

MONTGOMERY COUNTY PLANNING COMMISSION
May 9, 2012 @ 7:00 P.M.
Board Room, Government Center

A G E N D A

CALL TO ORDER:

DETERMINATION OF A QUORUM:

APPROVAL OF AGENDA:

APPROVAL OF CONSENT AGENDA:

PUBLIC ADDRESS:

OLD BUSINESS:

NEW BUSINESS:

WORKSESSION:

- Zoning Ordinance Amendments (Dari Jenkins)
 - Kennel definitions
 - Penned animals

LIAISON REPORTS:

- Board of Supervisors- Chris Tuck
- Agriculture & Forestal District- Bob Miller
- Blacksburg Planning Commission – Frank Lau
- Christiansburg Planning Commission – Bryan Rice
- Economic Development Committee- John Tuttle
- Public Service Authority – Joel Donahue
- Parks & Recreation- Ryan Thum
- Radford Planning Commission- Bob Miller
- School Board- Bill Seitz
- Planning Director's Report- Steven Sandy

MEETING ADJOURNED:

UPCOMING MEETINGS:

- May 16, 2011 Planning Commission Regular Meeting (Tentatively Cancelled)
- May 23, 2011 NRVPC Planning Commissioner Training Session (6:00-8:30 pm)
- June 13, 2011 Planning Commission Public Hearing (7:00 pm)
- June 20, 2011 Planning Commission Site Visits (To be determined)
Planning Commission Regular Meeting (7:00 pm)

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AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON MARCH 21, 2012
IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG,
VIRGINIA:

CALL TO ORDER:

Mr. Thum, Chair called the meeting to order.

DETERMINATION OF A QUORUM:

Mr. Tuttle established the presence of a quorum.

Present: Ryan Thum, Vice-Chair
John Tuttle, Secretary
Frank Lau, Member
Joel Donahue, Member
Robert Miller, Member
Bryan Rice, Member
William Seitz, Member
Chris Tuck, Board of Supervisors Liaison
Steve Sandy, Planning Director
Dari Jenkins, Planning & Zoning Administrator
Brea Hopkins, Planning & Zoning Technician
Jamie MacLean, Development Planner

Absent: Walt Haynes, Chair

APPROVAL OF AGENDA:

On a motion by Mr. Miller, and seconded by Mr. Donahue, and unanimously carried the agenda was approved as amended by adding the following items to the agenda; a resolution honoring Malvin Pug Wells and the Forest Hills Proffer request.

Mr. Thum stated the Planning Commission would like to honor the memory of Chief Malvin "Pug" Wells with the following:

RESOLUTION OF APPRECIATION

MALVIN "PUG" WELLS

WHEREAS, Malvin "Pug" Wells provided dedicated and distinguished service to the people of Montgomery County as a member of the Montgomery County Planning Commission from September 1981 to May 2005 and January 2006 to March 2012; and

WHEREAS, Mr. Wells has provided leadership while serving as elected Chair (1987, 1988, 1998, 1999), Vice-Chair (1986, 1994) and Secretary (1985) of the Planning Commission; and

WHEREAS, Mr. Wells commitment to better planning is evidenced by his participation in the development of three Comprehensive Plans (1983, 1990 and 2004) for Montgomery County;

the six (6) village plans, including the Elliston-Lafayette Village Plan in 2007, the Village Transportations Links Plan (VITL) 2007, the Lafayette Corridor Plan, by his service as liaison to the Transportation Safety Committee and the Public Service Authority; as well as his achievement of Certified Planning Commissioner; and

WHEREAS, Mr. Wells commitment to the citizens of Montgomery County is evidenced by his involvement as a founding member of the Elliston Volunteer Fire Department, his service on the Montgomery-Blacksburg Local Emergency Planning Committee (LEPC), Montgomery Fire & Rescue Association, Virginia Fire Service Council, and the Montgomery County Towing Advisory Board; and

WHEREAS, the wise council of Mr. Wells, which has always been for the betterment of the citizens of Montgomery County, will be missed by his fellow Planning Commissioners and Planning Staff.

NOW THEREFORE, BE IT RESOLVED, that the Montgomery County Planning Commission hereby expresses its appreciation for the outstanding, unselfish, and dedicated service that Malvin "Pug" Wells provided for thirty-one (31) years to the people of Montgomery County.

Mr. Thum asked the family to join the commission at the podium and presented Mrs. Wells with the framed resolution of appreciation.

APPROVAL OF CONSENT AGENDA:

On a motion by Mr. Donahue, and seconded by Mr. Laue, and unanimously carried the consent agenda was approved.

PUBLIC ADDRESS:

Mr. Thum opened the public address; however, there being no speakers, the public address session was closed.

OLD BUSINESS:

Safe Route To Schools Projects

Ms. MacLean stated staff has spoken with the VA SRTS Coordinator and the submittal deadline for travel plans has been moved to late Spring. Non-infrastructure funds may also be funded. Due to these changes, staff is taking the extra time to revise the travel plan and incorporate supporting language that will enable non-infrastructure requests. Staff will provide the revised plans and a draft resolution in packets for the April 11th meeting. At that time, staff will request the Planning Commission endorse both plans with resolutions of support.

Forest Hills Proffer Request

Mr. Sandy stated a revised proffer statement was submitted by the owner. The proffer states once the crosswalk is constructed the owner will build the sidewalk connector at their cost.

Mr. Rice asked if there was a need for construction details?

Mr. Sandy noted the connector will have to meet the same requirement as the other sidewalks/trails. The proffer will run with the land so it can be enforced.

Mr. Rice, Mr. Donahue, and Mr. Miller noted the revised statement met the previously stated objections and concerns of the commission.

WORKSESSION:

On a motion by Mr. Tuttle, seconded by Mr. Miller and unanimously carried the Planning Commission entered into work session.

Ms. Jenkins stated staff had been researching information regarding some potential ordinance amendments for off-street parking & loading, kennels, and penned animals.

Off-Street Parking

Ms. Jenkins stated the ordinance requires a durable & dustless surface minimum to prime and double seal for all non-residential uses. Several issues have arisen with contractor's equipment and large trucks using this type of surface. Some options to address those issues include adding language to allow other types of surfaces, permit permeable surfaces under certain conditions, gravel parking for certain uses, etc. There will also need to be consideration given to if the allowances will be by-right, up to the zoning administrator, or by special use permit.

Mr. Miller stated he preferred permeable surfaces to allow water to return to the soil and help with groundwater recharge.

Mr. Seitz stated he also would prefer gravel to handle runoff. The only other option for heavy equipment or trucks is to use a heavy grade concrete which is also cost prohibitive.

Mr. Tuck noted the Board of Supervisors was looking at paving estimates for the Shelor Park and the cost will be approximately \$150,000. The park is not a high use park so the Board would like to consider other options; however, must comply with the ordinance.

Mr. Donahue discussed other options such as recycled rubber tires.

Mr. Lau stated other options needed consideration due to heavy equipment. The best option is gravel because it can be smoothed out as needed.

Mr. Thum noted the need to consider the use and location.

The consensus of commission was to research permeable surfaces, draft ordinance amendments to give staff the ability to approve those surfaces based on the proposed use.

Kennel Definitions:

Ms. Jenkins discussed the need to consider a revision of the definition for kennel. The current definition is inconsistent with the County Code. The zoning ordinance does not limit the number of dogs before being considered a kennel. She reviewed current standards.

Mr. Lau noted the need for some additional language for doggie day care facilities because those dogs are not boarded.

Mr. Donahue stated a doggie day care should be less restrictive.

Mr. Thum stated he felt there was a need to maintain the focus on kennels since there has not been any issues with the dog day care facilities. He expressed his concerns with the impacts to private owners.

Mr. Seitz and Mr. Thum concurred that limiting the number to five (5) was not reasonable since you cannot run a commercial business with that low of a number.

Mr. Sandy noted they could require that the dogs be owned by the owner of the property. The confusion occurs because the Treasurer issues a kennel tag to those who own more than five (5) dogs, which allows citizens to believe they have complete approval.

Penned Animals

Ms. Jenkins stated Supervisor Creed had requested the planning commission's consideration regarding an amendment to the zoning ordinance regarding issues with penned animals. A complaint was filed regarding pigs which were penned within ten (10) ft. of a property line. The property was zoned Agricultural (A-1) and all setbacks were being met, so staff could not issue a violation notice. Possible options are to limit confinement areas, size, location, setbacks, etc. It will probably be necessary to define "confinement area". There is an ordinance section to address intensive livestock; however, it only deals with large numbers of animals.

Mr. Donahue stated he felt it was not necessary to amend the ordinance in order to resolve a neighbor dispute. The issues of smell or runoff could be considered a nuisance.

Mr. Miller noted the need to consider fencing installed by farmers and the "Right To Farm Act".

Mr. Rice noted that ordinance amendment cannot be created just to solve one individual's problem.

Mr. Thum noted that the commission needs to protect the rural nature of the county. The complainant needs to explore other options such as nuisance, and noise ordinances.

Mr. Tuck stated his concerns with a possible amendment.

Mr. Sandy stated staff could bring a copy of nuisance laws, etc. to the next meeting. At that time, the commission can review the current regulations and make a recommendation to board if it feels amendments are un-necessary.

On a motion by Mr. Miller, seconded by Mr. Rice and unanimously carried the Planning Commission closed the worksession.

NEW BUSINESS

Liaison Appointments

Mr. Sandy, stated there were a couple of open committees. Consideration will also need to be given to electing a chair, and vice-chair with the absence of Mr. Haynes.

Mr. Thum requested advice be obtained from the County Attorney as to the proper procedure for an election.

Mr. Thum appointed Mr. Donahue as liaison to the PSA.

Liaison Reports

Board of Supervisors: Mr. Tuck stated the Board was discussing the upcoming budget. The county advertised a \$0.12 increase. No budget has been received from the state yet and it is not anticipated anytime soon.

Agriculture & Forestal District- No report.

Blacksburg Planning Commission- No report.

Christiansburg Planning Commission- No report.

Economic Development Committee- Mr. Tuttle reported that Mr. Obiso, Attimo Winery made a presentation to the committee. The winery is currently producing 4 or 5 wines for different wineries in the area. They are considering facility expansions. It was a great project for the County.

Public Service Authority- No report.

Parks & Recreation Commission- No report.

Radford Planning Commission- No report.

School Board- Mr. Seitz stated the school board discussed redistricting and facilities. The old Blacksburg High School is about to be turned over to the Board of Supervisors. Roof repairs on 13 buildings have been completed. The design construction for the new schools is currently on schedule.

Planning Director's Report- Mr. Sandy stated the Planning Commissioners Training Event will be held on May 23rd. The topic will be related to historic structures and districts. The Board of Supervisors asked staff to look at regulations regarding the installation of signs at county entrances. There is a desire to use an LED sign to provide special information. On April 12th at 4:00 pm the Planning Commission will participate in a tour of the Smart Road.

There being no further business the meeting was adjourned at 8:25 pm.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Section 3-1 Definitions

Kennel means any establishment in which five (5) or more canines, felines, or *canine* hybrids of either are *housed or kept*. *Such number shall not include offspring born to a resident female and retained by the kennel owner for less than 12 weeks*, for the purpose of breeding, hunting, training, renting, buying, boarding, selling, or showing.

Section 10-61 Definitions

Kennel, commercial: Any establishment *in which five (5) or more canines, or canine hybrids are housed or kept*. *Such number shall not include offspring born to a resident female and retained by the kennel owner for less than 12 weeks*, for keeping, training, breeding, handling, selling, treating or boarding dogs, cats, or other household pets as a business. Does not include establishments in which the sole function is grooming.

Pet, household: Small, domestic animals that are customarily kept in the house or residential yard for the company or enjoyment of the owner, such as but not limited to dogs, cats, rabbits, birds, rodents, fish and other such animals that pose no threat, harm or disturbance to neighboring residents or properties. *(also see "Kennel")*

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Agricultural (A-1) District

Sec. 10-21 (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, intensive.
- (c) Agriculture, small scale.
- (d) Bed and breakfast homestay.
- (e) Cemetery.
- (f) Church.
- (g) Dwelling, single-family.
- (h) Farm enterprise.
- (i) Fire, police and rescue stations.
- (j) Home occupation.
- (k) Manufactured (mobile) home, Class A or B.
- (l) Natural area.
- (m) Park, unlighted.
- (n) Pet, farm.
- (o) Pet, household.
- (p) Playground, unlighted.
- (q) Public utility lines, other; and public utility lines, water and sewer.
- (r) Sawmill, temporary.
- (s) School.
- (t) Telecommunications tower, attached.
- (u) Veterinary practice, animal hospital (refer to use limitations in subsection 7).

Sec. 10-21 (4) (i) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and all other applicable regulations:

- (a) Accessory structures greater than twelve hundred (1,200) square feet in area and/or eighteen (18) feet in height when part of an application requesting a rezoning or other use permitted by a special use permit from the board of supervisors.
- (b) Bed and breakfast inn.
- (c) Boarding house.
- (d) Campground.
- (e) Camp, boarding.
- (f) Civic club.
- (g) Contractor's storage yard.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

- (h) Country club.
- (i) Country inn.
- (j) Custom meat cutting, processing and packaging.
- (k) Day care center.
- (l) Disposal facility, landfill.
- (m) Exploratory activities associated with extractive industries.
- (n) Extractive industries and accessory uses including, but not limited to, the mining of minerals and the operation of oil and gas wells.
- (o) Game preserve.
- (p) Garden center.
- (q) General store or specialty shop, provided gross floor area is two thousand (2,000) square feet or less.
- (r) Golf course.
- (s) Golf driving range.
- (t) Grain mill, feed mill.
- (u) Home business.
- (v) Junkyard, automobile graveyard.
- (w) Kennel, ~~commercial~~ *(refer to use limitations in subsection 7).*
- (x) Landfill (see Disposal facility).
- (y) Livestock market.
- (z) Park, lighted.
- (aa) Playground, lighted.
- (bb) Public utility plant, other.
- (cc) Public utility substations.
- (dd) Public utility plant water or sewer (not including distribution or collection lines).
- (ee) Recreational vehicle park.
- (ff) Recycling collection points.
- (gg) Repair shop, automotive (refer to use limitations in subsection 7).
- (hh) Restaurant, provided gross floor area is two thousand (2,000) square feet or less.
- (ii) Rural resort.
- (jj) Sawmill.
- (kk) Shooting range (as principal use or accessory to a gun shop). (Refer to use limitations in subsection 7).
- (ll) Slaughterhouse.
- (mm) Solid waste collection point.
- (nn) Stable, commercial.
- (oo) Structures, nonresidential, totaling in excess of twenty thousand (20,000) gross square feet.
- (pp) Structures over forty (40) feet in height.
- (qq) Telecommunications tower, freestanding.
- (rr) Transition house.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

- (ss) Flea market (also subject to requirements of article VI of the County Code).
- (tt) Stone engraving and sales.
- (uu) School of special instruction

Sec. 10-21 (7)

Use limitations.

- (a) *Repair shop, automotive.* All work must be conducted within a completely enclosed building no larger than one thousand two hundred (1,200) square feet in size; and the shop shall be at least three hundred (300) feet from any residential zoning district or existing dwelling, other than the owner's dwelling.
- (a) ~~(b)~~ *Kennels.* ~~No principal or accessory use or structure shall be within five hundred (500) feet of an existing dwelling, other than the owner's dwelling, nor within three hundred (300) feet of any adjacent lot.~~ Each kennel, veterinary service, practice, office or hospital, animal hospital or animal shelter shall be subject to the following:
 1. Except where animals are confined in soundproofed, air-conditioned buildings, no principal or accessory use or structure or area occupied by animals shall be within five hundred (500) feet of an existing dwelling, other than the owner's dwelling, nor within three hundred (300) feet of any adjacent lot.
 2. Soundproofed confinements shall not be located closer than two hundred (200) feet to any agricultural or residential lot line. Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.
 3. Animal waste shall be disposed of in a manner acceptable to the department of health.
- (c) *Shooting ranges.* Shooting ranges shall not operate between 10:00 p.m. and 7:00 a.m.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Conservation (C-1) District

Section 10-22 (3) *Use permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter, and all other applicable regulations:

- (a) Agriculture.
- (b) Agriculture, small scale.
- (c) Bed and breakfast homestay.
- (d) Cemetery.
- (e) Dwelling, single-family.
- (f) Game preserve.
- (g) Home occupation, as defined in this chapter.
- (h) Manufactured home, Class A and Class B.
- (i) Natural area.
- (j) Pet, farm.
- (k) Pet, household.
- (l) Public utility lines, other; public utility lines, water and sewer.
- (m) Telecommunications tower, attached.
- (n) Veterinary practice, animal hospital *(refer to use limitations in subsection 7)*.
- (o) Farm enterprise.
- (p) Sawmill, temporary.

Section 10-22 (7) ~~[Reserved]~~ *Use limitations.*

- (a) *Each veterinary practice, office or hospital or animal hospital shall be subject to the following:*
 - 1. *Except where animals are confined in soundproofed, air-conditioned buildings, no principal or accessory use or structure or area occupied by animals shall be within five hundred (500) feet of an existing dwelling, other than the owner's dwelling, nor within three hundred (300) feet of any adjacent lot.*
 - 2. *Soundproofed confinements shall not be located closer than two hundred (200) feet to any agricultural or residential lot line. Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.*
 - 3. *Animal waste shall be disposed of in a manner acceptable to the department of health.*

General Business (GB) District

Sec. 10-28 (3) *Uses permitted by right.* The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Apartment as accessory use, maximum of two (2) per business structure.
- (b) Assembly of electrical, electronic devices, less than three thousand (3,000) square feet floor area.
- (c) Automotive, light truck, sales, service, rental and repair, excluding motor fuel sales.
- (d) Building material sales.
- (e) Business or trade school.
- (f) Cabinet shop, furniture, upholstery, craft industry of less than three thousand (3,000) square feet.
- (g) Cemetery.
- (h) Church.
- (i) Civic club.
- (j) Community center.
- (k) Conference or training center.
- (l) Crematorium.
- (m) Custom meat cutting, processing and sales (excluding slaughtering).
- (n) Day care center.
- (o) Equipment sales and service.
- (p) Financial services.
- (q) Fire, police, rescue facility.
- (r) Funeral home.
- (s) ~~General store, convenience store without motor fuel sales~~ Garden center.
- (t) ~~Homeless shelter~~ General store, convenience store without motor fuel sales.
- (u) ~~Hotel, motel~~ Homeless shelter.
- (v) Laundromat Hotel, motel.
- (w) ~~Library~~ Laundromat.
- (x) ~~Medical care facility~~ Library.
- (y) ~~Motor vehicle rentals~~ Medical care facility.
- (z) ~~Office, administrative, business or professional~~ Motor vehicle rentals.
- (aa) ~~Park~~ Office, administrative, business or professional.
- (bb) ~~Park and ride lot~~ . Park
- (cc) ~~Pet, household~~ Park and ride lot.
- (dd) ~~Post office~~ Pet, household.
- (ee) ~~Printing service~~ Post office.
- (ff) ~~Public utility lines, other distribution or collection facility~~ Printing service.
- (gg) ~~Public utility lines, water or sewer~~ Public utility lines, other distribution or collection facility

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strike through~~ and Additions indicated by *Italics and Underline*

- (hh) ~~Radio station; excluding tower~~ Public utility lines, water or sewer.
- (ii) ~~Restaurant~~ Radio station; excluding tower.
- (jj) ~~Retail sales and services~~ Restaurant.
- (kk) ~~School~~ Retail sales and services.
- (ll) ~~Shopping center~~ School.
- (mm) ~~Telecommunication tower; attached~~ School of special instruction.
- (nn) ~~Veterinary practice; animal hospital~~ Shopping center.
- (oo) ~~Garden center~~ Telecommunication tower, attached.
- (pp) ~~School of Special Instruction~~ Veterinary practice, animal hospital (*refer to use limitations in subsection 7).*

Sec. 10-28 (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
- (b) Boarding house.
- (c) Truck, trailer, heavy equipment sales, service, rental and repair.
- (d) Building greater than fifty (50) feet in height.
- (e) Contractors service establishment.
- (f) Farm machinery sales and service.
- (g) Feed and seed store and mill.
- (h) General store, convenience store with motor fuel sales.
- (i) Golf driving range, miniature golf and similar outdoor recreation.
- (j) ~~Kennel, commercial,~~ (*refer to use limitations in subsection 7).*
- (k) Livestock market.
- (l) Mini-warehouse.
- (m) Outpatient mental health and substance abuse center.
- (n) Public utility plant, other.
- (o) Public utility substation.
- (p) Public utility plant, water or sewer.
- (q) Recreation establishment.
- (r) Recycling facility.
- (s) Service station.
- (t) Shooting range, indoor.
- (u) Telecommunication tower, freestanding.
- (v) Transition house.
- (w) Night club.
- (x) Stone engraving and sales.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Sec. 10-28 (7)

Use limitations.

- (a) *Screening and landscaping.* Notwithstanding other buffer, landscaping and screening requirements of this chapter, outside storage areas for materials, equipment or trash are accessory uses, may not exceed forty (40) percent of building area, must be located in side or rear yards adjacent to building, and must be screened from view of adjacent streets or adjacent land.
- (b) *Off-street parking and loading.*
- a. Off-street parking permitted in required setback.
 - b. Must be provided in accordance with section 10-44.
- (c) *Indoor/outdoor operations.* All repair and service operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the board of supervisors in a special use permit.
- (d) *Kennels. Each kennel, veterinary service, practice, office or hospital, animal hospital or animal shelter shall be subject to the following:*
1. *No principal or accessory use or structure or confinement area occupied or utilized by animals shall be located closer than two hundred (200) feet to any agricultural or residential lot line unless specifically granted with approval of a Special Use Permit (SUP) by the Board of Supervisors.*
 2. *Shall be operated in such a way that does not produce any objectionable noise or odors or vermin outside its walls.*
 3. *Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.*
 4. *In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.*
 5. *In areas where such uses may be in proximity to other uses involving intensive activity such as shopping centers or other urban density locations, special attention is required to protect the public health and welfare. To these ends other things may be required such as:*
 - *Separate building entrance and exit to avoid animal conflicts.*
 - *Area for outside exercise to be exclusive from access by the public by fencing or other means.*
 - *For non-soundproofed animal confinements, an external solid fence composed of block, brick or other material to be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.*
 6. *Animal waste shall be disposed of in a manner acceptable to the Department of Health.*

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strike through~~ and Additions indicated by *Italics and Underline*

Community Business (CB) District

Sec. 10-29 (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than one thousand two hundred (1,200) square feet floor area.
- (b) Boarding house.
- (c) Truck, trailer sales, service, rental and repair with outside operations.
- (d) Building greater than thirty-five (35) feet in height.
- (e) Contractors service establishment.
- (f) Convenience store less than three thousand (3,000) square feet, with motor fuel sales.
- (g) Dwelling, single-family or two-family.
- (h) Farm machinery sales and service.
- (i) Feed and seed store and mill.
- (j) Golf course.
- (k) Golf driving range.
- (l) Kennel, ~~commercial~~ *(refer to use limitations in subsection 7)*.
- (m) Public utility plant, other.
- (n) Public utility substation.
- (o) Public utility plant, water or sewer.
- (p) Recreation establishment.
- (q) Recycling facility.
- (r) Telecommunication tower, freestanding.
- (s) Transition house
- (t) Veterinary practice, animal hospital *(refer to use limitations in subsection 7)*.
- (u) Mini-warehouse.
- (v) Stone engraving and sales.

Sec. 10-29 (7)

Use limitations.

- (a) Screening and landscaping. Notwithstanding other buffer, landscaping and screening requirements of this chapter, outside storage areas for materials, equipment or trash are accessory uses, may not exceed forty (40) percent of building area, must be located in side or rear yards adjacent to building, and must be screened from view of adjacent streets or adjacent land.
- (b) Off-street parking and loading.
 - 1. Off-street parking permitted in required setback.
 - 2. Must be provided in accordance with section 10-44.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

- (c) Indoor/outdoor operations. All repair and service operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the board of supervisors in a special use permit.
- (d) Kennels. Each kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:
1. No principal or accessory use or structure or confinement area occupied or utilized by animals shall be located closer than two hundred (200) feet to any agricultural or residential lot line unless specifically granted by approval of a Special Use Permit (SUP) by the Board of Supervisors.
 2. Shall be operated in such a way that does not produce any objectionable noise or odors or vermin outside its walls.
 3. Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.
 4. In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.
 5. In areas where such uses may be in proximity to other uses involving intensive activity, special attention is required to protect the public health and welfare. To these ends other requirements be applied such as, but not limited to:
 - Separate building entrance and exit to avoid animal conflicts.
 - Area for outside exercise to be exclusive from access by the public by fencing or other means.
 - For non-soundproofed animal confinements, an external solid fence composed of block, brick or other material to be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.
 6. Animal waste shall be disposed of in a manner acceptable to the Department of Health.
 7. The site shall front on or have direct access to a publicly owned and maintained street.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Manufacturing (M-1) District

Sec. 10-30 (4) *Uses permissible special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:

- (a) Airport.
- (b) Building material sales yard.
- (c) Cement manufacturing, concrete mixing plant, block plant and production of other concrete and asphaltic products.
- (d) Contractors' storage yard and/or rental of equipment commonly used by contractors.
- (e) Extractive industries and accessory uses including, but not limited to, the mining of minerals, the operation of oil and gas wells, and exploratory activities associated with extractive industry.
- (f) Fertilizer manufacturing.
- (g) Junkyards and automobile graveyards, provided the use is not within three hundred (300) feet of an existing dwelling.
- (h) Kennel, ~~commercial~~ *(refer to use limitations in subsection 7)*.
- (i) Public utility plant, other.
- (j) Public utility substation.
- (k) Public utility plant, water.
- (l) Refining, processing or distribution of petroleum, petroleum products, natural gas and other forms of liquid fuel, aboveground.
- (m) Sawmill and planing mill, coal and wood yard.
- (n) Storage of bulk petroleum products.
- (o) Telecommunication tower, freestanding.
- (p) Use listed in subsection (3), if a manufacturing process is to take place outside.
- (q) Use similar to (a) through (o) above.
- (r) Slaughterhouse.

Sec. 10-30 (7)

Use limitations.

- (a) *Screening and buffering.* Notwithstanding other buffer, landscaping and screening requirements of this chapter, outside storage areas for materials, heavy equipment or trash must be screened from adjacent streets or from adjacent land not zoned for industrial use. The purpose of such screening shall be to substantially reduce, but not necessarily eliminate, public views of outside storage areas. Acceptable screening shall be approved by the zoning administrator.
- (b) *Off-street parking and loading.*
 - 1. Off-street parking permitted in front yard.
 - 2. Must be provided in accordance with section 10-44.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

- (c) *Indoor/outdoor operations.* All manufacturing operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the board of supervisors in a special use permit.
- (d) *Separation of certain uses.* Junkyards and automobile graveyards must be one thousand (1,000) feet from the nearest edge of the right-of-way of any interstate or primary highway or five hundred (500) feet from the nearest edge of the right-of-way of any other highway or street, unless the facility is screened so as to be not visible from the main-traveled way of the highway or street.
- (e) *Kennels. Each kennel shall be subject to the following:*
1. *No principal or accessory use or structure or confinement area occupied or utilized by animals shall be located closer than two hundred (200) feet to any agricultural or residential lot line unless specifically granted by approval of a Special Use Permit (SUP) by the Board of Supervisors.*
 2. *Shall be operated in such a way that does not produce any objectionable noise or odors or vermin outside its walls.*
 3. *Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.*
 4. *In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.*
 5. *In areas where such uses may be in proximity to other uses involving intensive activity, special attention is required to protect the public health and welfare. To these ends other requirements be applied such as, but not limited to:*
 - *Separate building entrance and exit to avoid animal conflicts.*
 - *Area for outside exercise to be exclusive from access by the public by fencing or other means.*
 - *For non-soundproofed animal confinements, an external solid fence composed of block, brick or other material to be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.*
 6. *Animal waste shall be disposed of in a manner acceptable to the Department of Health.*
 7. *The site shall front on and have direct access to a publicly owned and maintained street.*

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Manufacturing Light (M-L) District

Sec. 10-31 (3) Uses permitted by right. The following uses are permitted by right, subject to compliance with all approved plans and permits, development standards and performance standards contained in this chapter and with all other applicable regulations:

- (a) Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts.
- (b) Business or trade school.
- (c) Cabinets, furniture and upholstery shop.
- (d) Civic club.
- (e) Conference or training center.
- (f) Crematorium.
- (g) Day care center.
- (h) Equipment sales and service.
- (i) Financial services.
- (j) Fire, police, rescue facility.
- (k) Flex-industrial use.
- (l) Homeless shelter.
- (m) Hotel, motel.
- (n) Laboratory.
- (o) Laundry, dry cleaning plant.
- (p) Manufacture of musical instruments, toys, novelties, rubber and metal stamps.
- (q) Manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.
- (r) Manufacturing, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, food and tobacco products.
- (s) Monument stone works.
- (t) Offices, administrative, business or professional.
- (u) Park and ride lot.
- (v) Pet, household.
- (w) Post office.
- (x) Printing service.
- (y) Public utility lines, other.
- (z) Public utility lines, water or sewer.
- (aa) Research, experimental, testing or development activity.
- (bb) Retail sales and service incidental to any other permitted use.
- (cc) Telecommunication tower, attached.
- (dd) Veterinary service; animal hospital (*refer to use limitations in subsection 7*)
- (ee) Wholesale business, storage warehouses.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

Sec. 10-31 (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Airport.
- (b) Farm machinery sales and service.
- (c) Feed and seed stores and mill.
- (d) Kennel, indoor (*refer to use limitations in subsection 7).*
- (e) Mini-warehouse.
- (f) Motor vehicles rentals.
- (g) Recreation establishment.
- (h) Recycling facility.
- (i) Public utility plant, other.
- (j) Public utility substation.
- (k) Public utility plant, water or sewer.
- (l) Shooting range, indoor.
- (m) Telecommunication tower, freestanding.
- (n) Use listed in subsection (3), if a manufacturing process is to take place outside.
- (o) Use similar to (a) through (m) above.

Sec. 10-31 (7)

Use limitations.

- (a) *Screening and buffering.* Notwithstanding other buffer, landscaping and screening requirements of this chapter, outside storage areas for materials, equipment or trash must be screened from adjacent streets or from adjacent land not zoned for industrial use. The purpose of such screening shall be to substantially reduce, but not necessarily eliminate, public views of outside storage areas. Acceptable screening shall be approved by the zoning administrator.
- (b) *Off-street parking and loading.*
 - 1. Off-street parking permitted in front yard.
 - 2. Must be provided in accordance with section 10-44.
- (c) *Indoor/outdoor operations.* All manufacturing operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the board of supervisors in a special use permit.
- (d) *Kennels, Indoor - Each kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:*
 - 1. *No principal or accessory use or structure or confinement area occupied or utilized by animals shall be located closer than two hundred (200) feet to any agricultural or residential lot line unless specifically granted by approval of a Special Use Permit (SUP) by the Board of Supervisors.*
 - 2. *Shall be operated in such a way that does not produce any objectionable noise or odors or vermin outside its walls.*

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Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

3. Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.
4. In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.
5. In areas where such uses may be in proximity to other uses involving intensive activity, special attention is required to protect the public health and welfare. To these ends other requirements be applied such as, but not limited to:
 - Separate building entrance and exit to avoid animal conflicts.
 - Area for outside exercise to be exclusive from access by the public by fencing or other means.
 - For non-soundproofed animal confinements, an external solid fence composed of block, brick or other material to be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.
6. Animal waste shall be disposed of in a manner acceptable to the Department of Health.
7. The site shall front on or have direct access to a publicly owned and maintained street.

Planned Industrial (PIN) District

Sec. 10-33 (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter:

- (a) Airport.
- (b) Farm machinery sales and service.
- (c) Feed and seed store and mill.
- (d) Kennel, indoor (*refer to use limitations in subsection 7*).
- (e) Motor vehicles rentals.
- (f) Public utility plant, other.
- (g) Public utility plant, water or sewer.
- (h) Recreation, commercial.
- (i) Recycling facility.
- (j) Shooting range, indoor.
- (k) Telecommunication tower, freestanding.
- (l) Use listed in subsection (3), if a manufacturing process is to take place outside.
- (m) Uses similar to (a) through (l) above.

Sec. 10-33 (7)

Use limitations.

- (a) Screening and buffering. Notwithstanding other buffer, landscaping and screening requirements of this chapter, outside storage areas for materials, equipment or trash must be screened from adjacent streets or from adjacent land not zoned for industrial use. The purpose of such screening shall be to substantially reduce, but not necessarily eliminate, public views of outside storage areas. Acceptable screening shall be approved by the zoning administrator.
- (b) Off-street parking and loading.
Off-street parking and loading must be provided in accordance with section 10-44.
- (c) Indoor/outdoor operations. All manufacturing operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the board of supervisors in a special use permit.
- (d) Kennels, Indoor - Each kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:
 - 1. No principal or accessory use or structure or confinement area occupied or utilized by animals shall be located closer than two hundred (200) feet to any agricultural or residential lot line unless specifically granted by approval of a Special Use Permit (SUP) by the Board of Supervisors.
 - 2. Shall be operated in such a way that does not produce any objectionable noise or odors or vermin outside its walls.
 - 3. Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

4. *In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.*
5. *In areas where such uses may be in proximity to other uses involving intensive activity, special attention is required to protect the public health and welfare. To these ends other requirements be applied such as, but not limited to:*
 - *Separate building entrance and exit to avoid animal conflicts.*
 - *Area for outside exercise to be exclusive from access by the public by fencing or other means.*
 - *For non-soundproofed animal confinements, an external solid fence composed of block, brick or other material to be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.*
6. *Animal waste shall be disposed of in a manner acceptable to the Department of Health.*
7. *The site shall front on or have direct access to a publicly owned and maintained street.*

Planned Unit Development – Commercial (PUD-COM) District

Sec. 10-34 (4) *Uses permissible by special use permit.* The following uses may be permitted by the board of supervisors as special uses, subject to the requirements of this chapter and with all other applicable regulations:

- (a) Assembly of electrical, electronic devices, greater than three thousand (3,000) square feet floor area.
- (b) Building greater than fifty (50) feet in height.
- (c) Convenience store with gasoline sales.
- (d) Dwelling unit.
- (e) General store, convenience store with motor fuel sales.
- (f) Golf driving range, miniature golf and similar outdoor recreation.
- (g) Kennel (*refer to use limitations in subsection 7*).
- (h) Mini-warehouse.
- (i) Mobile home, Class A or B.
- (j) Motor vehicles rentals.
- (k) Public utility plant, other.
- (l) Public utility plant, water or sewer.
- (m) Public utility substation.
- (n) Public water or sewer treatment plant.
- (o) Recycling facility.
- (p) Service station.
- (q) Telecommunication tower, freestanding.
- (r) Other use types that are not listed above and that are determined to be appropriate and compatible with the proposed development and surrounding uses may be specifically approved in concurrent rezoning and special use permit applications or in a subsequent special use permit application

Sec. 10-34 (7)

Use limitations.

- (a) *Public water and wastewater service.* Public water and wastewater services are required for all development in the PUD-COM district.
- (b) *Area for residential use.* The maximum area for residential uses shall be twenty-five (25) percent of the net area of the project.
- (c) *Off-street parking and loading.* Off-street parking and loading must be provided in accordance with section 10-44.
- (d) *Commercial and/or office criteria.*
 - 1. Commercial and office uses shall be screened and landscaped as for base districts in accord with the buffer/landscape matrix.

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Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

2. Safe and convenient pedestrian access is required between the residential, commercial, and office uses within the project.
 3. Commercial and office uses shall be oriented away from adjoining residential uses and access shall not be provided through residential areas.
 4. Lighting shall be designed and arrange to be oriented away from adjacent residential uses.
- (e) *Width, setbacks and yards.* Minimum requirements for width, setbacks and/or yards other than as for base districts, and as established in subsection (6), shall be specifically established during the review and approval of the concept development plan. The following guidelines shall be used in establishing any width, setback and/or yard building spacing variations from requirements of subsection (6). Variations shall not:
1. Impair safety from the standpoint of fire and rescue access to properties;
 2. Increase danger or probability of accidents involving vehicles and/or pedestrians;
 3. Be done with the major purpose to decrease development costs;
 4. Be done when the effect is to decrease privacy, adequacy of light and air, or buffering beyond base district regulations' effects; and
 5. Abrogate the principal that sides of structures located on and backing up to the outer perimeter of the project shall conform to the setback and yard requirements of the adjoining district or the setbacks established in the project, whichever is greater.
- (f) *Streets.*
1. Streets serving dwellings shall be subject to the standards of the PUD-RES district.
 2. Public streets shall be designed and constructed in accordance with the minimum standards of the Virginia Department of Transportation.
 3. Privately owned and maintained streets may be approved, provided:
 - a. All required parking is off-street and designated areas of off-street parking are provided that are in excess of and complementary to private driveways;
 - b. A plan is submitted and approved for emergency access, snow clearance;
 - c. The private streets are not through streets;
 - d. The private streets are developed to a pavement section equal to VDOT standard for the projected traffic volume and to a geometric standard meeting county requirements;
 - e. The minimum width of the streets is eighteen (18) feet or wider exclusive of any on-street parking based on the projected vehicle trips per day for the streets;
 - f. The right-of-way for all private streets shall be dedicated to the PUD property owners association; and
 - g. Deeds for property abutting the private street must state that the street is private and will not be maintained by the state or county. If the property owners association officially petitions to dedicate the necessary right-of-way to the state or county it must be at no cost to the state or county and the associations shall pay the full cost to bring the street up to state standards.
- (g) *Commercial open space* A minimum of fifteen (15) percent of the net area of the nonresidential portions of the development, including all required landscape and buffer areas, shall be permanently reserved as common open space.

Proposed Ordinance Amendments – May 1, 2012

Deletions indicated by ~~strikethrough~~ and Additions indicated by *Italics and Underline*

- (h) *Residential open space.* If the PUD-COM district contains a residential component, open space and recreation facilities shall be provided as for PUD-RES with the exception that required contiguous open space can be reduced relative to the scale of the residential component.
- (i) *Kennels. Each kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:*
1. *No principal or accessory use or structure or confinement area occupied or utilized by animals shall be located closer than two hundred (200) feet to any agricultural or residential lot line unless specifically granted by approval of a Special Use Permit (SUP) by the Board of Supervisors.*
 2. *Shall be operated in such a way that does not produce any objectionable noise or odors or vermin outside its walls.*
 3. *Noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels.*
 4. *In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.*
 5. *In areas where such uses may be in proximity to other uses involving intensive activity, special attention is required to protect the public health and welfare. To these ends other requirements be applied such as, but not limited to:*
 - *Separate building entrance and exit to avoid animal conflicts.*
 - *Area for outside exercise to be exclusive from access by the public by fencing or other means.*
 - *For non-soundproofed animal confinements, an external solid fence composed of block, brick or other material to be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator.*
 6. *Animal waste shall be disposed of in a manner acceptable to the Department of Health.*
 7. *The site shall front on or have direct access to a publicly owned and maintained street.*

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 13TH DAY OF FEBRUARY, 2012 AT 6:00 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

R-FY-12-91
A RESOLUTION REQUESTING THE PLANNING COMMISSION
TO STUDY THE USE OF OUTDOOR OPEN AIR PENS
FOR THE KEEPING OF PETS OR OTHER LIVESTOCK AND
ADVISE WHETHER AMENDMENTS TO THE ZONING ORDINANCE ARE
WARRANTED TO REGULATE THIS USE

On a motion by Gary D. Creed, seconded by Christopher A. Tuck and carried unanimously,

WHEREAS, The Board of Supervisors have received inquiries from a few property owners asking whether the County Zoning Ordinance regulates how close outdoor open air pens for keeping pets or livestock may be placed to adjoining property lines; and

WHEREAS, There are currently no regulations within the County Zoning Ordinance that regulates where outdoor open air pens for keeping pets or livestock may be placed in relation to adjoining properties; and

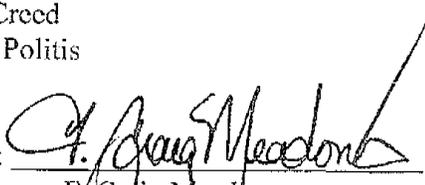
WHEREAS, The Board of Supervisors desire for the Planning Commission to look at the use of outdoor open air pens for keeping pets or livestock and advise the Board of Supervisors whether amendments to the Zoning Ordinance should be considered regulating how close these outdoor open air pens may be placed to adjoining property owners.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby request the Montgomery County Planning Commission to look at the use of outdoor open air pens for keeping pets or livestock and advise the Board of Supervisors if any changes or amendments should be made to the County Zoning Ordinance regulating how close these pens may be placed to adjoining property lines.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Annette S. Perkins	None
William H. Brown	
Mary W. Biggs	
Christopher A. Tuck	
Matthew R. Gabriele	
Gary D. Creed	
James D. Politis	

ATTEST:



Craig Meadows
County Administrator

MONTGOMERY COUNTY CODE

ARTICLE III. - NUISANCES GENERALLY [24]

Sec. 7-51. - Article supplemental.

Sec. 7-52. - Article does not prohibit arrest for committing or maintaining nuisance.

Sec. 7-53. - Prohibited.

Sec. 7-54. - Certain nuisances enumerated.

Sec. 7-55. - Premises to be kept clear of stagnant water, drained, etc.

Sec. 7-56. - Responsibility of property owners, occupants and others.

Sec. 7-57. - Abatement.

Secs. 7-58—7-70. - Reserved.

Sec. 7-51. - Article supplemental.

Various nuisances are defined and prohibited in other provisions of this Code. This article is supplemental to those other articles in which nuisances are defined and prohibited. The provisions of this article relating to the abatement of nuisances shall be alternative methods and procedures for the abatement of nuisances in those instances where other methods and procedures for abatement are provided.

(Code 1975, § 10-1)

Sec. 7-52. - Article does not prohibit arrest for committing or maintaining nuisance.

Nothing in this article shall be construed to prohibit any police officer from arresting any person for committing or maintaining a nuisance when such arrest is made pursuant to law.

(Code 1975, § 10-11)

Sec. 7-53. - Prohibited.

It shall be unlawful for any person to cause, harbor, commit or maintain, or to suffer to be caused, harbored, committed or maintained, any nuisance as defined by the statute or common law of this state or as defined by this Code or other ordinance of the board of supervisors at any place within the county.

(Code 1975, § 11-2)

Sec. 7-54. - Certain nuisances enumerated.

The following acts when committed, or conditions when existing, within the county are hereby defined and declared to be nuisances:

- (1) An act done, committed, aided or assisted to be done or committed by any person, or any substance, being or thing kept, maintained, placed or found in or upon any public or private place which is injurious or dangerous to the public health or safety;
- (2) All buildings, bridges or other structures of whatever character kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition that is unsafe, dangerous, unhealthy, injurious or annoying to the public;
- (3) All trees and other appendages of or to realty kept or maintained or which are permitted by any person owning or having control thereof to be kept or maintained in a condition that is unsafe, dangerous, unhealthy, injurious or annoying to the public;
- (4) All ponds or pools of stagnant water, and all foul or dirty water or liquid when discharged through any drain, pipe or spout, or thrown into or upon any street, public place or lot to the injury or annoyance of the public;
- (5) All obstructions caused or permitted on any street or sidewalk to the danger or annoyance of the public, and all stones, rubbish, dirt, filth, slops, vegetable matter or any other article thrown or placed by any person on or in any street, sidewalk or other public place, which in any way may cause any injury or annoyance to the public;
- (6) All sidewalks, gutters or curbstones permitted to remain in an unsafe condition or out of repair;
- (7) All stables, cattle yards, hog, sheep or cow pens or yards for poultry, permitted by the owner thereof or the person responsible therefore to be in such a condition as to become offensive, annoying or injurious to the public;
- (8) All structures and places where explosive or combustible substances, liquids or gases are stored or used in such manner as to constitute a hazard to the safety or health of persons or a hazard to property;
- (9) The accumulation of matter of any kind within a residential area that would be a breeding or harboring place for flies, insects, reptiles or rodents.

The nuisances described in this section shall not be construed as exclusive, and any act of commission or omission and any condition which constitutes a nuisance by statute or common law of the state is, when committed, omitted or existing within the county is hereby declared to constitute a nuisance.

(Code 1975, § 10-3, Ord. No. 1955 15, 3-25-85)

Cross reference-- Maintenance of animals and fowl, § 3-4, buildings, § 8-16 of sec.

Sec. 7-55. - Premises to be kept clear of stagnant water, drained, etc.

No persons owning or in possession of any lot, house, building or enclosure shall allow or suffer to exist in or upon such premises any stagnant water, animal or vegetable matter or other

substance liable to become putrid, offensive, annoying or unhealthy. Persons owning or in possession of any real estate shall provide proper and adequate drainage therefor so that no offensive, baneful or disagreeable liquids shall flow or seep into any street. Any violation of this section is hereby declared to be a nuisance.

(Ord. 1985 § 10-4)

Sec. 7-56. - Responsibility of property owners, occupants and others. .

Each owner, lessee, tenant, occupant or person in charge of any real property within the county, and each agent or representative of any such person, is hereby charged with responsibility for the maintenance and use of such real property in such manner that no use of, or activity or condition upon or within, such real property shall constitute a nuisance; and all such persons are hereby charged with the duty of observing all of the provisions of this article, but such responsibility shall not be construed to permit any other person not charged with such responsibility to commit or maintain any nuisance upon or within any real property in the county.

(Ord. 1975 § 10-5)

Sec. 7-57. - Abatement. .

- (a) *Inspections; investigations; complaints.* It shall be the duty of the county health officer to cause inspections to be made from time to time of all portions of the county to determine whether any condition exists or activity is being practiced which constitutes a nuisance; and each such officer shall cause an investigation to be made upon complaint made by any responsible person.
- (b) *Right of entry.* The health officer and his assistants shall have the right to enter upon private premises for the purposes specified in subsection (a) above, upon compliance with all applicable provisions of law. Unless it appears probable that advance warning would defeat the purpose of such entry, occupants of premises to be entered shall be given reasonable notice in advance, and in any case it shall be unlawful for any owner or occupant to prevent such entry which is sought to be made in compliance with law.
- (c) *Notice to cease and desist.* If at any time the health officer shall find that an activity or practice which constitutes a nuisance is occurring within the county, he shall promptly and by the most expeditious means notify the violator to cease and desist forthwith.
- (d) *Notice to abate; appeal.* If at any time the health officer shall find that a condition which constitutes a nuisance exists within the county he shall give notice in writing to the owner, occupant or person in charge of the premises upon which such condition exists, stating therein the condition which constitutes a nuisance, and directing such addressee to remedy the condition within the time stated in such notice, which shall be not more than ten (10) days; and it shall be unlawful for any such owner, occupant or person in charge to fail to comply with the terms of such notice, provided that any owner, occupant or person in charge may, within two (2) days from the service thereof, appeal to the board of supervisors, in which case the terms of such notice shall be stayed pending action of that board, which shall be final; provided further that if the health officer shall state in such notice that the condition which constitutes a nuisance

is such as to be an imminent hazard to health, safety or welfare of the public or any person within or near the premises upon which such nuisance exists, then the addressee shall comply with the terms of such notice.

(e) *Recourse of county when notice ignored:*

- (1) Upon the failure of any person to whom notice has been given pursuant to subsection (d) above to comply with the terms of such notice, or with the terms imposed by the board of supervisors on appeal, as the case may be, the health officer shall forthwith direct the appropriate county officer to remedy the condition which is the subject of such notice, and the expense incurred by the county in so doing shall be charged to the addressee of such notice, to be collected in the same manner as county taxes.
- (2) Abatement by the county of any condition which constitutes a nuisance and reimbursement to the county of expenses incurred thereby shall not bar prosecution for maintenance of a nuisance.

(Code 1973 § 12-1-10-10)

State Law Reference - Right of abatement - Health Officer - Code of Virginia § 12-1-20 - Annual and special health officers - Code of Virginia § 12-1-20

Secs. 7-58—7-70. - Reserved.

FOOTNOTE(S):

¹⁰ *Cross reference - Animals - Breeding - Health Officer - Code of Virginia § 12-1-20 - Annual and special health officers - Code of Virginia § 12-1-20* [\(Back\)](#)

¹¹ *State Law Reference - Power of county to sue - Health Officer - Code of Virginia § 12-1-20 - Annual and special health officers - Code of Virginia § 12-1-20* [\(Back\)](#)