other ~~appropriate~~ legal action seeking to restrain, correct or abate a violation of this chapter ~~under this subsection~~. Further, commencement of a civil or criminal action under this division shall not be deemed a precondition to, nor shall such actions be deemed to preclude the initiation of, an injunction, ~~mandamus~~ or other appropriate action.

State Law reference—Code of Virginia §15.2-2208; 15.2-2286(4); 15.2-2299

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

Sec. 34-88. - Suspension of time limits on permits, certificates and other approvals during litigation.

~~Whenever any provision of this chapter or of Chapters 5, 10 or 29 of this Code imposes a time limit upon the validity of a permit, certificate, variance, site plan, plat or other official approval granted thereunder and the validity of such permit, certificate, variance, site plan, plat or other official approval is raised as an issue in any judicial proceeding to which the city or the recipient of such approval is a party, and such time limitation is reached while the judicial proceeding is pending, then such approval shall be extended to a date twelve (12) months beyond the date of a final, nonappealable order by a court of competent jurisdiction terminating the litigation.~~

Comment [RL33]: Deleted; no state enabling legislation found

Sec. 34-89. - Remedies not exclusive.

The remedies provided for in this division are cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Secs. 34-90—34-105. - Reserved.

~~DIVISION 6. THE ZONING ADMINISTRATOR~~

~~Sec. 34-106. - Administrator—General powers and duties; delegation of powers.~~

- ~~(a) It shall be the duty of the zoning administrator to enforce this chapter. The zoning administrator shall have all necessary authority on behalf of the city to administer and enforce this chapter. This authority shall include: (i) ordering in writing the remedying of any condition found in violation of this chapter; (ii) ensuring compliance with this chapter by bringing legal action, including injunction, abatement or other appropriate action or proceeding subject to appeal; and (iii) in specific cases, making findings of fact and, with the concurrence of the city attorney, conclusions of law regarding determinations of rights accruing under Code of Virginia § 15.2-2307. In addition, the zoning administrator shall maintain the zoning map, and such map shall be kept current and shall reflect amendments as soon as practicable after adoption by the city council.~~
- ~~(b) The zoning administrator shall receive applications required by this chapter and, where appropriate, issue or revoke permits and issue or revoke prescribed certificates. The zoning administrator shall enforce provisions, requirements, conditions or standards contained in any approved site plan, grading plan, excavation plan or clearing plan, or in any special permit, building permit, occupancy permit, variance or certificate of appropriateness, or to any rezoning (zoning map amendments) which have been proffered by the applicant for rezoning. The zoning administrator shall issue zoning compliance letters upon request. Each request for a zoning compliance letter shall be accompanied by the required fee, as set forth within the most recent fee schedule adopted by city council.~~
- ~~(c) For carrying into effect its provisions, the zoning administrator may adopt procedures consistent with this chapter.~~
- ~~(d) In case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not, the zoning administrator is hereby authorized to make a determination thereof, being guided in such determination by the purposes and intent of this chapter as set forth in section 34-3; provided however, that an appeal may be taken from any such determination as provided in section 34-137.~~
- ~~(e) The zoning administrator may delegate his authority to other city officials or employees duly appointed to serve as his assistant(s).~~

~~(9-15-03(3); 4-13-04(2), § 1)~~

~~Sec. 34-107. - Administrator—Inspections; investigations.~~

- ~~(a) The zoning administrator shall examine premises for which permits have been issued and shall make necessary inspections to ensure compliance with the provisions of this chapter. The zoning administrator shall, when requested by the city manager, or when the interest of the city so requires,~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

~~make investigations in connection with the matters referred to within this chapter and render written reports on the same.~~

~~(b) Inspections shall be made by the zoning administrator or a duly appointed assistant.~~

~~Sec. 34-108. - Administrator - Variances.~~

~~The zoning administrator is authorized to grant a variance to building setbacks of less than one (1) foot, provided that he finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the variance will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the variance. Prior to the granting of a variance, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for variance, and an opportunity to respond to the request within twenty-one (21) days of the date of the notice. If any adjoining property owner objects to said request in writing within the time specified above, the request shall be transferred to the board of zoning appeals for decision.~~

~~(9-15-03(3))~~

~~Sec. 34-109. - Administrator - Violations.~~

~~Upon becoming aware of any violation of any provisions of this chapter, the zoning administrator shall take such enforcement action as allowed under the enforcement and compliance division of this chapter.~~

~~(9-15-03(3))~~

~~Sec. 34-110. - Administrator - Records and reports.~~

~~(a) The zoning administrator shall keep careful and comprehensive records of applications, permits issued, certificates issued, inspections made, reports rendered and notices issued. He shall retain records of all action in connection with building work as required by state law.~~

~~(b) All such records shall be open to public inspection at reasonable hours, but shall not be removed from the office of the zoning administrator.~~

~~(c) The zoning administrator shall make a report of all activities to the director of neighborhood development services once each month, or as requested, including statements of permits and certificates issued, and orders promulgated.~~

~~(9-15-03(3))~~

~~Sec. 34-111. - Administrator - Written orders, requirements, decisions, determinations.~~

~~(a) In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after sixty (60) days have elapsed from the date of the written order, requirement, decision or determination where the person affected by such action has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer, or through fraud. The sixty day limitation shall not apply in any case where, with the concurrence of the city attorney, modification is required to correct clerical or other nondiscretionary errors.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~(b) —~~

~~The zoning administrator shall respond within ninety (90) days of a request for a decision or determination on zoning matters within the scope of his authority, unless the requester has agreed to a longer period.~~

~~(c) — The zoning administrator may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the chief of police in enforcing orders and of the city attorney in prosecuting violations and of other city officials.~~

Secs. 34-112—34-125. - Reserved.

~~DIVISION 7. — THE BOARD OF ZONING APPEALS~~

~~Sec. 34-126. — Board of zoning appeals — Composition; appointment, terms and removal of members and alternate members.~~

~~(a) — The board of zoning appeals shall consist of five (5) residents of the city, appointed by the circuit court of the city. Their terms of office shall be for five (5) years each, and the term of office of one (1) member shall expire each year. The secretary of the board shall notify the circuit court at least thirty (30) days in advance of the expiration of any term of office, and shall notify the court promptly if any vacancy occurs. Appointments to fill vacancies on the board shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves.~~

~~(b) — A member whose term expires shall continue to serve until his successor is appointed and qualifies. Any member of the board may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by the circuit court, after a hearing is held after at least fifteen (15) days notice.~~

~~(c) — Up to three (3) alternate members to the board of zoning appeals may be appointed by the circuit court. The qualifications, terms and compensation of alternate members shall be the same as those of regular members. A regular member, when he knows he will be absent from a meeting, shall notify the chairman twenty-four (24) hours prior to such meeting. The chairman shall select an alternate to serve in the absent member's place and the records of the board shall so note.~~

~~Sec. 34-127. — Members to hold no other public office; exception.~~

~~Members of the board of zoning appeals shall hold no other public office in the city, except that one (1) may be a member of the city planning commission.~~

~~(9-15-03(3))~~

~~Sec. 34-128. — Selection and terms of officers.~~

~~The board of zoning appeals shall select one (1) of its members as chairman and one (1) as vice-chairman, who shall serve in such capacity for a term of one (1) year and until their successors have been selected. The board may elect as its secretary either one (1) of its members or a qualified individual who is not a member of the board, excluding the alternate members, who shall serve in such capacity for a term of one (1) year and until his successor has been selected. A secretary who is not a member of the board shall not be entitled to vote on matters before the board.~~

~~(9-15-03(3))~~

~~Sec. 34-129. — General powers.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~The board of zoning appeals, in appropriate cases and subject to appropriate conditions and safeguards, shall have the following powers and duties:~~

- ~~(1) *Administrative appeals.* To hear and decide appeals from any order, requirement, decision or determination made by the zoning administrator or an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant hereto. The decision on such appeal shall be based on the board's judgment of whether the administrator or officer was correct. The board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision.~~
- ~~(2) *Variances.* To authorize upon appeal, or original application 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 provided in sections 34-136 and 34-137.~~
- ~~(3) *Boundaries.* To decide, after notice and hearing, applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. The board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.~~
- ~~(4) *Special exceptions.* To decide, after notice and hearing, only such special exceptions as the board of zoning appeals is specifically authorized to pass on by the terms set forth in Article II, sections 34-248 and 34-249 (Flood Protection Districts), with such conditions and safeguards 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. The board may revoke a special exception if it determines that there has not been compliance with the terms or conditions upon which such special exception was granted.~~

Sec. 34-130. - ~~Quorum.~~

~~A majority of the members of the board of zoning appeals shall constitute a quorum for the transaction of business.~~

(9-15-03(3))

Sec. 34-131. - ~~Rules; meetings; records; reports.~~

- ~~(a) *Rules.* The board shall adopt such rules from time to time as it may deem necessary to carry out the provisions of this chapter.~~
- ~~(b) *Meetings.* Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. The board shall give notice of its meetings in accordance with applicable requirements of the Virginia Freedom of Information Act ("FOIA").~~
- ~~(c) *Records and minutes.* 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 such minutes and records shall be filed and maintained in the office of the neighborhood development services and shall be public records, as that term is defined within FOIA, Code of Virginia, § 2-2-3901.~~
- ~~(d) *Reports to council.* The board of zoning appeals shall submit a report of its activities to the city council at least once each year.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~(9-15-03(3))~~

Sec. 34-132. - ~~Hearings generally.~~

~~(a) — Hearings before the board of zoning appeals shall comply with such reasonable rules and regulations, not inconsistent with this chapter, as the board may from time to time adopt.~~

~~(b) — A party to a hearing may appear in person or by agent or by an attorney.~~

~~(9-15-03(3))~~

~~Sec. 34-133. — Required vote for action.~~

~~The concurring vote of three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative official or to decide in favor of an applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter.~~

~~(9-15-03(3))~~

~~Sec. 34-134. — Notification of decisions.~~

~~All parties to any proceeding before the board of zoning appeals shall be notified by certified mail of the decision of the board immediately upon its adoption.~~

~~(9-15-03(3))~~

Sec. 34-135. - ~~Petitions for exceptions, variances or interpretations.~~

~~(a) Petitions for special exceptions, variances or interpretations may be made by any property owner, tenant, government official, department, board or bureau. Such petitions shall be made to the zoning administrator in accordance with the requirements of this chapter and the rules of the board of zoning appeals. The petition and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board, who shall place the matter on the docket. A copy of the petition shall be sent to the planning commission which may send a recommendation to the board or appear as a party in the hearing. Once a petition has been considered by the board of zoning appeals, the board shall not reconsider substantially the same petition within a period of one (1) year from the date the initial petition was filed with the zoning administrator.~~

~~(b) —~~

~~When a petition for an exception, variance or interpretation of district map or boundaries is filed with the secretary of the board of zoning appeals, the zoning administrator, within three (3) working days of filing of petition, shall post a sign on each lot included in the petition stating that a petition has been filed with the board of zoning appeals for a variance or exception to this chapter. Such signs shall be furnished by the zoning administrator and shall be located so as to be visible from the street or public place. It shall be the duty of the zoning administrator to maintain, or to replace the signs if they are destroyed, until such time as the board of zoning appeals has disposed of the petition.~~

~~(c) The board of zoning appeals shall fix a reasonable time for the hearing of the petition, give public notice thereof as required by Code of Virginia § 15.2-2204, as amended, as well as due notice to the~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~parties in interest, and decide the same within sixty (60) days. Written notice shall be given by the board of zoning appeals at least five (5) days before the hearing to the owner or owners or their agent, of each parcel involved and to the owner or owners or their agents, of all abutting property and property immediately across the street or road from the property affected. When giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.~~

- (d) ~~At the public hearing held by the board of zoning appeals on the petition, the zoning administrator may be asked to affirm that such posting has been done; provided, that if such signs are obliterated or destroyed during the period for which they are required to be posted such fact shall not be essential to jurisdiction of the petition by the board of zoning appeals, if the zoning administrator satisfies the board of zoning appeals that such signs were originally properly posted and that such obliteration or destruction occurred without the zoning administrator's knowledge.~~

Sec. 34-136. ~~-Grant of variances.~~

~~(a) A variance may be granted where 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 the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant.~~

~~No such variance shall be authorized by the board unless it finds:~~

- ~~(1) That the strict application of the ordinance would produce undue hardship;~~
- ~~(2) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity;~~
- ~~(3) That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and~~
- ~~(4) That the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.~~

~~(b) No variance shall be authorized except after notice and hearing.~~

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

~~(d) No nonconforming use of neighborhood lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.~~

~~(e) Under no circumstance shall the board grant a variance to allow a use not permitted by this chapter in the district involved or to allow a use not permitted under state law.~~

~~(f) If the board finds, after hearing, that the conditions above enumerated have been satisfied and the board further finds that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure, it may grant the variance. If, for any reason, any of the above findings cannot be made, the board shall deny the petition for a variance. The required findings must be made a part of the board's order.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~(9-15-03(3))~~

~~Sec. 34-137. Appeals to board from administrative decisions; procedure.~~

- ~~(a) An appeal to the board of zoning appeals may be taken by any aggrieved person or by any officer, department, board or bureau of the city affected by any decision of the zoning administrator or any administrative official in the administration or enforcement of this chapter. The failure or refusal to act of any official administering this chapter shall constitute a decision appealable pursuant to this section.~~
- ~~(b) Such an appeal shall be taken within thirty (30) days, except as otherwise provided in section 34-111 after the decision appealed from by filing with the zoning administrator or other official, and with the board, a notice of appeal specifying the grounds thereof. Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993 shall include a statement informing the recipient that he may have a right to appeal such notice or order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days.~~
- ~~(c) The official whose action is appealed shall forthwith transmit to the board of zoning appeals, all the papers constituting the records upon which the action appealed from was taken.~~
- ~~(d) The board of zoning appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof pursuant to Code of Virginia § 15.2-2204, as well as due notice to the parties in interest and decide the same within sixty (60) days.~~
- ~~(e) In reviewing the actions of administrative officials, the board of zoning appeals may, so long as its action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the official from whom the appeal is taken. The concurring vote of a majority of the 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 the ordinance or to effect any variance from this chapter.~~
- ~~(f) An appeal to the board of zoning appeals from any action of an official taken pursuant to this chapter shall stay the effect of the action appealed from; provided, however, that an appeal shall not operate as a stay if the official performing such action certifies to the board that the public health or safety requires that the action remain in effect pending a decision on the appeal. If such a certification is made to the board, the person pursuing the appeal may contest the accuracy of the certification. The board shall in such case immediately hear and determine the question of whether the action appealed from should be stayed pending a decision on the merits of the appeal.~~

~~(9-15-03(3))~~

~~Sec. 34-138. Fee for appeals.~~

~~Each appeal to the board of zoning appeals shall be accompanied by a fee to defray the expense of processing such appeal, as set forth within the most recent fee schedule adopted by city council. In the event the final decision in the appeal is favorable to the applicant, the city shall refund this fee.~~

~~Sec. 34-139. - Judicial review of decisions of board.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(a) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, any taxpayer, or any officer, department, board or bureau of the city may present to the Charlottesville Circuit Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the board has rendered its decision. The date of rendition shall be the date on which the board, by vote, makes its ruling and shall not depend on approval, entry or signing of the board's minutes.~~
 - ~~(b) Upon the presentation of such petition, the court shall allow a writ of certiorari directed to the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the complaining party's attorney, which shall not be less than ten (10) days and may be extended by the court. Initiation of a review proceeding 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 the court. 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.~~
 - ~~(f) All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.~~
- ~~(9-15-03(3))~~

Secs. 34-140—34-155. - Reserved.

DIVISION 28. - SPECIAL USE PERMITS

Sec. 34-156. - In general.

~~There are certain uses and developments that by their nature require additional regulation, beyond the general requirements applicable to a particular zoning district, in order to protect the welfare, safety and convenience of the public. Whenever this chapter specifies that the use or development of land is allowed with a special use permit, these uses may be permitted within a particular zoning district, pursuant to a special use permit approved by the city council may, by resolution, approve such permit. City council may condition the approval of a special use permit upon compliance with suitable regulations and safeguards, which shall be set forth within the resolution.~~

~~(9-15-03(3))~~

Sec. 34-157. - General standards for issuance.

- (a) ~~In considering an application for a special use permit, the city council shall consider the following factors:~~
 - ~~(1) Whether the proposed use or development will be harmonious with existing patterns of use and development within the neighborhood;~~

Comment [RL34]: Authorization for SUPs moved to a new Article II (Zoning Procedures)

Comment [RL35]: Reworked—matters are to be addressed in staff reports, per current practice

As a practical matter, the PC and CC go through these items only as presented within the staff report; resolutions and discussions don't go point-by-point through the items.

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(2) Whether the proposed use or development and associated public facilities will substantially conform to the city's comprehensive plan;~~
 - ~~(3) Whether proposed use or development of any buildings or structures will comply with all applicable building code regulations;~~
 - ~~(4) Whether the proposed use or development will have any potentially adverse impacts on the surrounding neighborhood, or the community in general; and if so, whether there are any reasonable conditions of approval that would satisfactorily mitigate such impacts. Potential adverse impacts to be considered include, but are not necessarily limited to, the following:
 - ~~a. Traffic or parking congestion;~~
 - ~~b. Noise, lights, dust, odor, fumes, vibration, and other factors which adversely affect the natural environment;~~
 - ~~c. Displacement of existing residents or businesses;~~
 - ~~d. Discouragement of economic development activities that may provide desirable employment or enlarge the tax base;~~
 - ~~e. Undue density of population or intensity of use in relation to the community facilities existing or available;~~
 - ~~f. Reduction in the availability of affordable housing in the neighborhood;~~
 - ~~g. Impact on school population and facilities;~~
 - ~~h. Destruction of or encroachment upon conservation or historic districts;~~
 - ~~i. Conformity with federal, state and local laws, as demonstrated and certified by the applicant; and,~~
 - ~~j. Massing and scale of project.~~~~
 - ~~(5) Whether the proposed use or development will be in harmony with the purposes of the specific zoning district in which it will be placed;~~
 - ~~(6) Whether the proposed use or development will meet applicable general and specific standards set forth within the zoning ordinance, subdivision regulations, or other city ordinances or regulations; and~~
 - ~~(7) When the property that is the subject of the application for a special use permit is within a design control district, city council shall refer the application to the BAR or ERB, as may be applicable, for recommendations as to whether the proposed use will have an adverse impact on the district, and for recommendations as to reasonable conditions which, if imposed, that would mitigate any such impacts. The BAR or ERB, as applicable, shall return a written report of its recommendations to the city council.~~
- ~~(b) Any resolution adopted by city council to grant a special use permit shall set forth any reasonable conditions which apply to the approval.~~

Sec. 34-158. - Application generally.

- (a) Whenever this chapter specifies that the use or development of land is allowed with a special use permit, city council may, by resolution, approve such permit. City council may condition the approval of a special use permit upon compliance with suitable regulations and safeguards, which shall be set forth within the resolution.
- (b) The procedure for filing and consideration of an application for a special use permit ~~shall be~~ is the same as that required by section 34-41 for an owner-initiated petition for a zoning ~~map~~ amendment. A landowner may petition for a special use permit, by submitting an application form to the City, along with the required application fee and all required application materials.

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~(c) Required application materials—each application form shall be accompanied by the following, except that a complete application for a special use permit shall also include:~~

- ~~(1) Information and materials required by Sec. 34-X (X) and (X)~~
- ~~(2) A preliminary site plan, if the proposed use or development is subject to the requirement for a site plan pursuant to when required by section §34-X802 of the City Code;~~
- ~~(2) A written disclosure of the information required by section 34-8 of the City Code and, if the applicant is not the owner of the property, written evidence of his status as (i) the authorized agent of the property owner, or (ii) a contract purchaser of the property whose application is with the permission of the property owner;~~
- ~~(3) For developments including any non-residential uses, and developments proposing the construction of three (3) or more single or two-family dwellings, the applicant shall provide a completed low-impact development ("LID") methods worksheet;~~
- ~~(34) When the proposed use or development will involve a change in the size, For applications proposing the alteration of the footprint or height, area, bulk or location of an existing building, or the construction of one (1) or more new buildings, the application shall include :- (i) a building massing diagram and (ii) architectural elevations;~~
- ~~(45) Information and data identifying how many, if any, existing dwelling units on the development site meet the city's definition of an "affordable dwelling unit" and whether any such existing units, or equivalent affordable units, will remain following the development; and~~
- ~~(6) Information and data addressing the factors referenced in this section and in section 34-X. Other supporting data sufficient to demonstrate compliance with the purposes and standards of this Zoning Ordinance, including, without limitation, graphic materials that illustrate the context of the project as well as information and data addressing the factors set forth within section 34-157 above.~~

~~(b) It shall be the responsibility of the applicant for a special use permit to provide information and data addressing the factors referenced in this section and in section 34-157, above.~~

(d) The NDS Director shall review every proposed special use permit and shall provide written analysis and recommendations to the planning commission and city council. Analysis and recommendations provided by the NDS Director shall address the following factors:

- (1) Whether the proposed use or development is consistent with the comprehensive plan;
- (2) Whether the proposed use or development is consistent with the purposes of the specific zoning district in which it will be placed;
- (3) Whether the proposed use or development will be harmonious with existing patterns of use and development within the neighborhood;
- (4) Whether the proposed use or development will have any potentially adverse impacts on the surrounding neighborhood, or the community in general; and if so, whether there are any reasonable conditions of approval that would satisfactorily mitigate such impacts. Potential adverse impacts to be considered include, but are not necessarily limited to, the following:
 - a. Traffic or parking congestion;

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- b. Noise, lights, dust, odor, fumes, vibration, and other factors which adversely affect the natural environment;
- c. Displacement of existing residents or businesses;
- d. Discouragement of economic development activities that may provide desirable employment or enlarge the tax base;
- e. Undue density of population or intensity of use in relation to the existing or future expected capacity of transportation, water, sewer, schools or other public services or facilities;
- f. Reduction in the number of existing housing units within the neighborhood;
- g. Impact upon conservation or historic districts—each special use permit application shall be referred to the BAR or ERB, as may be applicable, to give such board(s) the opportunity to identify potential impacts of a proposed use or development; if potential adverse impacts are articulated, the board may recommend reasonable conditions which, if imposed, would mitigate any such impacts. The BAR or ERB, as applicable, shall return a written report of its recommendations to the city council;
- i. Conformity with federal, state and local laws, as demonstrated and certified by the applicant; and,
- j. Massing and scale of project;
- k. The advisability or effect of modifications or exceptions authorized by Sec. 34-X

(e) The planning commission shall review and make recommendations to city council in the same manner as provided within section 34-X for an owner-initiated petition for a zoning amendment. The planning commission may concurrently approve a site plan, subject to city council's approval of a special use permit, and subject to any necessary amendments to the site plan as a result of the city council's action. Alternatively, the planning commission may choose to defer consideration of a site plan until after council has rendered a final decision on the application for a special use permit.

(f) In considering an application for a special use permit, the city council may consider the analysis and recommendation(s) of the NDS Director of neighborhood development services and recommendation(s) of the planning commission, and city council may consider any other matters it deems relevant.

Sec. 34-159. - Application fee.

~~Each application for a special use permit shall be accompanied by the required application fee, as set forth within the most recent fee schedule approved by city council.~~

(9-15-03(3))

Comment [RL36]: Application fees moved to Article II (Zoning Procedures) Division 1 (General Provisions)

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

Sec. 34-160. - Review and action on application.

- ~~(a) The department of neighborhood development services shall review every application for a special use permit and shall make a report of its findings and recommendations to the planning commission and city council.~~
- ~~(b) The planning commission shall review and make recommendations to city council in the same manner as provided within section 34-41 for an owner-initiated petition for a zoning map amendment. The planning commission may concurrently approve a preliminary site plan, subject to city council's approval of a special use permit, and subject to any necessary amendments to the site plan as a result of the city council's action. Alternatively, the planning commission may choose to defer consideration of a site plan until after council has rendered a final decision on the application for a special use permit.~~

Sec. 34-161. - Initiation of application by planning commission or city council.

- (a) In order to avoid producing undue hardship on a property land owner, the planning commission or city council may initiate a special use permit application when all of the following conditions are met:
 - (1) The hardship is not a result of actions of the present or any past property land owner in violation of any zoning ordinance;
 - (2) The proposed use was established prior to adoption of the current zoning ordinance and was in conformity with the immediately preceding zoning ordinance; and
 - (3) The proposed use is allowed pursuant to a special use permit within the current zoning district.
- (b) In the above situations, the application requirements set forth within sections 34-158 and 34-159 shall not apply.

Sec. 34-162. - Exceptions and modifications as conditions of permit.

- (a) As part of its approval of ~~In reviewing an application for~~ a special use permit, ~~the~~ city council may expand, modify, reduce or otherwise grant variations or exceptions to zoning regulations establishing building setbacks, building setbacks, yard, regulations, standards for higher density, residential density requirements, or parking standards, and time limitations,
- ~~provided:~~
 - ~~(1) Such modification or exception will be in harmony with the purposes and intent of this division, the zoning district regulations under which such special use permit is being sought; and~~
 - ~~(2) Such modification or exception is necessary or desirable in view of the particular nature, circumstances, location or situation of the proposed use; and~~
 - ~~(3) No such modification or exception shall be authorized to allow a use that is not otherwise allowed by this chapter within the zoning district in which the subject property is situated.~~
- ~~(b) The planning commission, in making its recommendations to city council concerning any special use permit application, may include comments or recommendations regarding the advisability or effect of any modifications or exceptions.~~
- ~~(be) The resolution adopted by city council to grant any special use permit shall set forth any such modifications or exceptions which have been approved.~~

Sec. 34-163. - Amendment.

A special use permit may be amended following the same procedure specified in Sec. X s as for approval of an ~~original~~ special use permit ~~application~~.

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

Sec. 34-164. - Applicability; validity.

- (a) ~~The use authorized by a special use permit, and all provisions set forth within the resolution approving the permit, together with any amendments and modifications thereto, shall have the status of zoning regulations applicable to apply to the land that is the subject of the permit. These regulations shall govern the use and development of the land until the special use permit is revoked, expires, or is amended, and shall run with the land, property for which it was issued so long as such property is used for the purpose approved within such permit, and shall not be transferable to any other property.~~
- (b) The validity period of a special use permit associated with new construction shall be consistent with that of the approved preliminary and final site plan pursuant to sections 34-822 and 34-825.
- (c) A special use permit shall expire:
 - (1) Eighteen (18) months from the date of approval, by the city council, if no site plan is required and a building permit to construct the authorized improvements has not been approved.
 - (2) Eighteen (18) months from the date of approval by the city council, if no building permit is required and the use has not commenced operation in the manner approved by a special use permit.
 - (3) Eighteen (18) months from the date of approval by the city council, in the case of proposed new construction, if preliminary site plan approval has not been granted.
 - (4) Upon revocation of an approved preliminary site plan or expiration of an approved final site plan, if the special use permit is associated with new construction upon which a valid site plan is required.
 - (5) In the event that the use approved by a special use permit once established is not operated for a period of two (2) consecutive years.
- (d) Prior to the expiration of a special use permit, upon written request by the ~~applicant, landowner~~ to the director, the director, if he finds that the special use permit is still in compliance with all applicable ordinances and policies, may grant an extension of up to one (1) year. A request for an extension shall be submitted prior to expiration. Written notification of the decision on the extension request shall be provided by the ~~NDS Director~~ within fourteen (14) business days.
- (e) A special use permit shall be revocable upon written order of the city council at any time because of the failure of the owner or operator of the use allowed by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit. The city council may revoke the special use permit after notice and hearing as provided by Virginia Code Section 15.2-2204.

Sec. 34-165. - Infill development—Concept and purpose.

- ~~(a) Infill development is a concept by which the city desires to encourage and permit variation in certain areas within the city's R-1, R-1S, R-2 and R-3 zoning districts, by allowing deviation from the following types of regulations pursuant to a special use permit: minimum lot size and street frontage requirements, dimensional requirements, types of dwellings, density, yard requirements. In an effort to promote a walkable community, to reduce traffic congestion, to improve air quality, and to enhance the viability of downtown businesses, the city seeks to encourage increased density of residential development in central Charlottesville and the Main Street corridor, where access to a variety of transportation options allows for increased density with less impact on traffic and promotes a healthy lifestyle for city residents.~~
- ~~(b) In reviewing an application for approval of a special use permit authorizing an infill development, in addition to the general considerations applicable to approval of a special use permit the city council and planning commission shall consider whether the application satisfies the following objectives:~~

Comment [RL37]: Provisions deleted. The City hasn't received an application for one of these in at least 2 years.

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(1) Provision of a variety of housing types, or, within a development containing only a single housing type, inclusion of houses of various sizes, to the end that housing within the development will provide a vibrant neighborhood offering a diverse mix of housing styles and sales prices that are affordable to persons and families in various income ranges;~~
- ~~(2) Ease of access to and encouragement of the use of public transit services or other alternatives to single occupancy automobiles (including, without limitation, public pedestrian systems) by persons who live within the development.~~
- ~~(3) Encouragement of pedestrian and vehicular connectivity within a development, and between a development and adjacent neighborhoods, providing opportunities for residents to live near workplaces, shopping opportunities and conveniences.~~
- ~~(4) Preservation of cultural features, historic structures and scenic assets and natural features such as trees, streams, drainage ways and topography, or restoration of such assets and features;~~
- ~~(5) Proximity to public parks and public recreational facilities; and/or~~
- ~~(6) Creation of a development that is harmonious with the existing uses and character of adjacent property(s), and/or consistent with patterns of development noted with respect to such adjacent property.~~

Sec. 34-166. - **Configuration, limitations.**

Comment [RL38]: Provisions recommended for deletion. See preceding comment.

- ~~(a) *Uses.* An infill development may include any one (1) or more uses authorized within the zoning district within which it is situated.~~
- ~~(b) *Maximum size.* An infill development may be comprised of one (1) or more lots or parcels of land, having, collectively, not more than two (2) acres. The lots or parcels, and all acreage contained therein, shall be contiguous.~~
- ~~(c) *Location.* From time to time, city council may specify area(s) appropriate for infill development on a map. The site of a proposed infill development must be within the infill development area specified on the most recent infill development area map approved by city council. A copy of the most recently approved infill development area map shall be maintained available for public inspection within the city's department of neighborhood development services.~~
- ~~(d) *Environmental impact.* The applicant for approval of an infill development must mitigate the impact of increased density through implementation of a Low Impact Development (LID) strategy on the site. An LID worksheet must be completed and submitted along with any application for approval of an infill special use permit, and the LID worksheet must show a minimum score of ten (10) points. The LID worksheet must be verified and signed by the applicant. Prior to the public hearing on an application for approval of an infill special use permit, the city engineer shall review the LID strategy reflected in the worksheet.~~
- ~~(e) *Density.* Density within an infill development shall not exceed one and one half (1.5) times the density already allowed by right in the existing zoning district. Notwithstanding the foregoing, city council may approve additional density of up to two (2) units per acre for an infill development that demonstrates a score of thirteen (13) points or higher on the LID worksheet.~~
- ~~(f) *Application materials.* An application for a special use permit authorizing an infill development shall include, in addition to the materials required by section 34-158, the following:
 - ~~(1) A narrative statement of how the objectives described within section 34-165(b) will be achieved by the development;~~
 - ~~(2) Analysis of the extent and nature of projected traffic to be generated by the development, as follows: (i) for developments projected to generate less than one hundred (100) trips per day, according to the most recent edition of "Trip Generation," published by the Institute of Transportation Engineers (ITE); an analysis of the extent and nature of the traffic to be~~~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~generated by the project, prepared by a professional land planner or engineer; or (ii) for developments projected to generate one hundred (100) or more trips per day, according to the most recent edition of "Trip Generation" published by ITE; a traffic study prepared by a traffic engineer; and~~

~~(3) A completed LID worksheet, signed and verified by the applicant.~~

~~(4) Additional information as deemed necessary by the director of neighborhood development services in order to facilitate a thorough review of the potential impacts of the proposed infill development that is the subject of the application. If any applicant fails to demonstrate within his application materials that a proposed infill development meets the minimum requirements specified in section 34-166(a) (e), above, the application shall be rejected as incomplete.~~

Sec. 34-167. - Effective **date**.

Comment [RL39]: Delete; not necessary

~~The amendments to this ordinance approved by city council on July 17, 2006 shall not be applicable to any pending planned unit development rezoning application for which a public hearing had been held before that date.~~

Sec. 34-168. - Affordable dwelling units (special use **permit**).

Comment [RL40]: Move to Division 1 (General Provisions) of Article II (Zoning Procedures)

~~Special use permit applications considered pursuant to this chapter shall be subject to the affordable dwelling unit requirements of section 34-12 of this Code.~~

Secs. 34-169—34-180. - Reserved.

~~DIVISION 9. - PROVISIONAL USE PERMITS~~

Comment [RL41]: Moved to new Article (Zoning Permits)

~~Sec. 34-181. - In general.~~

~~(a) There are certain uses and structures, similar to those regulated by the city through special permits, that, by their nature, may have impacts which differ substantially from those uses permitted by right in a particular zoning district, and therefore should be reviewed prior to being established. However, unlike uses regulated through special permits, the impacts of provisional uses are of a nature that is generally recurring, quantifiable and subject to mitigation by imposition of specifically articulated standards. Such uses may be allowed to locate within designated zoning districts under the controls, limitations and regulations of this division.~~

~~(b) The zoning administrator may approve a provisional use permit under the provisions of this division, after concluding that a proposed provisional use complies with the standards prescribed within this division and within Article IX, Division 9, including:~~

~~(1) Accessory apartments, section 34-1174;~~

~~(2) Home occupations, section 34-1172;~~

~~(3) Outdoor storage, section 34-1173;~~

~~(4) Music halls; all-night restaurants, section 34-1174~~

~~(c) The zoning administrator shall have no authority to vary, modify, or waive any of the regulations or standards prescribed for any use for which a provisional use is required, except that the zoning administrator may waive some or all application submission requirements to the extent such requirements do not apply in a given situation.~~

~~Sec. 34-182. - Application.~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(a) An application for a provisional use permit may be made by any person who is a property owner, or by any lessee or contract purchaser of a property.~~
- ~~(b) The application shall be filed with the zoning administrator on forms provided by the department of neighborhood development services. All information required for evaluation of the application in accordance with the standards of this division shall be supplied and the applicant shall remit the fee established by city council for such permit. No application shall be deemed filed until all submission requirements are deemed by the zoning administrator to have been met.~~
- ~~(c) The zoning administrator shall approve or disapprove an application for a provisional use permit within forty-five (45) days of filing. In the event the zoning administrator declines to approve any application, the zoning administrator shall clearly identify the deficiencies that are the basis for the denial, by reference to specific zoning ordinance sections and requirements. Further, upon disapproval of an application for a provisional use permit, the zoning administrator shall identify the modifications or corrections that would permit approval of the application.~~
- ~~(d) Whenever a provisional use permit is denied by the zoning administrator, the applicant may take any of the following actions in lieu of accepting the decision as final:
 - ~~(1) Revise the application to satisfy the stated reason for denial, in which event the revised application shall be handled as a new application; or~~
 - ~~(2) Appeal the denial to the board of zoning appeals.~~~~

~~Sec. 34-183.— Revocation or expiration of provisional use permit.~~

- ~~(a) A provisional use permit may be revoked by the zoning administrator at any time, due to the failure of the property owner or operator of the provisional use to observe all requirements of this chapter. Notice of revocation shall be made in writing. Any person aggrieved by such notice may appeal the revocation to the board of zoning appeals.~~
- ~~(b) A provisional use permit shall automatically expire, without any action by the zoning administrator, if the use authorized therein:
 - ~~(1) Has been abandoned;~~
 - ~~(2) Has ceased for a period of twelve (12) months; or~~
 - ~~(3) Has not commenced within twelve (12) months of approval.~~~~

~~Sec. 34-184.— General requirements.~~

- ~~(a) All provisional uses shall satisfy the standards set forth within Article IX, sections 34-1170 through 34-1174, as applicable.~~
- ~~(b) Issuance of a provisional use permit shall be conditioned upon the applicant's consent to inspections initiated by the zoning administrator to verify compliance with the requirements of this division, and a right of access for the zoning administrator to make such inspections.~~

Secs. 34-185—34-200. - Reserved.

DIVISION 10.— TEMPORARY USES

~~Sec. 34-201.— In general.~~

- ~~(a) There are certain temporary uses that by their nature require additional regulation, beyond the general requirements applicable to a particular zoning district, in order to protect the welfare, safety and convenience of the public. The impacts of temporary uses are of a nature that is generally quantifiable and subject to mitigation by imposition of specifically articulated standards. Such uses~~

Comment [RL42]: Moved to a new Article (Zoning Permits)

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles:
Article I (Administration) and Article II (Zoning Permits and Procedures).

~~may be allowed to locate within designated zoning districts under the controls, limitations and regulations of the temporary use permit established by this division.~~

~~(b) The zoning administrator may approve a temporary use permit under the provisions of this division, after concluding that the proposed temporary use complies with the standards prescribed within this division and within Article IX, Division 10, including:~~

~~(1) Outdoor assemblies, section 34-1191;~~

~~(2) Outdoor sales, section 34-1192;~~

~~(3) Amusement enterprises, section 34-1193.~~

~~(c) The zoning administrator shall have no authority to vary, modify, or waive any of the regulations or standards prescribed for any use for which a temporary use is required, except that the zoning administrator may waive some or all application submission requirements to the extent such requirements do not apply in a given situation.~~

Sec. 34-202.—Application.

~~(a) An application for a temporary use permit may be made by any person who is a property owner, or by any lessee or contract purchaser of a property.~~

~~(b) The application shall be filed with the zoning administrator on forms provided by the department of neighborhood development services. All information required for evaluation of the application in accordance with the standards of this division shall be supplied and the applicant shall remit the fee established by city council for such permit. No application shall be deemed filed until all submission requirements are deemed by the zoning administrator to have been met.~~

~~(c) The applicant shall provide a plat or drawing showing the location of all signs, structures, outdoor furniture, parking, equipment and lighting to be utilized on a lot or parcel in connection with a proposed temporary use;~~

~~(d) The zoning administrator may require a bond or other suitable guarantee sufficient: (i) to ensure that signs, trash, temporary structures and debris will be removed from the site and from the immediate vicinity of the site; (ii) that the activity will not remain for longer than a temporary period; and (iii) to ensure compliance with applicable provisions of city ordinances. Such bond or guarantee shall be not less than one hundred dollars (\$100.00) nor more than one hundred thousand dollars (\$100,000.00), depending on the nature and extent of the proposed use.~~

~~(1) The bond or other guarantee shall be forfeited to the city if the site is not adequately cleared of all trash, debris, signs and temporary structures.~~

~~(2) The bond or guarantee shall be forfeited to the city if the activity remains on the site after expiration of the permit.~~

~~(3) The bond shall be forfeited to the city if violations of any applicable city ordinances are established.~~

~~(e) Not more than five (5) temporary use permits shall be issued for the same lot or parcel of land in any calendar year. Each event or activity authorized by a temporary use permit shall be separated by a period of not less than twenty-one (21) consecutive days. No temporary use permit shall be issued to an applicant unless and until at least twenty-one (21) days after a permit issued to that applicant for an adjacent lot or parcel has expired.~~

~~(f) Only one (1) temporary use permit shall be active on any lot or parcel at any time.~~

~~(g) All temporary uses and any appurtenant structures, signs, goods and other features must be set back from an adjacent right-of-way by at least twenty (20) feet.~~

~~(h) All activities to be conducted pursuant to a temporary use permit shall be in compliance with (i) the standards set forth within Article IX, sections 34-1190 through 34-1193, as applicable; and (ii) all~~

Comment [RL43]: General provision:
Applications must be filed on forms....

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

~~applicable city ordinances, permits and approvals, including, without limitation: occupancy permits, peddler's licenses, sign permits, BAR certificates of appropriateness, etc.~~

~~(i) Use of all buildings and structures shall be in compliance with all applicable building code regulations.~~

~~DIVISION 11. ENUMERATION OF ZONING DISTRICTS~~

Comment [RL44]: Provisions moved to a new Article iii (ZONING DISTRICTS)

~~Sec. 34-216. Division of the city into districts.~~

~~For the purposes enumerated in section 34-3, the city is divided into zoning districts. The zoning districts shall be known as follows:~~

- ~~(1) Flood Hazard Protection Overlay District.~~
- ~~(2) Historic Overlay District.~~
- ~~(3) Entrance Corridor Overlay District.~~
- ~~(4) Public Park Protection Overlay District.~~
- ~~(5) R-1 ("single-family") Residential District.~~
- ~~(6) R-1S ("small lot") Residential District.~~
- ~~(7) R-1U ("university") Residential District.~~
- ~~(8) R-1SU (referring to "university, small lot") Residential District.~~
- ~~(9) R-2 ("two-family") Residential District.~~
- ~~(10) R-2U ("university") Residential District.~~
- ~~(11) R-3 ("multifamily") Residential District.~~
- ~~(12) R-UMD ("university, medium density") Residential District.~~
- ~~(13) R-UHD ("university, high density") Residential District.~~
- ~~(14) McIntire Residential Corridor District (MR).~~
- ~~(15) Manufactured Home Park (MHP).~~
- ~~(16) B-1 Business District.~~
- ~~(17) B-2 Business District.~~
- ~~(18) B-3 Business District.~~
- ~~(19) Manufacturing/Industrial District (M-I).~~
- ~~(20) Emmet Street Corridor Commercial District (ES).~~
- ~~(21) Industrial Corridor District (IC).~~
- ~~(22) Planned Unit Development Districts (PUD).~~
- ~~(23) Downtown Corridor Mixed Use District (D).~~
- ~~(24) Downtown Extended Corridor Mixed Used District (DE).~~
- ~~(25) North Downtown Corridor Mixed Used District (DN).~~
- ~~(26) West Main North Corridor Mixed Used District (WMN).~~

Note: City Attorney's Office proposes to divide the current provisions of Article I into two articles: Article I (Administration) and Article II (Zoning Permits and Procedures).

- ~~(27) West Main South Corridor Mixed Used District (WMS).~~
- ~~(28) Cherry Avenue Corridor Mixed Used District (CH).~~
- ~~(29) High Street Corridor Mixed Used District (HS).~~
- ~~(30) Neighborhood Commercial Corridor Mixed Used District (NCC).~~
- ~~(31) Highway Corridor Mixed Used District (HW).~~
- ~~(32) Urban Corridor Mixed Used District (URB).~~
- ~~(33) Central City Corridor Mixed Use District (CC).~~
- ~~(34) Water Street Corridor District (WSD).~~
- ~~(35) South Street Corridor Mixed Use District (SS).~~
- ~~(36) Corner District (CD).~~

~~(9-15-03(3); 6-6-05(2); 11-17-08(1); 10-4-10(3))~~

~~Secs. 34-217—34-239.—Reserved.~~