

Planning Commission

Regular Session Agenda

July 12, 2011

6:00 P.M.

1. Call to Order – Planning Commission Regular Session
 - a. Roll Call – Establish a quorum
2. Invocation and Pledge of Allegiance
3. Public Comments
4. Consent Agenda
 - a. Approval of Agenda Format
 - b. Approval of Minutes
 - c. Reports
5. Old Business
 - a. Sign Ordinance Review – Letter to Council
 - b. Home Occupation – Revised Ordinance with zoning clearance
 - c. Text Change – Definition of Agriculture
6. New Business
 - a. Aircraft Ordinance – Review and Comment
7. Announcements
8. Adjourn



DRAFT
PLANNING COMMISSION
Regular Meeting
Town Hall
June 7, 2011

At 6:00 p.m. in the Town Hall, Vice Chairman Dennis McCoy, having established a quorum, called to order the Regular Meeting of the Planning Commission. In attendance were Commissioners Malcolm Hayward, Roger Munz, Joan Natali and Mike Strub. Chairman Bruce Brinkley and Commissioner Ben Lewis were not in attendance. Also present were Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were no members of the public in attendance.

A moment of silence was observed followed by the Pledge of Allegiance.

REGULAR MEETING PUBLIC COMMENTS

There were no comments from the public nor any written comments submitted prior to the meeting.

CONSENT AGENDA

Tom Bonadeo explained that he had several items to add to the agenda under New Business as follows: i) New item 6B was a Zoning Ordinance text change for the definition of "Agriculture;" and ii) New item 6C was a review of information received from the State entitled "Aircraft Intermittent Use Operations Area Guidance Bulletin" regarding helicopter related questions and concerns.

Motion made by Joan Natali, seconded by Mike Strub to accept the agenda format as amended. The motion was approved by unanimous consent.

The Commissioners reviewed the minutes for the May 3, 2011 Regular Meeting.

Mike Strub noted typographical errors on the first page under Reports and the second page under New Business-Review of Home Business Conditional Use Permit. Dennis McCoy noted a typographical error on the third page, second paragraph.

Motion made by Roger Munz, seconded by Joan Natali, to approve the minutes from the May 3, 2011 Regular Meeting as amended. The motion was unanimously approved.

REPORTS

Tom Bonadeo reported the following: i) The Harbor Redevelopment Plan Floating Slips have been installed and put into service over the Memorial Day weekend. They have been a huge success. The water line had been installed and connected and was in the process of testing. Also, the broadband conduit had been installed as well; ii) The next project at the Harbor was the bath house and a Design-Build contract was planned. The Town Council was expected to authorize this at their next meeting. Joan Natali asked whether a laundry would be included in the bath house Tom Bonadeo explained that this portion of the project included bathroom and showers only and a laundry was planned for a future phase; iii) Land Studio would be providing the design work for the next phase of the Trail which would continue out north Peach Street and Washington Avenue. The majority of the project would be paid through grants but the Town was responsible for a 20% match. The FY 2011/2012 budget included matching funds for the design and construction plans only. The construction of this phase would be done in during FY 2012/2013; iv) The Wastewater Treatment Plant construction was moving along but was approximately 75 days behind schedule. There were penalties for late completion as well as weather and equipment related delays to be negotiated; v) The new force main on Mason

Avenue was completed but a leak was found during the testing process. The next section would be Fig Street and the final piece was the gravity line on Mason Avenue near the beach and pump station; vi) The Historic District Review Board reviewed five applications, for significant remodels and one new building, at their May meeting; and vii) The beach was in good shape this year. The volleyball court was moved off the bathing beach into an area that would allow beach cleaning and bathers without interference. Mike Strub asked about a recent article in the Eastern Shore News regarding a Cape Charles citizen's concern regarding damage to the dunes caused by the relocation of the volleyball court. Tom Bonadeo stated that he believed her concerns were unfounded. The Town collected the sand to do this and the dunes were not disturbed. A volleyball court was on the beach last year as well as the bleachers and was used in past years as much as the other areas of the beach were used for sunbathing. Tom Bonadeo added that the individual may have all the facts now because he had not heard anything more about it since the May Council meeting.

Malcolm Hayward asked whether the water was getting better and added that he had some bad water recently. Tom Bonadeo stated that he had not heard any complaints regarding the water and added that the water at his house was exceptional. Malcolm Hayward stated that his water smelled like sulfur and the dishwasher was leaving a film on his dishes. Tom Bonadeo explained that the smell was more likely caused by the hot water heater and the dishes were a softening issue and suggested Malcolm contact Dave Fauber, Director of Public Utilities. Tom Bonadeo added that the Town would be connecting the two new wells later this year which should considerably improve the water quality.

Joan Natali informed Tom Bonadeo that the website provided on his Planning Commission Staff Report for the Northampton County Planning Commission agendas and minutes were out of date. The latest minutes available on the page were January and February 2011 and no agendas were available. Tom Bonadeo stated that he had received the June agenda via email and added that he would forward it to the Commissioners.

OLD BUSINESS

Sign Ordinance Review

Tom Bonadeo stated that the sign ordinance had been around for several years and in need of review. There were some administrative problems such as permits and permit numbers as well as zoning clearances. Tom Bonadeo distributed copies of the Sign Regulations (Section 4.1 of the Zoning Ordinance) and reviewed various areas. There was some discussion regarding the billboard along Route 184 coming into Town, banners, sandwich boards, lettering on buildings, etc. Joan Natali asked whether Watson's trailer was considered a sign. Tom Bonadeo stated that it could be considered a sign but the Town allowed trailers to be on the street and recommended addressing it as a vehicle regarding parking vs. as a sign. The Commissioners went on to review various photographs of signage both in compliance with the ordinance and not in compliance.

Tom Bonadeo asked the Commissioners for ideas regarding the State of Intent. After further review, a letter would be sent to the Town Council regarding sign issues. Malcolm Hayward suggested obtaining input from the business owners. Malcolm Hayward added that he would like to review Chincoteague's ordinance and added that he had heard that Chincoteague's had different regulations for the summer months.

Joan Natali stated that she had downloaded Portsmouth's ordinance and read several sections which sounded more positive and recommended using Portsmouth's ordinance as a prototype. Joan Natali stated that she would email the PDF file to everyone. Tom Bonadeo added that a Word version would be nice to convert into a letter to Council to adopt a proactive ordinance over the current version which had a negative tone.

Tom Bonadeo stated that once the ordinance had been modified, a brochure would be developed for the citizens to summarize what was permissible, etc. This was a busy time for signs throughout the Town. Unfortunately, most people did not realize that a permit was required and the majority of the signs throughout Town were illegal. Tom Bonadeo added that he had talked with Heather Arcos in the past regarding having a central location in Town for business owners and residents to place notices / signs for upcoming events in Town.

There was some discussion regarding miscellaneous signage such as "Beware of Dog," or "Keep Off the Grass." Tom Bonadeo read in the ordinance that permits were not required for these types of signs.

After further discussion, Tom Bonadeo stated that he would get input from Town Council regarding their interest in modifying this ordinance to make it more proactive.

NEW BUSINESS

Home Occupations – Streamline the Process

Tom Bonadeo stated that in recent months, several applications for simple home-based businesses were received. These applications were costly and time consuming with little value except to follow the rule. As agreed by the Commissioners at their last meeting, staff had developed a checklist for home-based businesses that would allow administrative approval of some applications in the form of a zoning clearance which was the same process required for fences, sheds and numerous other items in the ordinance. The checklist would be used only for those businesses and zones where allowed and the process would not change the list of specific businesses that were allowed as home-based businesses. At the end of the checklist was an Affidavit for Permit Authorization, which was currently used for building permits, for the applicant to affirm that the answers to the questions were correct. The Commissioners reviewed the draft questionnaire which was developed from the list of requirements listed in the zoning ordinance which were the same criteria used for the staff work on the recent Conditional Use Permit (CUP) applications.

Joan Natali suggested the following: i) That an area be added on the checklist for the applicant to write in the type of home occupation being requested; and ii) #8 of the checklist should not be numbered since it was not a requirement but the line for the Zoning Administrator to mark his approval.

There was some discussion regarding what would happen if, after approval, the applicant broke the rules or if complaints were received from neighbors, etc. Joan Natali stated that complaints may be subjective and suggested that complaints be addressed with the applicant. Tom Bonadeo stated that the process would be the same as for CUPs. If complaints start coming in or the applicant did not abide by the requirements, the zoning clearance could be revoked. Tom Bonadeo reminded the Commissioners that a CUP went with the property once activated so in actuality, this process was better because zoning clearances could be revoked.

Discussion continued regarding various types of businesses and which types would be approved by this process and which types would require the CUP process.

Tom Bonadeo stated that he would revise the ordinance for review at the next meeting and if the Commissioners were in agreement, a public hearing could be scheduled for August.

Text Change – Definitions – Agriculture

Tom Bonadeo explained that after a recent zoning inquiry, it was discovered that the definition for "Agriculture" in the Zoning Ordinance needed clarification. Tom Bonadeo further explained that in the R-E zone, non-commercial agriculture was a permitted use and the intent of the zones stated that it was a rural-like setting. In the R-1 and other R zones, "Agriculture" was not a

permitted use and it could be concluded that gardening and horticulture were not allowed. The Commissioners reviewed the current definition and agreed that "horticulture" and "gardening" should be removed.

There was some discussion regarding chickens, geese and pigs as pets, but it was agreed that they were still to be considered as fowl and livestock, which was consistent with the Code of Virginia.

Motion made by Joan Natali, seconded by Roger Munz, to approve the text change removing the words "gardening" and "horticulture" from the definition of "Agriculture" in the Zoning Ordinance. The motion was approved by unanimous consent.

Review of Helicopter Ordinance from State

Tom Bonadeo distributed the *Aircraft Intermittent Use Operations Area Guidance Bulletin* which was drafted by the Virginia Department of Aviation in response to questions and concerns from localities and citizens of the Commonwealth. Tom Bonadeo asked the Commissioners to review the document for consideration and discussion at the July meeting. In the past, Mr. Richard Foster had a helicopter which he landed on the Bay Creek property and Mr. Steelman, who owns property going into Cheriton, installed a helicopter landing pad and planned to start crop dusting by helicopter and possibly offering rides at some point in the future.

OTHER BUSINESS

Tom Bonadeo distributed a draft Cape Charles National Historic District Incentives brochure and explained that the Town planned to develop brochures on a variety of topics.

Roger Munz commented on the past weekend's activities surrounding the Kalmar Nyckel visit at the Harbor stating that many visitors came to the Harbor to see the ship but there was not a very good turnout at the Park for the Elizabethan Festival and it probably would have been better if it could have been held at the Harbor vs. the Park. Roger Munz asked whether there was any place at the Harbor to hold future events of this type. Tom Bonadeo responded that the Town was looking at repurposing an area at the Harbor for events.

Roger Munz added that a portion of the bulkhead in the older portion of the docks at the Harbor was in disrepair and falling in. Tom Bonadeo stated that there were plans in place to redo most of this area.

ANNOUNCEMENTS

There were no announcements.

Motion made by Joan Natali, seconded by Roger Munz, to adjourn the Regular Meeting of the Planning Commission. The motion was approved by unanimous consent.

Vice Chairman Dennis McCoy

Town Clerk

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 12, 2011

Item: 4C – Reports

Attachments:

Item Specifics

1. The Northampton County website is www.co.northampton.va.us and contains the updated information from county meetings. The Northampton Planning Commission also meets on this night and a copy of their agenda is attached when available prior to printing.
2. The Harbor Redevelopment Plan – Bathhouse project is getting ready to move forward. A design-build project has been approved. This process could take slightly longer but should result in lower costs for the grant dollars available. Contractors will be prequalified and then be allowed to submit individual technical and cost proposals. The Design-Build Committee will then negotiate with at least two or three to get the best design and price.
3. The WWTP is moving along well but behind schedule about 75 days. There are penalties for late completion as well as weather and equipment related delays to be negotiated.
4. The Park is just about finished. The last items are being worked on now.
5. The new force main on Mason Avenue experienced some problems since the last report. The compaction didn't meet expectations and the paver couldn't deliver the asphalt as expected. The trench should have been paved with the first coat before the fourth but didn't get done.
6. The Historic Review Board met this month and considered 2 applications. Several properties have sold in the last month and we should see more remodeling activity soon.
7. The CUP for the Cape Harbor project was not extended by the Town Council. This CUP took about one year to be approved, was in effect for one year and was extended by Council for one additional year. No progress was done during the last year and Council did not extend the CUP.
8. New Roots Youth Garden has been working on the site at Fig and Randolph. We should expect to see a shed and maybe some fence around the property. A fund raiser is planned soon.
9. We received the stamped drawings for the cell tower to be placed under the existing radio tower (within 50'). This is a public utility facility.

Agenda
Northampton County Planning Commission
Tuesday, July 5, 2011
7247 Young Street, Machipongo, Virginia
7:00 p.m., Auditorium

1. Call to order
2. Establishment of a quorum
3. Review and acceptance of the agenda
4. Public Hearings:
 - A. **Ten-Year Review of Elkington AFD:** Elkington AFD is located along Savage Neck Road (SR634) extending along Elkington Road (SR 665), Old Castle Road (SR 665), Kirwan Hall Lane (SR 705) and Courthouse Road (Bus. Rt.13) just south of the Town of Eastville.
 - B. **Addition to Happy Union AFD:** A. Stephen Boyer has applied to add 74 acres of land located on Nassawadox Creek near the terminus of Wellington Neck Road (SR 609) and described as being Tax Map 14, double circle 13, parcel H.
 - C. **Addition to Milford AFD:** Shelton Alley has applied to add 303.71 acres. The property is described as being Tax Map 99, double circle 4, parcels 1 through 8 and A located on the east side of Seaside Road (SR 600) between Seaview and Capeville.
 - D. **Addition to The Hermitage AFD:** Charles Frederick Von Canon and the Von Canon Family Limited Partnership has filed to add 152.88 acres of land. The property is described as Tax Map 83, double circle A, parcels 12 and 16 and is located on the north side of Stone Road (SR 183) along Von Canon Road with frontage on Kings Creek.
 - E. **Zoning Text Amendment 2011-08:** The Northampton County Planning Commission intends to amend the Northampton County Code, Chapter 154 Zoning Code, §154.083 Statements of Intent for Overlay Zoning Districts to add a new section to be known as **(D) WIND ENERGY OVERLAY DISTRICT**; and to include a new section to be known as **§154.166 WIND ENERGY OVERLAY DISTRICT**. The amendment includes a map delineating areas for placement of such facilities.
 - F. **Zoning Text Amendment 2011-09:** The Northampton County Planning Commission intends to amend the Northampton County Code, Chapter 154 Zoning Code, **§154.003 DEFINITIONS** to include new definitions pertaining to wind energy facilities; to add a new section to be known as **§154.114 STANDARDS FOR WIND TURBINES, LARGE AND UTILITY-SCALE**; and to amend Appendix A – Use Regulations, by deleting in Category 4, Community Service Uses, Item 35 Wind Farm and by adding in Category 3, Commercial Uses, and Category 4, Community Service Uses, to allow by major special use permit Large and Utility-Scale Wind Turbines in the A/RB Agriculture/Rural Business and EI Existing Industrial Zoning Districts.
5. Matters from the Public
6. Consideration of Minutes
 - A. March 30, 2011 joint work session with Board
 - B. April 5, 2011
 - C. April 27, 2011 recessed meeting
 - D. May 3, 2011
 - E. May 18, 2011 recessed meeting
 - F. June 7, 2011
 - G. June 15, 2011 recessed meeting
7. New Business
 - A. Presentation on Large-Scale Wind Energy Project – Fugro Atlantic
 - B. Presentation and discussion of Priority Conservation Areas
 - C. Discussion of private swimming pools as accessory uses

8. Unfinished Business
 - A. Procedural matters
 - B. Low Impact Commercial Uses (micro-business) draft language
9. Communications
 - A. Town Planning Commission/Town Council Agendas
10. Committee reports/presentations
 - A. Waterfront Village Sub-committee
11. Director's Report
12. Adjourn/Recess

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 12, 2011

Item: 5A – Sign Ordinance

Attachments: Letter and Portsmouth Ordinance

Background

The sign ordinance has been around for several years and bears review. There are some administrative problems such as permits and permit numbers as well as zoning clearances. The sign definition list fairly long but not all signs in the definitions are listed in the ordinance.

The statement of intent is fairly direct in its purpose to restrict the display of signage. The Statement of Intent uses fairly strong language about limiting signs (Section 4.1 A.1, 2, 3).

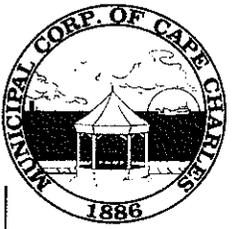
Item Specifics

The Planning Commission reviewed the ordinance with special review of the Intent section. Staff prepared the attached letter for Council for direction in the review and possible modification of the ordinance.

The Portsmouth Ordinance is attached for your review. The Purpose section is far more positive than the current Cape Charles Ordinance.

Recommendations

The letter is attached. Continue review of the ordinance definition section.



Municipal Corp. of Cape Charles

July 5, 2011

Town Council
Cape Charles

Dear Town Council,

The Planning Commission is interested in improving the Sign Ordinance to better meet the requirements of the current economic situation in Cape Charles. The Ordinance has outdated definitions and a very negative approach to signage. The Planning Commission believes in the effective control of signage but in a positive manner to create enthusiasm for our businesses while not overwhelming our streets and properties with signage.

The Statement of Intent has been attached for your reading and the Commission would like your support for a positive revision of the Intent and a further review of the ordinance.

Sincerely,

Bruce Brinkley
Chairman, Planning Commission

Section 4.1 Sign Regulations

A. Statement of Intent

1. The purpose of this section is to regulate all exterior signs, thus ensuring the protection of property values, character of the various neighborhoods, safety and welfare of pedestrians and traffic, and to encourage sound development of land throughout the town. This section allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. The standards of this section are to discourage offensive and unnecessary uses of signage.
2. A sign placed on a building or on a parcel of land for the purpose of identification, protection, or advertising a use conducted therein shall be deemed to be an integral part of the land or building. Therefore, the intent of this section is to establish limitations on signs in order to ensure the appropriateness to the land or building with which they are appurtenant and are adequate, but not excessive, for their intended purposes. Business sign regulations have been devised after considering, among other matters, shopping habits, extent of trade area, means of access, and the avoidance of competition among sign displays in their demand for public attention.
3. Any permanent widespread display of outdoor advertising is considered inappropriate to the character and sound development of the town, and it is intended by this section that the streets and highways in the town shall not be made available for such displays.

40.1-5.11 SIGNAGE

(A) Purpose

The purpose of these sign standards is to encourage the effective use of signs as a means of communication in the city, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety, to minimize the possible adverse effect of signs on nearby public and private property, and to enable the fair and consistent enforcement of these sign restrictions.

(B) Applicability

Signs shall be permitted on private property in the city in accordance with this section. Signs in the public right of way are prohibited unless approved by the City Engineer. Signs located in the D1 and D2 district shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article, and either the Downtown Design Guidelines or the D2 Form Based Code, as applicable. The more restrictive regulations shall apply in cases of conflict.

(C) Prohibited Signs

The following signs are expressly prohibited:

- (1) Roof signs;
- (2) Signs which are of a size, location, movement, content, coloring or manner of illumination which may be construed as traffic-control devices or signs or which hide from view any traffic or street sign or signal or which obstruct the view at a street or road intersection;
- (3) Pennants;
- (4) Balloons with a commercial message greater than two feet in diameter with a tether more than two feet long extending from the roof or structure by means of a rope, string, or other device shall be prohibited;
- (5) Portable or nonstructural signs with no permanently mounted, self-supporting structure, including signs mounted on wheels and otherwise constructed to be used as a temporary sign display;
- (6) Obsolete signs containing sign copy, print, or graphics which advertise an activity, business, product, or service no longer produced or conducted. An exception to the immediate removal of obsolete sign copy, print or graphics will occur where the owner or lessor of the premises on which the sign is located is seeking a new tenant, then the sign copy, print or graphics shall be removed by the owner or lessor no more than 90 days from the date of vacancy of the premises on which the obsolete sign is located; and

- (7) Animation of signs, except revolving signs and changeable copy signs, where permitted.

(D) Exempted Signs

The following signs are exempted from the requirements of this section:

- (1) Signs less than two square feet in size, containing only property numbers, names of occupants or buildings or hours of operation;
- (2) Memorial signs, names of buildings or commemorative plaques when cut into masonry or made of a noncombustible material;
- (3) Signs erected by public agencies; however a sign permit application shall be completed and submitted for review and approval;
- (4) Signs denoting the entrance to residential areas, if not in excess of 18 square feet in area nor taller than six feet in height;
- (5) Real estate signs less than four square feet in area in residential zoning districts, less than eight square feet in mixed-use zoning districts, and less than 16 square feet in industrial zoning districts, one per street frontage; provided that such signs shall be permitted for on premises sale, lease or rentals only and provided that the sign is removed within seven days of consummating the sale, lease or rental. No signs advertising off-premises sale, lease or rentals are permitted; Only one sign per street frontage is permitted.
- (6) One construction sign per street frontage indicating the name of the developer, builder, contractor, architect, engineer or lending institution; provided that the advertising display area does not exceed 32 square feet per zone lot in commercial or industrial zoning districts and 24 square feet per zone lot in any other zoning district. Such signs shall be removed no later than 14 days after the city has issued a certificate of occupancy for the final building in the development;
- (7) Signs erected in connection with elections or political campaigns; provided that such signs are erected no more than 90 calendar days before and removed within 15 days after the election date. After expiration of said time, such remaining signs may be removed by the city and the cost of such removal shall be charged to the candidate; and
- (8) Works of art containing no commercial message.

(E) Signs Permitted by Zoning District

Signs shall be permitted in the various zoning districts as set forth in this section.

(1) Signs Permitted in all Residential (R) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all residential (R) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Name plate sign;
- (ii) Residential freestanding signs;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Historic and memorial marker;
- (ii) Institutional canopy sign;
- (iii) Institutional freestanding sign; and
- (iv) Noncommercial sign.

(2) Signs Permitted in all Residential UR and UR-H zoning districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in all UR and UR-H zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Name plate sign;
- (iii) Residential freestanding sign;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Canopy sign;
- (ii) Freestanding sign up to eight feet in height;
- (iii) Historic and memorial marker;
- (iv) Institutional canopy sign;
- (iv) Institutional freestanding sign;
- (v) Noncommercial sign;
- (vi) Projecting sign;
- (vii) Temporary sign, including temporary banner signs
- (ix) Wall sign; and
- (x) Window sign.

(3) Signs Permitted in the NMU and GMU Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Neighborhood Mixed Use (NMU) and General Mixed Use (GMU) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Name plate sign;
- (iii) Residential freestanding sign;
- (iv) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Banner sign, permanently mounted;
- (ii) Canopy sign;
- (iii) Changeable copy sign;
- (iv) Freestanding sign, up to 8 feet in the NMU district and up to 26 feet in height in the GMU district;
- (iv) Historic and memorial marker;
- (v) Institutional canopy sign;
- (vi) Institutional freestanding sign;
- (vii) Marquee sign in the GMU district only;
- (ix) Noncommercial sign;
- (x) Projecting sign;

- (xi) One Temporary sign, including temporary banner signs; and
- (xii) Wall sign.

(4) Signs Permitted in the MU-H and AC Districts

Signs located in the MU-H district and any of the AC districts shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article and the adopted design standards applicable to the district. The more restrictive regulations shall apply in cases of conflict. Should no adopted design standards exist as it pertains to signs, then signs in the MU-H district and any of the AC districts shall be permitted in accordance with subsection (3), above.

(5) Signs Permitted in the D1 and D2 Districts

Signs located in the D1 and D2 district shall be permitted with a zoning compliance permit and shall be subject to the provisions of this Article, and either the Downtown Design Guidelines or the D2 Form Based Code, as applicable. The more restrictive regulations shall apply in cases of conflict.

(6) Signs Permitted in the IL and IN Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Light Industrial (LI) and General Industrial (IN) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Name plate sign;
- (iii) Window sign;

(b) Signs Permitted With a Zoning Compliance Permit

- (i) Banner sign, permanently mounted;
- (ii) Canopy sign;
- (iii) Changeable copy sign;
- (iv) Freestanding sign, up to 26 feet in height;
- (v) Historic and memorial marker;
- (vi) Institutional canopy sign;
- (vii) Institutional freestanding sign;
- (viii) Noncommercial sign;
- (ix) Off-premises advertising sign;
- (x) Projecting sign;
- (xi) One Temporary sign, including temporary banner signs; and
- (xii) Wall sign.

- (c) In the IN zoning district, a permanently mounted banner sign, changeable copy sign, freestanding sign, off-premises advertising sign, projecting sign or wall sign may only be granted a zoning compliance permit after a use permit has been approved by the City Council.

(7) Signs Permitted in Historic (H) Zoning Districts

In addition to the general requirements applicable to all signs set forth in this section, the following signs shall be permitted in the Historic (H) zoning districts:

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Residential freestanding sign;

(b) Signs permitted with a Zoning Compliance Permit

- (i) Canopy signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;
- (ii) Historic and memorial markers in all Historic zoning subdistricts;
- (iii) Noncommercial signs in all Historic zoning subdistricts;
- (iv) Projecting signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only;
- (v) Temporary signs, including temporary banner signs in the Historic Residential HR and Historic Limited Business HLB zoning subdistricts only;
- (vi) Wall signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only; and
- (vii) Window signs in the Historic Limited Office HLO and Historic Limited Business HLB zoning subdistricts only.

(8) Signs Permitted in the W-1 District

(a) Signs Permitted Without City Approval

- (i) Incidental sign;
- (ii) Residential freestanding sign;
- (iii) Name Plate sign; and
- (iv) Window sign.

(b) Signs permitted with a Zoning Compliance Permit

- (i) Banner sign, permanently mounted;
- (ii) Canopy sign;
- (iii) Freestanding sign; up to eight feet in height;
- (iv) Historic and Memorial Marker;
- (iv) Institutional canopy sign;
- (vi) Institutional freestanding sign;
- (viii) Noncommercial sign; and
- (viii) Projecting sign.

(F) Streets Having Special Sign Restrictions

In order to restrict the use of off-premises signs beyond the restrictions imposed by the zoning district, the City Council may, from time-to-time, designate certain streets as having special sign restrictions. Off-premises signs are prohibited from being erected along or oriented towards streets or portions thereof which have been designated by the City Council as streets having special sign restrictions.

- (1) In making such designation, the City Council may consider any or all of the following factors:
 - (a) The promotion of highway safety;
 - (b) The convenience and enjoyment of public travel;
 - (c) The protection of pedestrians;

- (d) The attraction of tourism; and
 - (e) Any general purpose of this Ordinance.
- (2) The following streets are hereby designated as streets having special sign restrictions:
- (a) London Boulevard between its intersection with Effingham Street and its intersection with High Street;
 - (b) West Norfolk Road;
 - (c) Western Freeway;
 - (d) Martin Luther King Expressway. Any nonconforming off-premises sign on the Martin Luther King Expressway (the "Expressway") between London Boulevard and the Midtown Tunnel that would be required to be removed as a result of a state or federal road project may be physically relocated to a point on the same side of the roadway as the sign's original location. The new location shall be at approximately the same point laterally along the Expressway as the original location of the sign, or of any other sign which is relocated pursuant to this section, and oriented in the same direction as the sign which had been at that location. Each sign which is relocated shall be subject to setback and height requirements applicable to off-premises signs, other than setback requirements applicable to expressways, as set forth in this section plus any other requirements imposed by state or federal authorities of competent jurisdiction.

(G) General Requirements Applicable to All Signs

The following general requirements shall apply to all permitted signs:

(1) Advertising

Notwithstanding any other provision of this section, no sign except a permitted off premises advertising sign or a permitted real estate sign shall advertise any service or product which if offered on the lot where the sign is located would constitute a violation of this Ordinance or a permit granted hereunder or condition imposed.

(2) Building Code Compliance

The requirements of this section are supplemental to the building, electrical, and other applicable codes. Nothing herein shall exempt any sign from compliance with such codes.

(3) Signs to be Permanent

Except for real estate signs, yard sale signs, window signs, permitted temporary signs, and noncommercial signs utilizing the dimensional requirements applicable to any of those, all signs shall be permanently installed as defined by the Uniform Statewide Building Code. Installation using ropes, cords, and the like is not considered permanent.

(4) Illumination

Illumination, where permitted, shall be designed, installed and maintained in a manner that avoids glare on adjoining property and that avoids glare or reflection

which in any way interferes with traffic safety. In the UR, UR-H, and Historic zoning districts, signs other than name plates shall be illuminated only by the reflector method. In the D-1 and D-2 districts, signs shall be illuminated by the manner prescribed in the Downtown Design Guidelines or the Form Based Code, as applicable.

(5) Maintenance

All signs, including those exempt from this Ordinance, shall be maintained in good condition at all times. All signs shall be kept free of holes or tears or fraying, and neatly painted, including all metal parts and supports thereof that are not galvanized or of rust resistant material. The Planning Director shall have the authority to order the painting, repair, alteration or removal of a sign which is defective, damaged or deteriorated and to remove any sign not brought into compliance.

(H) Administration

Administration of the provisions of this section shall be as set forth as follows:

(1) Computations Related to Signs; Maximum Sign Area Totals

Computations related to the interpretation and construction of this section shall be made in accordance with the following principles:

(a) Advertising Display Area

The advertising display area shall be computed as the area encompassed by one continuous line connecting the extreme points or edges of a sign. The structural supports for a sign, whether they be columns, pylons or a building or part thereof, shall not be included in the advertisement area unless they are designed as integral parts of the display for the purpose of illustration or attraction. If a sign being constructed for the City of Portsmouth is sponsored by another entity, then sponsorship information on the sign shall not be computed as part of the allowable advertising display area, provided that the sponsorship information constitutes less than 25 percent of the advertising display area. Otherwise such sponsorship information must conform to the requirements of this section.

(b) Height

The height of a sign shall be measured from the top edge of the sign to the ground level measured at the edge of the pavement of the public street on which the sign faces.

(c) Maximum Display Area

(i) Off-Premises Signs

a. The maximum advertising display area shall be 672 square feet in Industrial zoning districts and 300 square feet in High Intensity Mixed-Use zoning districts.

(ii) On-Premises Signs

a. The maximum advertising display area for all applicable on-premises signs located on any property zoned UR, UR-H, RMH, or H (other than

institutional freestanding or institutional canopy signs) shall be 18 square feet per sign face.

- b. The maximum advertising display area for all applicable on-premise signs located on any property within a business, mixed-use, and special district shall be the larger of the following:
 - 1. One square foot per linear foot of street footage of the zone lot; provided, that no individual on-premises sign may exceed 125 square feet per sign face; or
 - 2. Ten percent of the area (square footage) of the front building facade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less.
- c. The maximum advertising display area for all applicable on-premises signs located on any property zoned D1 or D2 shall not exceed ten percent of the area (square footage) of the front building facade, not to exceed 40 square feet per sign face, for on-premises signs located on zone lots with street frontages of 40 feet or less. Locational and height requirements of the Downtown Design Guidelines or the Uptown Form Based Code, as applicable, shall apply.

(I) Localized Sign Overlay Districts

(1) Generally

Certain large scale land uses with common design elements, including but not limited to office parks, corporate centers, and medical centers having a multi-building campus, or land uses that are unique in their design, operating characteristics, and presence in the city, including but not limited to outdoor performing arts centers, may present unique development opportunities of special value to the community. In order to ensure that the economic, social, and cultural benefits of those land uses are optimized, the establishment of one or more localized alternative sign overlay districts is authorized to address the unique signage needs and opportunities associated with the land use.

(2) Application Process and Elements

- (a)** A property owner, a developer, or the City Manager may apply to the Planning Commission for the establishment of a localized alternative sign overlay district. Properties located within a localized alternative sign overlay district shall be subject to such signage requirements, as the planning commission shall establish at the time of the application's approval.
- (b)** The application for creation of a district shall include the following:
 - (i)** A description of the boundaries of the proposed district;
 - (ii)** A statement of the reasons for the request; and
 - (iii)** A comprehensive set of signage standards proposed to be applied within the district.
- (c)** The Planning Commission shall observe all notice and public hearing requirements set forth in Section 40.1-2.2, Common Review Procedures, prior to approval of an application.

(3) Required Planning Commission Findings

A localized alternative sign overlay district with alternative signage standards may be established by the Planning Commission upon a finding that the following conditions exist:

- (a)** The proposed land use in the district is consistent with the comprehensive plan;
- (b)** The value of the proposed use to the community will be optimized by the approval of an alternative set of signage standards; and
- (c)** The signage standards for the proposed district are consistent with this section.

(J) Individual Sign Standards

(1) Freestanding Signs

Freestanding signs, where allowed, shall be subject to the following standards:

- (a)** Any parts of any freestanding signs shall be setback a minimum seven feet from the front property line.
- (b)** The minimum sign setback from interstate highways and expressways designated by City Council shall be 100 feet.
- (c)** Freestanding signs on property adjoining property which is included in any R or Historic zoning district shall be set back from the property line adjoining such residential property by a distance at least equal to the height of the sign.
- (d)** There shall not be more than one freestanding sign per zone lot or, if the zone lot has frontage on more than one public street, one additional freestanding sign shall be allowed for each such street in excess of one.
- (e)** One freestanding sign may contain advertising messages for any number of businesses.
- (f)** National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(2) Incidental Signs

Incidental signs, where allowed, shall:

- (a)** Not exceed two square feet in area;
- (b)** Not be illuminated;
- (c)** If freestanding, not exceed four feet in height; and
- (d)** If freestanding, be set back from the property line by a distance equal to the height of the sign, however, there shall be no setback for such signs if attached to a building or fence.
- (e)** Such signs shall not be included in the "maximum advertising area" computation.

(3) Sign, Institutional Canopy

A religious, educational or other public or quasi-public institutions shall be entitled to a certificate of compliance for one canopy sign per street frontage, subject to all other applicable requirements of this section, except that such signs may be up to 12 feet in height.

(4) Sign, Institutional Freestanding

A religious, educational or other public or quasi-public institution in any zoning district shall be entitled to a certificate of compliance for one institutional sign, or bulletin board for each separate street frontage; provided:

- (a) Each such sign must be located on the same zone lot with the institution;
- (b) The sign shall not have an advertising display area of more than 18 square feet or a height of more than six feet.
- (c) Such signs shall be illuminated only by the reflector method.
- (d) Such signs shall be set back from each property line by a distance at least equal to the height of the sign.
- (e) In zoning districts allowing larger or taller on-premises signs for business, such institutions shall comply with the zoning district requirements.

(5) Sign, Marquee

Marquee signs, where allowed, shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of eight feet.

(6) Sign, Name Plate

Name plates, where allowed, shall not exceed two square feet in area and may be lighted by a single incandescent bulb.

(7) Sign, Off Premises

Off-premise signs, where allowed, shall:

- (a) Be only single-faced;
- (b) Be set back at least 25 feet from the right-of-way of any public street and 660 feet from any expressway designated by City Council;
- (c) Be set back 15 feet from any other property line, or, if the property line adjoins property zoned R, by a distance at least equal to the height of the sign;
- (d) The maximum height of any off-premises sign shall be 50 feet in Industrial zoning districts and 26 feet in MU-H districts.
- (e) No off-premises sign shall be erected within 500 feet of any other off-premises sign on the same side of the same street.
- (f) Off-premises signs within 660 feet of the right-of-way of any highway classified as an interstate highway or as a federal aid primary highway shall also comply with Chapter 7, Code of Virginia, Section 33.1-351 et seq., as amended.

- (g) No off-premises sign shall be permitted within the MU-H zoning district on any zone lot upon which improvements have been constructed.
- (h) Notwithstanding the zone, no off-premises signs shall be allowed along or oriented towards any street or highway or portion thereof which has or have been designated by the City Council as streets having special sign restrictions.

(8) Sign, Permanently Mounted Banner

There shall be no more than one permanent banner sign per establishment per zone lot.

(9) Sign, Projecting

- (a) Projecting signs, where allowed, shall not extend more than six feet from a building to which they are attached.
- (b) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade at the right-of-way line. (c) Projecting signs in the D1, D2 and H zoning districts, shall extend no more than six feet from a building to which they are attached and shall be perpendicular to the building.
- (d) Such signs shall maintain a minimum vertical distance of eight feet between the bottom of the sign and the grade directly below the bottom of the sign.
- (e) Projecting signs shall not exceed 12 square feet in area per face;
- (f) Such signs shall be non-illuminated.
- (g) Projecting signs shall consist primarily of graphics or symbols with a minimum of lettering.
- (h) Projecting signs located within the public right-of-way shall comply with the provisions of Section 32-7 pertaining to street encroachments.

(10) Sign, Residential Freestanding

Residential freestanding signs shall not exceed three square feet per side in area.

(11) Sign, Temporary

Such signs shall be subject to the limitations as to size, height, and location requirements of the zoning district in which they are located, as well as the following:

- (a) Temporary inflatable signs may, if affixed to the roof of a building or structure, project no more than 30 feet above the roof line or top of the building or structure, or if affixed to the ground, have a height not exceeding 30 feet above ground level. Such signs shall be displayed no more than once per year per zone lot, for a period of time not to exceed seven days.
- (b) Temporary signs may include A-frame or T-frame signs in the D1 or D2 zoning district and such signs shall require the issuance of an annual certificate of compliance and depositing with the City Manager and keeping current a policy of liability insurance covering bodily injury and property damage in the amount of \$1,000,000.00 which names the city as a co-insured.

- (c) Temporary signs must be removed on the day after the last day of the advertised event or promotion or upon expiration of the required certificate of compliance or termination of the required insurance coverage.
- (d) Temporary real estate signs shall be permitted for on-premises sale, lease or rentals only and provided that such sign is removed within seven days of consummating such sale, lease or rental.
- (e) No temporary signs advertising off-premises sale, lease or rentals are permitted.
- (f) Banner signs that are mounted with rope or straps or other temporary means shall be considered temporary signs.
- (g) In no case shall any establishment display a temporary banner sign for a cumulative period of time longer than 30 days in any calendar year.
- (h) National flags, military flags, flags of the commonwealth, city or symbolic flags of any institution or business shall not be considered banners or signs for the purposes of this section.

(12) Sign, Wall

Wall signs, where allowed, shall be subject to the general requirements, except that where groupings of office or commercial businesses share a common zone lot, additional wall signs shall be permitted based upon the actual building frontage as related to the requirements of this section.

(13) Sign, Window

- (a) Window signs, where allowed, shall:
 - (i) Be permitted on the ground floor only; and
 - (ii) Not cover more than 20 percent of any window area, except that where groupings of office or commercial businesses share a common zone lot.
- (b) Window signs in conformance with this section are not counted towards the maximum display area calculations contained within Section 40.1-5.11(1)(1)(c).

Planning Commission Staff Report

From: Tom Bonadeo
Date: July 12, 2011
Item: 5B - Home Occupation
Attachments: Revised Section 4.0

Item Specifics

The current zoning ordinance Section 3.2 Single Family Residential allows Home occupations under Conditional Uses Section 3.2.C.3. This requires that any home occupation be subject to the Conditional Use permit process which costly and time consuming.

Discussion

It would be practical to move Home Occupation from 3.2.C.3 to 3.2.B.7 Permitted Uses. It would read:

7. Home Occupation in accordance with Section 4.0.

Section 4.0.B would be revised to require zoning clearance for any home occupation. The zoning administrator would use the questionnaire reviewed last month. If the questionnaire is answered satisfactorily and the affidavit signed, the home occupation is approved. Failure to satisfactorily complete the questionnaire would require the zoning administrator to implement the Conditional use process.

The attached revision incorporates the questionnaire into the ordinance to avoid additional paper requirements. The affidavit will still be required along with zoning clearance form. The forms are retained in the zoning file in address order. This file also contains Historic Review documentation along with any other planning related documents.

Should complaints arise after zoning clearance is granted the affidavit would be used to substantiate initial compliance and if the requirements have been violated the zoning clearance could be revoked.

Recommendation

Staff recommends scheduling a public hearing for the next meeting.

ARTICLE IV

General Regulations Applicable to All Districts

Section 4.0 Home-Based Occupation

A. Statement of Intent

1. The purpose of this section is to allow home-based occupations in all districts that allow residential dwellings provided that the home-based occupation meets the requirements in 4.0.B below.

B. HOME-BASED OCCUPATION: The conduct of a business in a residence or on its premises is permitted providing the following characteristics are followed:

1. Is the home-based occupation business clearly incidental and subordinate to the residential use of the dwelling (YES)?
2. Is any change required to the exterior of the dwelling (NO)?
3. Will there be any storage of goods, products, equipment, solid waste or other similar items stored outside the house to a greater extent than that associated with normal neighborhood characteristics (NO)?
4. If any accessory buildings on the property used for the home-based occupation, do they meet the requirements of the zone (YES)?
5. Will the Home-Based Occupation create noise, dust, vibration, smoke, smell, glare, electrical interference, fire hazard, or other hazard or nuisance to any greater or more frequent extent that would normally be expected in the immediately adjacent neighborhood if no home based business existed (NO)?
6. Will the pedestrian and commercial delivery traffic generated by the home based business be greater than normal traffic in the neighborhood (NO)?
7. Will any excessive parking requirements be met using off street parking (YES)?
8. If the home-based occupation meets the above requirements and the Home-Based Occupation Affidavit is signed, zoning clearance may be granted. If the home-based occupation does not meet the above requirements, a conditional use permit will be required.
9. Nothing herein precludes compliance with any Federal, State, or Local regulatory agency requirements.

C. The following are specifically excluded:

Adopted
December
2010

1. Family care homes, group homes except as allowed under § 15.2-2291 of the Code of Virginia, nursing homes, convalescent homes, elderly care facilities. *[revision adopted by Town Council 12/2010]*
2. Auto repair shops.
3. Kennels.
4. Any activity that includes the use of weapons, ammunition, explosives, chemicals, fireworks, or other hazardous materials.
5. Butchers.
6. Sexually oriented business including adult media, products, or activity.
7. Illegal drugs and equipment used for these drugs.
8. Funeral parlors

Affidavit for permit authorization

I _____, owner of the property, am requesting a permit for a home-based business;
affirm that the answers to these questions are correct.

Name _____
Address _____
City, State, Zip _____
Phone _____

Has appeared before me in the town, city or county of _____ VA
On the _____ day of _____, 20____, in the presence of the undersigned notary.

_____, Notary Public

MY Commission expires on the _____ day of _____.

Planning Commission Staff Report

From: Tom Bonadeo
Date: July 12, 2011
Item: 5C -Text Change Definitions - Agriculture
Attachments: None

Item Specifics

After a recent zoning inquiry it was discovered that the definition for Agriculture in our zoning ordinance was unclear. The definition reads as follows:

AGRICULTURE means the tilling of the soil, the raising of crops, horticulture, forestry, gardening, the keeping and raising of livestock and fowl, and including the process of any products produced on the premises, such as milk, eggs, and the like.

In the R-E zone, Non-commercial agriculture is a permitted use and the intent of the zones states that it is a rural like setting. In the R-1 zone and the other R zones, Agriculture is not a permitted use and one could conclude that gardening and horticulture are not allowed.

Discussion

The Planning Commission discussed the definition modifications at the last meeting and agreed to make the change to the ordinance. Legal guidance has indicated that we should use the full process for the change.

Removing the two words, "gardening" and "horticulture" would keep the definition rural as is the intent of the R-E zone. Gardening and Horticulture would not be restricted in the other Residential zones by the definition of agriculture.

The new definition would read:

AGRICULTURE means the tilling of the soil, the raising of crops, forestry, the keeping and raising of livestock and fowl, and including the processing of any related products produced on the premises, such as milk, eggs and the like.

Recommendation

Staff recommends that the Planning Commission schedule a public hearing in conjunction with other changes to the ordinance.

Planning Commission Staff Report

From: Tom Bonadeo

Date: July 12, 2011

Item: 6A - New Business – Aircraft Intermittent Use Operations Area

Attachments: Ordinance Model and Guidance Document

Item Specifics

The Code of Virginia made some changes in relation to Heliports both private and commercial. These changes prompted the creation of a Model Ordinance for helicopter landing areas.

Discussion

The Guidance document offers some good information for the rationale for having an ordinance like this. Our experience over the last 10 years here in Cape Charles has been that during the “boom” years we had helicopters landing in any area they liked. Certain helicopters such as life support have designated areas that they land in for general transport. There have been others that have landed in specific undeveloped residential areas.

It should be expected that we would see a resurgence of buyers with this capability. There is a helicopter landing area near the intersection of Route 13 and Route 184 on the Steelman property.

The definition of “Aircraft Intermittent Use Operations Area” needs careful review and possibly some input from nearby aircraft enthusiasts.

Recommendation

Staff recommends the review of the model ordinance.

Aircraft Intermittent Use Operations Area Guidance Bulletin

Purpose

As a result of a number of helicopter related questions and concerns from localities and citizens of the Commonwealth, the Virginia Department of Aviation has drafted a model zoning ordinance to aid localities in creating or revising existing zoning ordinances that address and differentiate a variety of helicopter takeoff and landing sites. While many adopted zoning ordinances address helicopter operations from "heliports", they often do not address helicopter operations that originate or conclude from off airport/heliport sites.

This guidance bulletin is to be used in conjunction with the model ordinance to provide localities with technical information to be used in the development of such ordinances as well as identify multiple sources of information, both federal and state, to be used in the event an entity disputes the rationale or language found in local ordinances.

Information and Technical Data

The Federal Aviation Administration's annual publication, The Federal Aviation Regulations/Aeronautical Information Manual defines a heliport as "an area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters." Design criteria for heliports is available in Federal Aviation Administration Advisory Circular 150/5390-2B, Heliport Design. This publication can be found online at www.faa.gov.

The Commonwealth of Virginia expands the definition of heliport in the Virginia Administrative Code, Title 24 VAC 5-20-10 as "any identifiable area on land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters, or other rotorcraft, appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon." Additionally Virginia Administrative Code, Title 24 VAC 5-20-140 mandates that heliports used for commercial public use purposes will have unobstructed primary, approach and transition surfaces to the heliport that has at a minimum dimensions of 75' by 75'.

The Commonwealth of Virginia requires that prior to operating any public use landing area a license must be issued by the Department of Aviation. This is also applicable to any private landing area within five miles of a commercial public use airport. This requirement may be found in Title 5.1-7 of the Code of Virginia. Any person owning a private landing area not within five miles of a commercial airport is only required to register with the Department as per Title 5.1-7.2 of the Code of Virginia. **If there are any questions regarding this subject matter or any aviation related topic, staff at the Virginia Department of Aviation are available to assist local jurisdictions by providing technical assistance and may be contacted at (804) 236-3632 or via our website at www.doav.virginia.gov.**

The important issue to note is that neither the State nor Federal Aviation Administration regulations restrict the number of operations at a "heliport". Although information on heliports in both the State code and Federal Aviation Regulations is comprehensive and reflected in zoning ordinances throughout the Commonwealth by either identifying the use as permitted or a specially permitted use, guidance on the use of land for the occasional use as a non-public use landing area is not typically found in zoning ordinances. To assist localities in addressing this issue the Department has drafted the attached model zoning ordinance.

Rationale for Model Ordinance Language

The initial section of the draft ordinance identifies existing definitions and offers a proposed definition for Aircraft Intermittent Use Operations Area. The proposed definition would allow localities to differentiate the licensed or registered heliports from the intermittent use landing areas.

The proposed definition allows localities to customize the model ordinance to their existing zoning ordinance based on individual zoning district classification criteria. In other words, a locality may authorize helicopter/rotorcraft intermittent use landing areas in districts that permit residential dwellings by right but only in those districts with sufficient acreage so as not to create a nuisance or safety issue to neighboring properties. This would ideally include agriculturally zoned districts with large parcels but restrict such operations in high density residentially zoned districts such as multi-family residential districts.

The limit of ten operations in a 24 hour period and utilized no more than three days in a seven day period was derived from criteria identified in the Federal Aviation Administration's Advisory Circular 150/5390-2B Paragraph 104. The FAA Advisory Circular defines Temporary and Intermittent Use as:

- 1.) Visual Flight Rules Operations (VFR), used or intended to be used no more than 30 consecutive days with no more than 10 operations a day.
- 2.) Visual Flight Rules Operations (VFR), used or intended to be used for no more than 1 year, with no more than 3 days in one week with no more than 10 operations in a day.

Since the Commonwealth does not have any comparable criteria in either the Code of Virginia or the Virginia Administrative Code, the language from the FAA Advisory Circular was utilized in the model zoning ordinance. However, we have excluded the 30 days and 1 year criteria from our Model Ordinance. This omission of time limitations was done in an effort to differentiate time limitations often found in special use permits to the perpetual nature of an ordinance.

The Department recommends the use of civil penalties as an enforcement action. The penalty amount (the model ordinance identifies \$100 only as an example) would be determined by the locality.

Summary

The language utilized in the model zoning ordinance was drafted in order to address use of helicopters in the Commonwealth while clearly differentiating licensed or registered heliports

from the helicopter limited use landing areas and offers localities a means to incorporate these uses into their zoning ordinances.

Article 1. Aircraft Intermittent Use Operations Area Model Ordinance

Section 1-1. Definitions

Heliports- Any identifiable area on land, water, or structure, including any building or facilities thereon, used or intended to be used for the landing and takeoff of helicopters, or other rotorcraft, appurtenant areas which are used, or intended for use, for heliport buildings or other heliport facilities including rights-of-way, easements and all heliport buildings and facilities located thereon. *Virginia Administrative Code, Title 24 VAC 5-20-10*

Aircraft Intermittent Use Operations Area- Any zoned property that permits single family dwellings by right with a density of no more than one dwelling unit per five acres (Actual density restrictions are determined by individual locality zoning classifications) that is to be used for no more than ten helicopter operations in a 24 hour period. This area is not an established licensed or registered airport or heliport and is intended for intermittent use only. The parking or basing of aircraft is limited to three days in a seven day period. The storage of fuel or other support equipment is not permitted. Authorization for use of property as an Aircraft Intermittent Use Operations Area must be provided to the aircraft operator prior to operations. Use of public property as an Aircraft Intermittent Use Operations Area may only be granted by the jurisdictions governing body and subject to any provisions stipulated by that body.

Helicopter Operation- A takeoff and associated landing conducted by a helicopter/rotorcraft. *Federal Aviation Advisory Circular 150/5390-2B Paragraph 104*

Section 1-2. Off-Airport/Heliport Helicopter Takeoffs/Landings

Helicopter/rotocraft operators are authorized to land on or depart from property within the jurisdiction provided that operator:

1. Is operating from a licensed or registered airport/heliport, (i.e. any land in which a heliport is authorized by right or special use permit),
2. Is carrying out an emergency operation,
3. Is working in conjunction with a federal, state or local law enforcement effort,
4. has received authorization from the property owner to utilize said property as a "Aircraft Intermittent Use Operations Area"

Section 1-3. Heliports

Prior to conducting operations at a proposed heliport, a Federal Aviation Administration (FAA) 7480-1 form must be submitted to the FAA and accompanied by a proposed heliport layout diagram and a proposed heliport location map. All heliports' layout and design specifications must comply with Federal Aviation Administration Advisory Circular 150/5390-2B, Heliport Design, or any subsequent revision thereof.

All heliports must be licensed or registered by the Virginia Department of Aviation and comply with Title 5.1-7 of the Code of Virginia.

Instances where heliports are permitted by special use permit, the permit may include conditions pertaining to but not limited to;

1. hours of operation
2. mapped routes of ingress and egress
3. setbacks from property lines
4. security/safety gates and fencing
5. fuel/solvent storage
6. lighting and marking
7. noise/dust mitigation
8. insurance requirements
9. permit expiration/reissuance

Section 1-4. Penalty

Violations of provisions of this article shall be subject to a civil penalty and fined \$100 for each offense. Each day shall constitute a separate offense. (Actual Civil Penalty to be established by locality)