

Chapter One:
**The Planning Process and
Virginia Code Requirements**

The Planning Process

Introduction

Chapter 1 provides an overview of the process used for creating the updated Comprehensive Plan, and references to the enabling legislation that provides the basis for local comprehensive planning in Virginia.

Planning

“Plan-ning n (1748): the act or process of making or carrying out plans; specif: the establishment of goals, policies, and procedures for a social or economic unit <city ~> <business ~>”
Webster’s Ninth New Collegiate Dictionary

Planning is an opportunity for the citizens of a community to shape their destiny. Planning is a continuous process by which a community: (a) assesses its current situation, needs, problems, and resources; (b) determines desired future characteristics; (c) establishes public policies designed to achieve the desired future; and (d) uses established policies to influence the public and private decisions which create change. Such a process is intended to enable the community to anticipate needs and problems related to physical development and population growth in order that sufficient time may be available for development of appropriate responses. The planning process also serves to foster rational allocation of scarce resources to satisfy the community’s priority needs and to avoid or minimize problems.

The comprehensive plan is the primary vehicle through which local governments conduct this process. The Code of Virginia requires that every locality in the state adopt a comprehensive plan and review it at least every five years. A comprehensive plan generally consists of: (a) an inventory of available resources and analysis of existing conditions; (b) goals and objectives; (c) future plans; and (d) recommendations for implementation. Some specific benefits which can be realized through the planning process include:

- Future-oriented, rather than reactive and crisis-oriented decision making;
- Fewer “crisis” situations requiring immediate attention or unanticipated public expenditures;
- Rational, consistent objectives for land use decisions;
- Greater cost efficiency for both public and private projects;
- Increased federal and state awareness of county needs, problems, and attitudes;
- Opportunity for communication between the public and the governing body; and
- Greater public assurance that Accomack County will remain a desirable place to live and work.

Public Participation: In 1997 the Accomack County Planning Commission produced a plan which accurately represented the desires of the community to the greatest degree possible. State code requires that the Planning Commission seek public participation in the form of a public hearing. This process allows for the public to comment on the finished draft plan prior to it being sent to the Board of Supervisors for approval.

In preparing the update to the 1997 Comprehensive Plan, the County held two public forums in September 2006, one at Nandua High School and the other at Arcadia High School. These forums focused on land use issues, since those concerns are central to the plan update. The forums were well attended with approximately 40 citizens attending each session, in addition to members of the Planning Commission and Board of Supervisors. Participants identified key issues and opportunities for future land use in the County and marked up maps in small work groups to show those ideas in a graphic format. These ideas were incorporated into the land use recommendations contained in the updated Plan. Summaries of the results of these meetings are included in the Appendix to this Plan.

The results of these meetings were used by the County to create a draft Future Land Use Map which focused on each major area of the County. These maps were presented to the public for review and comment at a series of public meetings held in January and February 2007. Subsequently, the Planning Commission held several work sessions to review and refine the Future Land Use Map.

The Planning Commission

The Accomack County Planning Commission consists of nine members appointed by the Board of Supervisors. Each member serves a four year term. The primary purpose of the Planning Commission is to advise the Board of Supervisors on matters pertaining to land use planning and development. The Planning Commission is also responsible for subdivision and conditional use permit review.

The current Commissioners are:

E. Phillip Hickman
Chairman
William A. Sprague
Vice-Chairman
James T. Frese
Robert C. Hickman
Robert L. Nock
Herbert A. Thom
Leander Roberts, Jr.
Stella Rohde
E. Bryan Turner

A Vision for the Future of Accomack County

The Vision set forth in the 1997 Plan was updated by the Planning Commission in 2007, based upon citizen input during 2005, 2006, and 2007, as follows:

The updated Comprehensive Plan supports a vision for the future of Accomack County that recognizes the County's unique qualities and outstanding potential as a leading agricultural and seafood producer, as well as an excellent place for families and retirees to live, and for tourists to visit. If the policies of this plan are successfully implemented, the County will achieve its vision and have a future in 20 to 30 years that could be described as follows:

Accomack County is a tranquil, rural community of small towns and villages set in a rural landscape of farms, forests, creeks, wetlands, and shorelines. Agricultural activities are productive, and profitable, yet are managed to limit impacts on the County's fragile and valuable groundwater and surface water resources. Clean water resources support seafood and shellfish industries, vibrant tourism, and healthy rural settlements and downtowns. The local economy is based on adding value to local natural resource products. All land use activities follow best management practices to maintain the health of the natural systems that underpin the local economy and culture.

The number of people and jobs continues to increase gradually, through new development and revitalization. Growth occurs mainly in and around the towns and villages where public facilities and services are most efficiently provided, as well as in small residential subdivisions clustered on farmland. Limited development occurs along the shorelines to protect water quality and quantity. Employment continues to grow, producing a range of jobs at all levels of skill and income, in small and medium-sized enterprises that are compatible with the County's fragile natural systems. The housing supply expands to match the job growth, and provides adequate housing for the full range of household income levels in the County.

In making investments and applying regulations to achieve this vision of the future, the County balances the desire for individuals to develop land as they wish, with the essential need to protect the natural, cultural and economic resources that provide sustenance to the entire community, thus ensuring that the County's overall wealth and well-being continues to steadily increase in a manner that is sustainable for future generations.

As the County grows and changes, it maintains the essential natural and cultural qualities that both natives and new arrivals cherish: an agricultural landscape, clean air and water, healthy and expansive wildlife habitats, historic neighborhoods and downtowns, efficient government services, friendly and helpful neighbors, and a strong sense of community.

The comprehensive plan is one tool for achieving that vision. Plans are a way of taking stock of the community and setting out a path to achieve goals, whether it is to protect the things we like or to improve conditions that are unacceptable. According to the Code of Virginia, the comprehensive plan is "made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants."

Planning is necessary if our visions are to be achieved. Planning is a cyclical process that responds to the changing world, always grounded firmly in the community's vision for the future. It is easy, when there are no immediate threats apparent and few signs of change taking place, to dismiss long range planning as unnecessary, especially when more immediate needs and situations demand our attention. Change, however, is seldom readily apparent. Change occurs gradually and often goes unnoticed until it is too late to do anything about it and a community's prosperity, resources and way of life can slip through its fingers with little notice. Planning recognizes the need to constantly monitor the pulse of the community, forces citizens to look closely at what is happening around them and make decisions about their future, and empowers them with the resources to achieve their visions. Through the Comprehensive Plan and the process involved in creating it, citizens of Accomack County have an opportunity to shape their future.

What is a plan?

A Comprehensive Plan is an official document that is formally adopted by the Board of Supervisors. Goals and policies are established for guiding the long term land use and infrastructure changes in the county. The Code of Virginia requires that all local governments prepare a plan and review it every five years.

In Virginia, the Comprehensive Plan is a guide. The Plan is not an ordinance; it establishes broad policy framework for local regulations and public investments, but is not as narrow or binding as an ordinance.

State law requires that zoning ordinances and capital improvement programs be based on the Comprehensive Plan. Recent Virginia Supreme Court decisions have required that rezonings be in accordance with the Comprehensive Plan.

Enabling Authority and Virginia Code Requirements

The Accomack County Comprehensive Plan was prepared in accordance with the following sections of the Code of Virginia.

The “Dillon Rule”

The Dillon Rule, put forth by Judge John F. Dillon in Commentaries on the Law of Municipal Corporations (1873), holds that the powers of local governments are limited to those expressly granted by the state. Under this rule, whenever doubt exists as to whether a locality has a certain power, the courts will rule against the locality. The result is that a locality must seek enabling legislation for every new program or ordinance it wishes to implement, if enabling authority does not already exist.

§ 15.2-2223. (Effective July 1, 2007) Comprehensive plan to be prepared and adopted; scope and purpose. - *The local planning commission shall prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction.*

Every governing body in this Commonwealth shall adopt a comprehensive plan for the territory under its jurisdiction by July 1, 1980.

In the preparation of a comprehensive plan the commission shall make careful and comprehensive surveys and studies of the existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which will, in accordance with present and probable future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and persons with disabilities.

The comprehensive plan shall be general in nature, in that it shall designate the general or approximate location, character, and extent of each feature, including any road improvement and any transportation improvement, shown on the plan and shall indicate where existing lands or facilities are proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use as the case may be.

As part of the comprehensive plan, each locality shall develop a transportation plan that designates a system of transportation infrastructure needs and recommendations that may include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The plan should recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

The plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

- 1. The designation of areas for various types of public and private development and use, such as different kinds of residential including age-restricted, housing, business, industrial, agricultural, mineral resources conservation, active and passive recreation, public service, flood plain and drainage, and other areas;*
- 2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;*
- 3. The designation of historical areas and areas for urban renewal or other treatment;*
- 4. The designation of areas for the implementation of reasonable groundwater protection measures;*
- 5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;*
- 6. The location of existing or proposed recycling centers; and*
- 7. The location of military bases, military installations, and military airports and their adjacent safety areas.*

The plan shall include: the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

The plan shall include: a map that shall show road improvements and transportation improvements, including the cost estimates of such road and transportation improvements as available from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

Respecting the Past, Creating the Future: The Accomack County Comprehensive Plan

Public Hearings

The public hearing process for adoption of plans and ordinances is specified by State Code. The Planning Commission may not recommend nor the Board of Supervisors adopt a Comprehensive Plan or amendments thereof, until a public hearing has been held. Notice of the public hearing must be published once a week for two successive weeks in a newspaper having general circulation in the county. The notice will specify the time and place of the hearing at which persons may appear and present their views. The Planning Commission and Board of Supervisors may hold a joint public hearing.

Following a public hearing, the Planning Commission may either approve, amend and approve, or disapprove the plan. If the plan is approved, the Commission recommends the plan to the Board of Supervisors. The Board of Supervisors then conducts a public hearing and either approves and adopts, amends and adopts, or disapproves the plan. If the plan is disapproved, it is returned to the Planning Commission for reconsideration, with written reasons for disapproval. The Commission has sixty days to reconsider the plan and resubmit it to the Board of Supervisors.

In its 2007 Session, the Virginia General Assembly passed new legislation requiring localities with a population of at least 20,000 and population growth of at least 5% between the latest census years (which includes Accomack County) to incorporate urban development areas in its Comprehensive Plan. This new and important legislation is shown below.

§ 15.2-2223.1. Comprehensive plan to include urban development areas; new urbanism.

A. Every county, city, or town that has adopted zoning pursuant to Article 7 (§ 15.2-2280 et seq.) of Chapter 22 of Title 15.2 and that (i) has a population of at least 20,000 and population growth of at least 5% or (ii) has population growth of 15% or more, shall, and any county, city or town may, amend its comprehensive plan to incorporate one or more urban development areas. For purposes of this section, population growth shall be the difference in population from the next-to-latest to the latest decennial census year, based on population reported by the United States Bureau of the Census. For purposes of this section, an urban development area is an area designated by a locality that is appropriate for higher density development due to proximity to transportation facilities, the availability of a public or community water and sewer system, or proximity to a city, town, or other developed area. The comprehensive plan shall provide for commercial and residential densities within urban development areas that are appropriate for reasonably compact development at a density of at least four residential units per gross acre and a minimum floor area ratio of 0.4 per gross acre for commercial development. The comprehensive plan shall designate one or more urban development areas sufficient to meet projected residential and commercial growth in the locality for an ensuing period of at least 10 but not more than 20 years, which may include phasing of development within the urban development areas. Future growth shall be based on official estimates and projections of the Weldon Cooper Center for Public Service of the University of Virginia or other official government sources. The boundaries and size of each urban development area shall be reexamined and, if necessary, revised every five years in conjunction with the update of the comprehensive plan and in accordance with the most recent available population growth estimates and projections. Such districts may be areas designated for redevelopment or infill development.

B. The comprehensive plan shall further incorporate principles of new urbanism and traditional neighborhood development, which may include but need not be limited to (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) satisfaction of requirements for stormwater management, (vi) mixed-use neighborhoods, including mixed housing types, (vii) reduction of front and side yard building setbacks, and (viii) reduction of subdivision street widths and turning radii at subdivision street intersections.

C. The comprehensive plan shall describe any financial and other incentives for development in the urban development areas.

D. No county, city, or town that has amended its comprehensive plan in accordance with this section shall limit or prohibit development pursuant to existing zoning or shall refuse to consider any application for rezoning based solely on the fact that the property is located outside the urban development area.

E. Any county, city, or town that would be required to amend its plan pursuant to this section that determines that its plan accommodates growth in a manner consistent with this section, upon adoption of a resolution certifying such compliance, shall not be required to further amend its plan.

F. Any county that amends its comprehensive plan pursuant to this section may designate one or more urban development areas in any incorporated town within such county, if the governing body of the town has also amended its comprehensive plan to designate the same areas as urban development areas with at least the same density designated by the county.

G. To the extent possible, state and local transportation, housing, and economic development funding shall be directed to the urban development area.

(2007, c. 896.)

The urban development areas (UDAs) to be designated by Accomack County to comply with the new statute relate to other state law concerning the imposition of road impact fees, which localities like Accomack County are now enabled to impose. The County is specifically enabled to exclude UDAs from the imposition of road impact fees as a means of providing incentives and promoting new development to occur in the UDAs, as follows:

§ 15.2-2320. Impact fee service areas to be established.

The locality shall delineate one or more impact fee service areas within its comprehensive plan. Impact fees collected from new development within an impact fee service area shall be expended for road improvements benefiting that impact fee service area. An impact fee service area may encompass more than one road improvement project. A locality may exclude urban development areas designated pursuant to § 15.2-2223.1 from impact fee service areas.

(1989, c. 485, § 15.1-498.3; 1992, c. 465; 1997, c. 587; 2007, c. 896.)

Road impact fee service areas are designated as part of a local road improvement program, as follows:

§ 15.2-2321. Adoption of road improvements program.

Prior to adopting a system of impact fees, the locality shall conduct an assessment of road improvement needs benefiting an impact fee service area and shall adopt a road improvements plan for the area showing the new roads proposed to be constructed and the existing roads to be improved or expanded and the schedule for undertaking such construction, improvement or expansion. The road improvements plan shall be adopted as an amendment to the required comprehensive plan and shall be incorporated into the capital improvements program or, in the case of the counties where applicable, the six-year plan for secondary road construction pursuant to § 33.1-70.01.

The locality shall adopt the road improvements plan after holding a duly advertised public hearing. The public hearing notice shall identify the impact fee service area or areas to be designated, and shall include a summary of the needs assessment and the assumptions upon which the assessment is based, the proposed amount of the impact fee, and information as to how a copy of the complete study may be examined. A copy of the complete study shall be available for public inspection and copying at reasonable times prior to the public hearing.

The locality at a minimum shall include the following items in assessing road improvement needs and preparing a road improvements plan:

1. An analysis of the existing capacity, current usage and existing commitments to future usage of existing roads, as indicated by (i) current and projected service levels, (ii) current valid building permits outstanding, and (iii) approved and pending site plans and subdivision plats. If the current usage and commitments exceed the existing capacity of the roads, the locality also shall determine the costs of improving the roads to meet the demand. The analysis shall include any off-site road improvements or cash payments for road improvements accepted by the locality and shall include a plan to fund the current usages and commitments that exceed the existing capacity of the roads.

2. The projected need for and costs of construction of new roads or improvement or expansion of existing roads attributable in whole or in part to projected new development. Road improvement needs shall be projected for the impact fee service area when fully developed in accord with the comprehensive plan and, if full development is projected to occur more than 20 years in the future, at the end of a 20-year period. The assumptions with regard to land uses, densities, intensities, and population upon which road improvement projections are based shall be presented.

3. The total number of new service units projected for the impact fee service area when fully developed and, if full development is projected to occur more than 20 years in the future, at the end of a 20-year period. A "service unit" is a standardized measure of traffic use or generation. The locality shall develop a table or method for attributing service units to various types of development and land use, including but not limited to residential, commercial and industrial uses. The table shall be based upon the ITE manual (published by the Institute of Transportation Engineers) or locally conducted trip generation studies, and consistent with the traffic analysis standards adopted pursuant to § 15.2-2222.1.

The new authority may be read as an opportunity or as a curse. It appears that the 2007 requirement that localities plan for growth in relatively dense “urban” development areas and first-ever broad authorization of local imposition of road impact fees reflect the General Assembly’s resolve that future growth must be more compact and recognition that the Commonwealth is falling behind in the planning, funding and completion of transportation infrastructure improvements necessary to maintain our citizen’s quality of life. These legislative changes may be the beginning of a trend in Richmond to delegate hard choices about transportation planning and funding to the localities. What is clear is that state resources being committed to transportation are not keeping pace with either population growth or inflation. Consequently, bare compliance with the UDA planning requirement without implementation of the impact fee authority would not appear to serve the future quality of life in Accomack County. However, thoughtful implementation of the new road impact fee authority may help Accomack County direct future growth, protect our environment, and enhance quality of life in our community.

§ 15.2-2224. Surveys and studies to be made in preparation of plan; implementation of plan.

- A. In the preparation of a comprehensive plan, the local commission shall survey and study such matters as the following:

1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, groundwater, surface water, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, transportation improvements, the need for affordable housing in both the locality and planning district within which it is situated,, and any other matters relating to the subject matter and general purposes of the comprehensive plan....

2. Probable future economic and population growth of the territory and requirements therefor.

B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter the methods of implementation may include but need not be limited to:

- 1. An official map;*
- 2. A capital improvements program;*
- 3. A subdivision ordinance; and*
- 4. A zoning ordinance and zoning district maps.*
- 5. A mineral resource map; and*
- 6. A recreation and sports resource map.*

The Presumption of Validity

Legislative actions, i.e. a locality's law-making authority, enjoy the presumption of validity. This means that, in a court of law, the party challenging the land use decision of a local governing body bears the burden of proving that the governing body's decision should be invalidated. The Virginia Supreme Court has stated the following rule about presumptive validity concerning a legislative land use decision: The original presumption of the validity of a legislative land use decision is in favor of the local governing body. However, when the private property owner opposing the decision can make a basic (prima facie) case that the action of the local governing body has been unreasonable (arbitrary and capricious), the burden of proof shifts to the local governing body. The local governing body must then show that the correctness of its decision is a least fairly debatable - at least that reasonable men can differ as to the correctness of the decision - before the court will allow the locality to prevail.

[In other words, if the choice between two land uses is "fairly debatable" then the Board of Supervisors' choice shall prevail.]

Source: Zoning and Subdivision Law in Virginia, Stephen P. Robin.

§ 15.2-2225. Notice and hearing on plan; recommendation by local commission to governing body. - *Prior to the recommendation of a comprehensive plan or any part thereof, the local planning commission shall give notice in accordance with § 15.2-2204 and hold a public hearing on the plan. After the public hearing, the commission may approve, amend and approve, or disapprove the plan. Upon approval, the commission shall by resolution recommend the plan or part thereof, to the governing body and a copy shall be certified to the governing body.*

§ 15.2-2226. Adoption or disapproval of plan by governing body. - *After certification of the plan or part thereof, the governing body after a public hearing with notice as required by § 15.2-2204 shall proceed to a consideration of the plan or part thereof and shall approve and adopt, amend and adopt, or disapprove the plan. In acting on the plan or part thereof, or any amendments to the plan, the governing body shall act within ninety days of the local planning commission's recommending resolution.*

§ 15.2-2227. Return of plan to local planning commission; resubmission. - *If the governing body disapproves the plan, then it shall be returned to the local planning commission for its reconsideration, with a written statement of the reasons for its disapproval. The commission shall have sixty days in which to reconsider the plan and resubmit it, with any changes, to the governing body.*

§ 15.2-2228. Adoption of parts of plan. - *As the work of preparing the comprehensive plan progresses, the local commission may, from time to time, recommend, and the governing body approve and adopt, parts thereof; any such part shall cover one or more major sections or divisions of the county or municipality or one or more functional matters.*

§ 15.2-2229. Amendments. - *After the adoption of a comprehensive plan, all amendments to it shall be recommended, approved and adopted, respectively, as required by § 15.2-2204. If the governing body desires an amendment it may direct the local commission to prepare an amendment and submit it to public hearing within sixty days after formal written request by the governing body. In acting on any amendments to the plan, the governing body shall act within ninety days of the local planning commission's recommending resolution.*

§ 15.2-2230. Plan to be reviewed at least once every five years. - *At least once every five years the comprehensive plan shall be reviewed by the local commission to determine whether it is advisable to amend the plan.*

§ 15.2-2230.1. Public facilities study.

In addition to reviewing the comprehensive plan, the planning commission may make a study of the public facilities, including existing facilities, which would be needed if the comprehensive plan is fully implemented. The study may include estimations of the annual prospective operating costs for such facilities and any revenues, including tax revenues that may be generated by such facilities. For purposes of the study, public facilities may include but need not be limited to water and sewer lines and treatment plants, schools, public safety facilities, streets and highways. The planning commission may forward the study to the local governing body or any other local, regional, state or federal agency that the planning commission believes might benefit from its findings.

§ 15.2-2231. Inclusion of incorporated towns in county plan; inclusion of adjacent unincorporated territory in municipal plan. - *Any county plan may include planning of incorporated towns to the extent to which, in the county local commission's judgment, it is related to planning of the unincorporated territory of the county as a whole, provided, however, that the plan shall not be considered as a comprehensive plan for any incorporated town unless recommended by the town commission, if any, and adopted by the governing body of the town. Any municipal plan may include the planning of adjacent unincorporated territory to the extent to which, in the municipal local commission's judgment, it is related to the planning of the incorporated territory of the municipality; provided, however, that the plan shall not be considered as comprehensive plan for such unincorporated territory unless recommended by the county local commission, if any, and approved and adopted by the governing body of the county.*

§ 15.2-2232. Legal status of plan. - *A. Whenever the local commission shall have recommended a comprehensive plan or part thereof for the county or municipality and such plan shall have been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Therefore, unless such feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to any existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than railroad facility, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the local commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204.*

B. The commission shall communicate its findings to the governing body, indicating its approval or disapproval with written reasons therefore. The governing body may overrule the action of the commission by a vote of a majority of the membership thereof. Failure of the commission to act within sixty days of such submission, unless the time shall be extended by the governing body, shall be deemed approval. The owner or owners or their agents may appeal the decision of the local commission to the governing body within ten days after the decision of the commission. The appeal shall be by written petition to the governing body setting forth the reasons for the appeal. The appeal shall be heard and determined within sixty days from its filing. A majority vote of the governing body shall overrule the commission.

C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless involving a change in location or extent of a street or public area.

D. any public area, facility or use as set forth in subsection (a) which is identified within, but not the entire subject of, a submission under either § 15.2-2258 for subdivision or provision 8 of § 15.2-2286 for development or both may be deemed a feature already shown on the adopted master plan, and therefore, excepted from the requirement for submittal to and approval by the commission or the governing body; provided that the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility or use or has approved it through acceptance of a proffer made pursuant to § 15.2-2303

E. Approval and funding of a public telecommunications facility by the Virginia Public Broadcasting Board pursuant to Article 12 (§ 2.2-2426 et seq.) of Chapter 24 of Title 2.2 shall be deemed to satisfy the requirements of this section and local zoning ordinances with respect to such facility with the exception of television and radio towers and structures not necessary to house electronic apparatus. The exemption provided for in this subsection shall not apply to facilities existing or approved by the Virginia Public Telecommunications Board prior to July 1, 1990. The Virginia Public Broadcasting Board shall notify the governing body of the locality in advance of any meeting where approval of any such facility shall be acted upon.

F. On any application for a telecommunications facility, the commission's decision shall comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within ninety days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than sixty additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission.