

Chapter 22  
ZONING

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<sup>1</sup> Renamed by Editor from “Sec. 22-25. Outdoor Light Control Article.”

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Chapter 22  
ZONING

**Article 1. In General.**

**Sec. 22-1-1. Title.**

This Chapter shall be known and may be cited as "The Zoning Ordinance of the County of Fluvanna, Virginia."<sup>2</sup>

**Sec. 22-1-2. Purpose.**

This Chapter, together with the accompanying map, is adopted for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of section 15.2-2283 of the Code of Virginia. This Chapter has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood, impounding structure failure, crime and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to expedite the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, impounding structure failure, panic or other dangers; (7) to encourage economic development activities that provide desirable employment and enlarge the tax base; (8) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; and (9) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the county is situated. (Ord. 12-16-15)

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<sup>2</sup> For state law as to zoning, see Code of Va., §15.2-2280 et seq.

Editor's note -- The current Zoning Ordinance of Fluvanna County, Virginia, was adopted April 5, 2004, and generally ratified 5-5-04. Amendments subsequent to 5-5-04 are identified in this chapter by the date of amendment in parentheses following the affected section.

**Article 2. Districts.****Sec. 22-2-1. Districts.**

For the purpose of this chapter, the unincorporated area of the county is hereby divided into the following districts:<sup>3</sup>

Agricultural, General, A-1  
Residential, Limited, R-1  
Residential, General, R-2  
Residential, Planned Community, R-3  
Residential, Limited, R-4  
Business, General, B-1  
Business, Convenience, B-C  
Industrial, Limited, I-1  
Industrial, General, I-2  
Manufactured Home Park, MHP  
Planned United Development, PUD.

(Ord. 12-16-15)

**Article 3. Reserved.****Article 4. Agricultural, General, District A-1.****Sec. 22-4-1. Statement of intent.**

This district covers areas of the county consisting of woodland, farmland, open space, mountains and areas of low density residential development. The primary objectives of this district are to conserve water and other natural resources, reduce soil erosion, protect watersheds and reduce hazards from floods; to preserve the rural character of the county; to promote existing and future farming and forestry operations; and to promote the retention of undisturbed open space. Limited residential development, and limited commercial and industrial uses which are supportive of and directly related to agriculture, forestry or other traditionally rural uses, are to be permitted, but only in a manner consistent with the primary objectives of the district. In particular, the provisions of this district are intended to

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<sup>3</sup> Editor's note. -- Prior to August 19, 1992, the Zoning Ordinance of Fluvanna County, Virginia, contained a district identified as "Conservation, C-1." The Conservation, C-1 district was repealed by ordinance adopted on that date.

significantly limit conventional and roadside strip development, especially on major arteries and commuter routes.

**Sec. 22-4-2. Use regulations.**

In Agricultural, General District A-1, the following uses, together with ordinary and necessary accessory uses, shall be permitted, and no others.

**Sec. 22-4-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Agricultural Uses*

- Agriculture
- Conservation areas
- Equestrian facilities
- Farm sales
- Hunt clubs
- Hunting preserves

*Civic Uses*

- Public parks and recreational areas
- Public uses

*Commercial Uses*

- Family daycare homes
- Home occupations

*Industrial Uses*

- Sawmills, temporary

*Miscellaneous Uses*

- Accessory uses
- Cemeteries, non-commercial
- Greenhouses, non-commercial
- Kennels, private
- Marinas, private non-commercial
- Rural cluster developments
- Shooting, private recreational
- Utilities, minor

Woodstorage, temporary

*Residential Uses*

Dwellings, accessory

Dwellings, two-family

Farm tenant housing

Group homes

Manufactured homes

Mobile homes, as defined in Sec. 22-4-2.3

Single-family detached dwellings, including family subdivisions and conventional minor subdivisions, but excluding conventional major subdivisions recorded after April 5, 2004

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-4-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Agricultural Uses*

Agricultural enterprise

Agricultural sales, wholesale

Livestock feed lots, commercial

Livestock sales yards, commercial

*Civic Uses*

Amusements, public

Correctional facilities

Cultural services

Educational facilities

Public assembly

Public recreation assembly

Religious assembly

Sheltered care facilities

*Commercial Uses*

Adult retirement communities

Amusements, commercial

Assisted living facilities

Automobile repair service establishments

Bed and breakfasts

Boarding houses  
Butcher shops  
Campgrounds  
Camps  
Car washes  
Cemeteries, commercial  
Communications service  
Dance halls  
Daycare centers  
Flea markets  
Funeral homes  
Garden center  
Gas stations  
Greenhouses, commercial  
Hotels  
Kennels, commercial  
Landscaping materials supply  
Lodges  
Medical clinics  
Outdoor entertainment  
Outdoor recreation facilities  
Restaurants, small  
Retail stores, neighborhood convenience  
Retail stores, specialty  
Shooting ranges, indoor  
Shooting ranges, outdoor  
Small home industries  
Studios, fine arts  
Taxidermists  
Veterinary offices

*Industrial Uses*

Railroad facilities  
Resource extraction  
Solid waste collection facilities

*Miscellaneous Uses*

Aviation facilities  
Outdoor gatherings  
Telecommunication facilities

Utilities, major

*Residential Uses*

Dormitories

(Ord. 9-17-08; Ord. 12-17-08; Ord. 10-21-09; Ord. 7-21-10; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-4-2.3. Mobile homes.**

One (1) mobile home per parcel shall be permitted, with issuance, by the Planning Director, of a zoning permit, in the following instances:

(A) Mobile home to be occupied by a bona fide farm tenant with the permit to be revalidated by the governing body every two (2) years so long as the conditions are met;

(B) Mobile home to be occupied because of an emergency medical or moral obligation with the permit to be revalidated by the governing body every two (2) years so long as the conditions exist. For purposes of this section, the term "an emergency medical or moral obligation" shall be deemed to mean a set of circumstances in which a landowner must provide shelter and/or care to one or more persons through the occupancy of the mobile home in order to alleviate a clearly demonstrable danger of serious impairment to the health and/or welfare of any person or persons which is occasioned by a medical disorder or condition or other compelling cause beyond the control of such person or persons and which cannot be remedied in any other reasonable manner;

(C) Mobile home to be occupied by the owner of the property while constructing a permanent single-family dwelling on the same property or reconstructing a single-family dwelling destroyed by natural disaster. This permit shall be for a period of one (1) year only but may be renewed each year by the governing body for a period of not more than five (5) continuous years. In addition, the governing body may grant an additional extension of time for the occupancy of any such mobile home, not to exceed twenty-four (24) months from the expiration of the last renewal period of the original permit, upon a finding that the owner of the property has attempted in good faith to complete such single-family dwelling within the time permitted by law, but has been unable to do so as a result of adverse weather conditions, act of God, bona fide inability to timely obtain satisfactory building materials, or other circumstances or condition beyond the control of such owner.

(Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-4-3. Residential density; minimum lot size; dimensional requirements.**

Maximum gross residential density and minimum lot size and minimum dimensional requirements for conventional development, but not for Rural Cluster Subdivisions, shall be as follows:

(A) Gross residential density: one (1) dwelling unit per two (2) acres. In order to construct more than one dwelling on any one parcel, a sketch plan must be submitted that would demonstrate that all dwellings could be lawfully subdivided so as to be on their own lots.

(B) Minimum lot size: two (2) acres

(C) Minimum frontage required:

(1) Existing or proposed public roads, except as otherwise provided:

(a) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 500 feet

(b) All other public roads: 300 feet

(2) Private roads: 200 feet

(D) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.

(E) Minimum setback required (as measured from edge of right of way):

(1) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 200 feet

(2) All other public roads: 125 feet

(3) Private Roads: 100 feet

(F) Minimum side yard: 50 feet

(G) Minimum rear yard: 75 feet.

**Sec. 22-4-4. Reserved.**

**Sec. 22-4-5. Special provisions for corner lots.**

Any lot or parcel fronting on two or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

**Sec. 22-4-6. Off-street parking.**<sup>4</sup>

Off-street parking shall conform to Article 26: Off-Street Parking and Loading Spaces of this Chapter. (Ord. 12-16-15)

**Sec. 22-4-7. Sign regulations.**

Sign regulations shall conform to Article 15 of this Chapter.

**Sec. 22-4-8. Height regulations.**

Buildings and structures may be erected up to thirty-five (35) feet in height, except that:

(A) The height limit for dwellings may be increased up to forty-five (45) feet provided one (1) foot or more per side yard is added for each additional foot of building height over thirty-five (35) feet.

(B) A public or semi-public building such as a school, place of worship, or library or general hospital may be erected to a height of sixty (60) feet from grade provided that required front, side, and rear yards shall each be increased one (1) foot for every foot in height over thirty-five (feet).

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty (60) feet from grade. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest. Buildings and structures used for agricultural purposes, including barns, silos, windmills and the like, may be erected to a height of ninety (90) feet from grade.

(D) No accessory building which is within fifteen (15) feet of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

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<sup>4</sup> For state law granting localities the authority to regulate off-street parking, see Code of Va., § 15.2-2279.

**Sec. 22-4-9. Intensive livestock, dairy and poultry facilities; statement of intent.**

This section (sections 22-4-9<sup>5</sup> through 22-4-9.4) encourages economic development, preserves farm land, and promotes the orderly and responsible growth of the livestock, dairy and poultry industries. In the Agricultural (A-1) district, all agricultural production uses, including the uses defined herein as intensive livestock, dairy and poultry facilities, shall be permitted by right.

**Sec. 22-4-9.1. Definitions.**

For the purpose of sections 22-4-9 through 22-4-9.4, the following terms shall have the meaning indicated:

(1) Livestock includes all domestic or domesticated animals, including but not limited to: cattle, sheep, lambs, hogs, goats, horses, poultry and furbearing animals.

(2) Intensive livestock, dairy or poultry facility means a livestock, dairy or poultry operation where, for a period of forty-five (45) consecutive days or more, 300 animal units are closely confined and not free-ranging, and are fed in the area of confinement. For the purpose of this article, 300 animals units shall be equivalent to any of the following, or any combination thereof where the animals are confined in one location:

- Livestock: 300 slaughter or feeder cattle
- Livestock: 750 swine each weighing over 55 pounds
- Livestock: 150 horses
- Livestock: 3,000 sheep, lambs, or goats
- Livestock: 16,500 furbearing animals such as rabbits or chinchilla
- Dairy: 200 mature dairy cows (whether milked or dry cows)
- Poultry: 16,500 turkeys
- Poultry: 30,000 laying hens or broilers

(3) Intensive livestock, dairy or poultry structure means a building, structure or other improved area used in the operation of an intensive livestock, dairy or poultry facility; including, but not limited to, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, or dead poultry cold storage chests. The term shall not include structures that are used only indirectly in the operation of the facility.

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<sup>5</sup> Editor's Note – Erroneously appears in original as 22-9-4.

(4) Operator means any person who operates an intensive livestock, dairy or poultry facility, or the land on which it is located.

(5) Poultry means any domestic or domesticated fowl raised for meat or eggs; including, but not limited to, chickens and turkeys.

(6) Existing intensive livestock, dairy or poultry structure means an intensive livestock, dairy or poultry structure that has been in operation for one (1) year within the five (5) years immediately preceding the date on which a building or zoning permit is sought for a dwelling.

(Ord. 12-16-15)

**Sec. 22-4-9.2. Setbacks.**

(1) Except as otherwise expressly provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from any property line.

(2) Any dwelling not owned by the operator shall be set back from any existing intensive livestock, dairy or poultry structure as follows:

(a) If the dwelling is in an Agricultural (A-1) district, 300 feet;

(b) If the dwelling is in a residential district, 600 feet.

(3) Each intensive livestock, dairy or poultry structure shall be setback at least 300 feet from any property line, at least 200 feet from the right-of-way of any secondary road, and at least 300 feet from the right-of-way of any primary highway.

(4) Each intensive livestock, dairy or poultry structure shall be setback at least 1,000 feet from any incorporated town, public school, place of worship, public water intake from a stream or river and from the boundary of any adjacent residential district.

(Ord. 12-16-15)

**Sec. 22-4-9.3. Development plans to include plat or similar document.**

(1) Any person who intends to establish or expand an intensive livestock, dairy or poultry facility shall file with the zoning administrator a development plan, including a plat, or similar document, that indicates the number, size and location of all intensive livestock, dairy or poultry structures planned for the subject parcel; and a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the zoning

administrator that the facility meets all applicable requirements. Where a proposed expansion would not substantially change the character of the facility or the intensity of the use, the zoning administrator may approve the expansion without requiring a development plan.

(2) If the plan meets the requirements of sections 22-4-9 through 22-4-9.4, the zoning administrator shall approve it within thirty (30) days of receipt. If the plan does not meet the requirements of sections 22-4-9 through 22-4-9.4 of this Chapter, the zoning administrator shall return it to the applicant within thirty (30) days of receipt, together with a written description of the portion or portions of the plan that do not meet such requirements. Any plan not returned to the applicant within thirty (30) days of receipt shall be deemed approved. As long as an approved plan is in effect, the applicant shall have the right to build structures and operate the facilities shown thereon, notwithstanding any dwelling or other feature located after the time of approval.

(3) The development plan shall remain in force only so long as the proposed structures are constructed in accordance with the development plan. At least one-third of the number of livestock or dairy animals indicated in the development plan, or one poultry structure, shall be placed in service within five (5) years of the date on which the development plan is approved by the zoning administrator, unless at least one-third the livestock, or one poultry structure, was already in service at the time the plan was filed. In the event the operator fails to obtain building and zoning permits for any of the proposed structures, or fails to have in place the minimum number of livestock required above, within five (5) years of the date on which the development plan is approved by the zoning administrator, the development plan shall expire.

(4) The operator shall notify the zoning administrator in writing within thirty (30) days of placement into service of any structure indicated on his plan.

(5) Each parcel for which a development plan has been approved shall display at its entrance a sign no smaller than two (2) square feet, and no larger than four (4) square feet, clearly visible from the nearest public road, indicating that a development plan is in effect for the parcel and containing the word "Certified Agricultural Development Site".

(6) Nothing herein shall be construed to prohibit an operator or a potential operator from submitting amendments to his or her original development plan, or from submitting revised plans. The zoning administrator shall review such amendments or revised plans as required in subsection (1) above according to the zoning ordinance in effect at the time the amendments or revised plans are received.

**Sec. 22-4-9.4. Nutrient management plan.**

After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and Recreation, or by a person certified or employed by the Virginia Soil and Water Conservation Board or the Commonwealth as a nutrient management planner, in accordance with 4VAC50-85-10 et seq., “Nutrient Management Training and Certification Regulations.”

If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as a part of the plan, written documentation of an agreement with the receiver of the waste produced at his facility, or affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before its expiration date, the operator shall notify the zoning administrator within fifteen (15) days of termination.

(Ord. 12-16-15)

#### **Sec. 22-4-10. Rural Cluster Development.**

It shall be the policy of the county to promote the preservation of open space and the rural character of the county, while at the same time accommodating growth and protecting the value of property. To implement such policy, development of property according to rural cluster principles shall be encouraged throughout the county in accordance with the provisions of this Section.

##### **Sec. 22-4-10.1. Definitions.**

For purposes of this Section 22-4-10, the following terms shall be deemed to have the following meanings:

*Building lot* shall mean any lot which is sold or intended for use for the construction of one or more residential units.

*Rural cluster development* shall mean any subdivision or other development for sale or use for residential purposes as provided in this Section.

*Existing public road* shall mean any road which is maintained as part of the Virginia Highway System or the Virginia Secondary Highway System at the time of the final approval for any rural cluster development; provided that no road which is dedicated to public use in connection with the approval of any cluster option development, whether by depiction on a subdivision plat or otherwise, shall be deemed to be an existing public road for purposes of this section.

*Open space parcel* shall mean any parcel which is restricted from further residential, commercial or industrial development as provided herein.

**Sec. 22-4-10.2. Compliance with zoning and subdivision regulations.**

Each rural cluster development shall comply with the provisions of this Section 22-4-10, and, to the extent that the provisions of this Section shall conflict with other provisions of this Chapter, the provisions of this Section shall control. Except to the extent of such conflict, the provisions of this Chapter shall control every rural cluster development. In addition, every rural cluster development shall comply with the provisions of Chapter 19 of the Code.<sup>6</sup>

**Sec. 22-4-10.3. Rural Cluster Regulations.**

Any parcel of land which is otherwise susceptible to development into building lots may be divided into lots which provide for the preservation of substantial open space as hereinafter provided. Such development shall be known as rural cluster development.

(1) The gross density for any rural cluster development shall not exceed one (1) dwelling unit per two (2) acres, as provided in this district.

(2) Repealed. (Ord. 6-15-05)

(3) Not less than  $\frac{3}{4}$  of the area of any rural cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the rural cluster development, and in favor of the county. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the county, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction,

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<sup>6</sup> Chapter 19 of this code sets out the provisions adopted as the Subdivision Ordinance of Fluvanna County, Virginia.

conveyance or dedication shall be subject to the approval of the county to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(4) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:

(A) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.

(B) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.

(C) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the rural cluster development or of the public, but, in any event, not for residential, commercial or industrial use.

(D) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.

(E) Cable communications distribution lines.

(F) Public uses and structures.

(G) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the rural cluster development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)

(H) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the rural cluster development subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)

(I) Non-commercial cemeteries.

(5) Each building lot shall be so designed as to provide minimum setbacks and yards. Except for buildings lots fronting on existing public roads, such setbacks and yards shall be not less than the minimum setback and yard requirements of the R-4 residential district which are as follows:

(A) The minimum frontage for permitted uses shall be sixty (60) feet, and for each additional permitted use there shall be at least ten (10) feet of additional lot width.

(B) Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten (10) feet on each side.

(C) Rear. Each main structure shall have a rear yard of twenty-five (25) feet or more, and no accessory building shall be placed within twenty five (25) feet of any rear line.

(D) Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

(6) Each building lot fronting on an existing public road shall conform to the minimum frontage, setback and yard requirements for conventional development in this district. For purposes of this section, any building lot which is separated from an existing public road by any open space parcel shall be deemed to front on such existing public road for purposes of the application of such minimum frontage, setback and yard requirements unless the distance between the boundary of such open space parcel and any abutting building lot shall be at least equal to the minimum setback requirement applicable to conventional development in this district.

(7) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes, in such a manner as to maximize the efficient use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:

(A) Construction of residential improvements;

- (B) Provision of utilities, including, where applicable, public or common sewer and/or water facilities;
- (C) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;
- (D) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the county; and
- (E) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area, and provide for contiguous greenways and wildlife corridors.

***Article 5. Residential, Limited, District R-1.***

**Sec. 22-5-1. Statement of intent.**

This district is composed of certain quiet, low density residential areas, plus certain open areas where similar residential development appears likely to occur. It is intended that this district be established in the appropriate areas designated in the Comprehensive Plan for primary residential development. The regulations for this district are designed to stabilize and protect the essential characteristics of the district.

**Sec. 22-5-2. Use regulations.**

In Residential District R-1, only one (1) main structure or use and its accessory uses shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.

**Sec. 22-5-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Agricultural Uses*  
Agriculture\*

*Civic Uses*

Public parks and recreational areas  
Public uses

*Commercial Uses*

Home occupations

*Miscellaneous Uses*

Accessory uses  
Cluster developments  
Greenhouses, non-commercial  
Kennels, private  
Utilities, minor

*Residential Uses*

Dwellings, accessory  
Dwellings, single-family detached  
Dwellings, two-family  
Group homes

\* Only permitted in open space of cluster developments.  
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-5-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Agricultural Uses*

Equestrian facilities\*  
Farm sales\*

*Civic Uses*

Educational facilities  
Public recreation assembly  
Religious assembly

*Commercial Uses*

Adult retirement communities  
Daycare centers  
Family daycare homes

*Miscellaneous Uses*

Telecommunication facilities

Utilities, major

\* Only permitted in open space of cluster developments.  
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-5-3. Area and residential density regulations.**

The minimum lot area for permitted uses shall be 43,560 square feet (1 acre). The maximum permitted residential density for such uses shall be one dwelling unit per acre. All uses shall be served by a central, common, or public water or sewer system.

**Sec. 22-5-4. Setback regulations.**

Structures shall be located seventy-five feet (75') or more from any street right-of-way. This shall be known as the "setback line."

**Sec. 22-5-5. Frontage regulations.**

The minimum frontage for permitted uses shall be one hundred feet (100').

**Sec. 22-5-6. Yard regulations.**

(A) Side. The minimum side yard for each main structure shall be twenty-five feet (25') on each side.

(B) Rear. Each main structure shall have a rear yard of fifty feet (50') or more.

**Sec. 22-5-7. Special provisions for corner lots.**

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

**Sec. 22-5-8. Cluster alternative development.**

Cluster development shall be permitted in any R-1 Residential District, subject to the following regulations:

- (A) Gross residential density: 1 dwelling unit per 1 acre
  - (1) Minimum lot size: Fifteen thousand square feet
  - (2) Maximum lot size: 1 Acre (43,560 square feet)
- (B) Minimum frontage required:
  - (1) Existing public roads: one hundred feet (100')
  - (2) New, internal public roads: eighty feet (80')
- (C) Reserved.
- (D) Minimum lot width at minimum required setback shall be equal to minimum required frontage.
- (E) Minimum setback required (as measured from edge of right-of-way):
  - (1) Existing public roads: seventy-five feet (75')
  - (2) All other roads: twenty-five feet (25')
- (F) Minimum side yard: ten feet (10')
- (G) Minimum rear yard: twenty-five feet (25')
- (H) Open space required: Not less than ½ of the area of any cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the cluster development, and in favor of the county. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the county, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the county to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the

acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(I) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:

- (1) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.
- (2) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.
- (3) Parks, playgrounds, preserves, conservation areas, hunting and boating clubs and small boat docks, all of which shall be maintained for the use of the residents of the cluster alternate development or of the public, but, in any event, not for residential, commercial or industrial use.
- (4) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.
- (5) Cable communications distribution lines.
- (6) Public uses and structures.
- (7) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)
- (8) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)
- (9) Non-commercial cemeteries.

(J) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes, in such a manner as to maximize the efficient

use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:

- (1) Construction of residential improvements;
- (2) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;
- (3) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the county; and
- (4) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area.

**Sec. 22-5-9. Height regulations.**

Buildings and structures may be erected up to thirty-five feet (35') in height, except that:

(A) The height limit for dwellings may be increased up to forty-five feet (45') provided one foot (1') or more per side yard is added for each additional foot of building height over thirty-five feet (35').

(B) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60') from grade provided that required front, side, and rear yards shall each be increased one foot (1') for every foot in height over thirty-five feet (35').

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

(D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those

permitted under subsection (C) above, shall be less than the main building or structure in height.

**Sec. 22-5-10. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

**Sec. 22-5-11. Sign regulations.**

Sign regulations shall conform with Article 15 of this Chapter.

***Article 6. Residential, General, District R-2.***

**Sec. 22-6-1. Statement of intent.**

This district is composed of certain low to medium density concentrations of residential uses, plus certain open areas where similar development appears likely to occur. It is intended that this district be established in areas designated as community planning areas in the Comprehensive Plan. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses. This residential district is not completely residential as it includes public and semi-public, institutional, and other related uses. However, it is basically residential in character, and, as such, should not be spotted with commercial and industrial uses.

**Sec. 22-6-2. Use regulations.**

In Residential District R-2, only one (1) main structure or use and its accessory uses shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.

**Sec. 22-6-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Agricultural Uses*

Agriculture\*

*Civic Uses*

Public parks and recreational areas

Public uses

*Commercial Uses*

Home occupations

*Miscellaneous Uses*

Accessory uses

Cluster developments

Greenhouses, non-commercial

Kennels, private

Utilities, minor

*Residential Uses*

Dwellings, accessory

Dwellings, multi-family

Dwellings, single-family attached

Dwellings, single-family detached

Dwellings, townhouse

Dwellings, two-family

Group homes

\* Only permitted in open space of cluster developments.  
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-6-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Agricultural Uses*

Equestrian facilities\*

Farm sales\*

*Civic Uses*

Educational facilities

Public recreation assembly

Religious assembly

*Commercial Uses*

Adult retirement communities  
Daycare centers  
Family daycare homes

*Miscellaneous Uses*

Telecommunication facilities  
Utilities, major

\* Only permitted in open space of cluster developments.  
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-6-3. Area and residential density regulations.**

The minimum lot area for permitted uses utilizing both central or public water and central or public sewerage systems shall be 21,780 square feet. All uses shall be served by a central, public, or common water or sewer system.

**Sec. 22-6-4. Setback regulations.**

Structures shall be located fifty feet (50') or more from any street right-of-way. This shall be known as the "setback line."

**Sec. 22-6-5. Frontage regulations.**

- (A) Existing public roads: 100 feet
- (B) New, internal public roads: 50 feet

**Sec. 22-6-6. Yard regulations.**

- (A) Side. The minimum side yard for each main structure, including a group of attached dwelling units, shall be ten feet (10') on each side.
- (B) Rear. Each main structure shall have a rear yard of twenty-five feet (25') or more.

**Sec. 22-6-7. Special provisions for corner lots.**

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

**Sec. 22-6-8. Cluster alternative development.**

Cluster development shall be permitted in any R-2 Residential District, subject to the following regulations:

- (A) Gross residential density: 2 dwelling units per 1 acre
- (B) Minimum lot size: Seven thousand two hundred sixty square feet
- (C) Minimum frontage required:
  - (1) Existing public roads: 100 feet
  - (2) New, internal public roads: 24 feet for each dwelling unit, exclusive of required setbacks and yards
- (D) Minimum lot width at minimum required setback shall be equal to minimum required frontage.
- (E) Minimum setback required (as measured from edge of right-of-way):
  - (1) Existing public roads: 75 feet
  - (2) All other roads: 20 feet
- (F) Minimum side yard
  - (1) Single-family detached dwellings: 20 feet
  - (2) All other residential uses: 20 feet between buildings and groups of attached units
- (G) Minimum rear yard: 25 feet
- (H) Open space required: Not less than ½ of the area of any cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land

so restricted and in favor of each building lot in the cluster development, and in favor of the county. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the county, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the county to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the county attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication of land by any public body except as may be approved by the governing body of such public body in its sole discretion.

(I) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:

- (1) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.
- (2) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.
- (3) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the cluster alternate development or of the public, but, in any event, not for residential, commercial or industrial use.
- (4) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.
- (5) Cable communications distribution lines.
- (6) Public uses and structures.
- (7) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit. (Ord. 9-17-08)

(8) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the cluster alternate development; subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit. (Ord. 9-17-08)

(9) Non-commercial cemeteries.

(J) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes, in such a manner as to maximize the efficient use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:

- (1) Construction of residential improvements;
- (2) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;
- (3) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the county; and
- (4) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area.

**Sec. 22-6-9. Height regulations.**

Buildings and structures may be erected up to thirty-five feet (35') in height, except that:

(A) The height limit for dwellings may be increased up to forty-five feet (45') provided one foot (1') or more per side yard is added for each additional foot of building height over thirty-five feet (35').

(B) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60') from grade provided that required front, side, and rear yards shall each be increased one foot (1') for every foot in height over thirty-five feet (35').

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

(D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

**Sec. 22-6-10. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

**Sec. 22-6-11. Sign regulations.**

Sign regulations shall conform with Article 15 of this Chapter.

***Article 7. Residential, Planned Community, District R-3.***

**Sec. 22-7-1. Statement of intent.**

This district is intended to permit compact village-style residential development and associated institutional uses, community serving mixed uses, open spaces, and creative design in accordance with a master plan. The development should occur in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features of the land; and to protect and enhance the natural scenic beauty of the area and support. The scale of the housing and the commercial use should be appropriate to support the residential needs at a neighborhood scale.

**Sec. 22-7-2. Establishment -- Request and master plan.**

Request for establishment of a residential planned community shall be made initially to the planning commission and subsequently to the governing body accompanied by a "Master Plan" for the proposed community.

**Sec. 22-7-3. Same -- Application.**

(A) The applicant shall submit a sketch plan and meet with the Planning Director for a pre-proposal conference.

(B) Applicant submits a Preliminary Master Plan to the Planning Director. Within ten (10) days the Planning Director shall review the preliminary master plan application for completeness, and if it is incomplete, so notify the subdivider, specifying instructions for its completion.

(C) After it is determined to be complete, the applicant shall furnish with a rezoning application for establishment of a Residential Planned Community, thirty (30) copies of a Preliminary Master Plan prepared by a surveyor, engineer, landscape architect, or architect, duly authorized by the State to practice as such.

(D) After approval, R-3 zoning is established and the master plan governs development of the site. The master plan may be amended with the approval by the Planning Commission of a master plan amendment.

**Sec. 22-7-4. Required information on preliminary master plan.**

The location of the open areas which shall comprise not less than twenty-five percent (25%) of the whole. The open areas shall include parks, recreation facilities, residential clubhouse grounds, lakes, trails, and land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets and roads and parking lots. This area may be used for active recreation facilities identified in Section 22-7-12. The open areas of the tract shall be delineated due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high scenic, open space and water quality protection values including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical, archaeological or cultural features.

The Preliminary Master Plan shall contain the following information:

(A) The general location of the various types of land uses, including the general location of any village centers, and the residential density classifications of each residential area;

(B) The areas designated for residential development, with maximum proposed number of units, density calculations, and plot plans of typical units provided;

(C) The areas designated for commercial and/or institutional development, with maximum proposed square footages and floor area ratios indicated. The location of all buildings and improvements, and their proposed use, other than single-family dwellings, and the location of any public buildings shall be shown;

(D) The street layout, with indication of which streets are to be dedicated to public use and which are to be held in private ownership, and a brief description of maintenance arrangements; street functional classification; and proposed street cross-sections;

(E) The pedestrian and bicycle facilities, including sidewalks and trails, with proposed cross-sections;

(F) The orientation of the Preliminary Master Plan to the surrounding community by extending the overall development and preservation pattern, tree protection and buffers, general building design, covenants and restrictions;

(G) The general location of all public and private roads;

(H) The adequate provision for general sewer, storm drainage, and water supply;  
and

(I) The Preliminary Master Plan shall also demonstrate its compliance with the county's Comprehensive Plan.

(Ord. 12-16-15)

**Sec. 22-7-5. Development -- Final master plan.**

(A) Submitting the Final Master Plan:

(1) The applicant shall submit five (5) copies of the final Master Plan to the Planning Director. The final plan shall have been prepared by a licensed surveyor, engineer, landscape architect, or architect.

(2) The final plans shall be consistent with the Preliminary Master Plan as approved. The applicant may vary from the approved Preliminary Master Plan to any degree if it does not vary the basic concept or character of the development.

(3) Any departure from the approved Preliminary Master Plan must be approved by the Planning Commission.

(B) The Final Master Plan must contain:

(1) All the Preliminary Master Plan Information;

- (2) The location of the existing and proposed property lines;
- (3) The plans and specifications for roads, pedestrian facilities, parking areas, Stormwater Management facilities, water and sewer system, active recreational facilities, and any other infrastructure elements proposed and shall be in compliance with Virginia Stormwater Management Regulations;
- (4) Any and all proposed Homeowners Association documents for review and approval by the county attorney; if any roads, open space, or other facilities are proposed for ownership by such association;
- (5) A final plat meeting the requirements of Chapter 19: Subdivisions of this Code;
- (6) A Site Development Plan for any commercial, institutional, multi-family meeting the requirements of Chapter 22-23: Site Development Plans of this Code;
- (7) A performance bond for improvements as provided in Chapter 19: Subdivisions of this Code;
- (8) A proposed deed of easement including restrictions safeguarding the permanent use of open areas and preventing encroachment thereupon and any deeds for any land dedicated to the county as part of the Master Plan for review and approval by the county attorney.

After the Final Plan and deed of dedication have been approved by both the Planning Director and the county attorney as being in conformity with this chapter and the Preliminary Master Plan, the Final Plan shall be approved for recordation and recorded. Thereafter, no modification may be made in any Final Plan except by an amended Final Master Plan submitted as provided for the original Final Master Plan.  
(Ord. 12-16-15)

**Sec. 22-7-6. Reserved.**

**Sec. 22-7-7. Additional land.**

Additional land area may be added to an existing Residential Planned Community if it is adjacent, is not separated by a public road, and forms a logical addition to the existing

Residential Planned Community. The land must also be under the same ownership or control as the Residential Planned Community.

The procedure for an addition shall be the same as if an original application were filed, and all of the requirements of this Chapter shall apply.

**Sec. 22-7-8. Permitted residential density.**

Maximum gross residential density: 2.9 residential units per acre.

**Sec. 22-7-9.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Agricultural Uses*

Conservation areas

*Civic Uses*

Public parks and recreational areas

Public uses

*Commercial Uses*

Bakeries

Butcher shops

Financial institutions

Home occupations

Medical clinics

Offices

Personal improvement services

Personal service establishments

Pharmacies

Restaurants, general

Restaurants, small

Retail stores, general

Retail stores, neighborhood convenience

Retail stores, specialty

Studios, fine arts

*Miscellaneous Uses*

Accessory uses

Greenhouses, non-commercial  
Kennels, private  
Marinas, private non-commercial  
Utilities, minor

*Residential Uses*

Dwellings, accessory  
Dwellings, multi-family  
Dwellings, single-family attached  
Dwellings, single-family detached  
Dwellings, townhouse  
Dwellings, two-family  
Group homes

(Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-7-9.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Agricultural Uses*

Equestrian facilities

*Civic Uses*

Educational facilities  
Public assembly  
Public recreation assembly  
Religious assembly

*Commercial Uses*

Adult retirement communities  
Assisted living facilities  
Bed and breakfasts  
Car washes  
Daycare centers  
Family daycare homes  
Gas stations  
Grocery stores  
Hospitals  
Hotels  
Laundromats

Lodges  
Nursing homes  
Outdoor recreation facilities  
Restaurants, fast food  
Self-storage facilities  
Taxidermists  
Veterinary offices

*Miscellaneous Uses*

Telecommunication facilities  
Utilities, major  
(Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-7-10. Limitations.**

(A) Commercial uses shall be located in "Village Centers" shown on the Final Master Plan and on the Final Plan, Village Centers shall be light commercial and office areas.

(B) The amount of commercial area will be determined by the approved Final Master Plan.

(C) The scale of the services provided in the Village Center shall be to provide neighborhood shopping and business convenience for nearby residential areas.

(D) No trailer parks, trailer camps, or trailer courts may be permitted.

(E) Uses in a Residential Planned Community shall be permissible only in the general location shown on the approved Master Plan as previously set forth.

**Sec. 22-7-11. Building location and design requirements.**

(A) The proposed location, arrangement, and design of nonresidential structures shall not be a detriment to the existing adjacent areas, and the prospective development of the Residential Planned Community. Therefore, structures shall be designed in a manner to facilitate the creation of a convenient, attractive and harmonious community.

(B) Open spaces between structures shall be protected where necessary by adequate covenants, conveyances, or dedications running with the land. The lot size, setback lines, lot coverage, width and frontage on the public street will be determined by the approved Master Plan.

**Sec. 22-7-12. Recreation requirements.**

Active Recreation facilities may be located within the required open space and shall be provided as follows unless specifically exempted by an approved proffer:

Group A

Bicycling, walking, fitness, and equestrian trails, open play area (minimum ½ acre), sitting area, picnic table units, tot lot equipment, community gardens that may be located within the required open space

Group B

Picnic shelter (3-4 picnic table units with grill), tennis court(s), multi-use court, active playground with equipment.

Group C

Community Center/Clubhouse/ Fitness Center, Indoor Swimming Pool, Athletic fields for private unorganized activities (Baseball, football/soccer) – minimum 2 acres

≤ 14 Residential Units	Group A - Choice of two or more Minimum of one acre of recreation area
15-60 Residential Units	Group A – Choice of two or more Group B – Choice of two or more Minimum of three acres of recreation area
61- 100 residential units	Group A – Choice of three Group B- Choice of three Minimum of six acres of active recreation
101 + residential units	Group A- Choice of three Group B – Choice of three Group C – Choice of one Minimum of eight acres of active recreation

(Ord. 12-16-15)

**Article 8. Residential, Limited, District R-4.**

**Sec. 22-8-1. Statement of intent.**

This district is composed of certain low to medium density concentrations of residential uses, together with certain complementary public, semi-public, institutional, commercial and recreational uses, all of which are intended to be at a scale appropriate to support the residential needs of the district. It is intended that this district be applied to the existing community of Lake Monticello and Community Planning Areas as defined by the Comprehensive Plan. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, a suitable environment for family life and to permit certain related public, semi-public, institutional and recreational uses and certain commercial uses of a character compatible with such residential uses and which are unlikely to develop general concentrations of traffic, crowds of customers, and general outdoor advertising. To these ends, retail activity is sharply limited and this district is protected against encroachment of general commercial or industrial uses.

**Sec. 22-8-2. Use regulations.**

In Residential District R-4, only one (1) main structure or use and its accessory uses shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others.

**Sec. 22-8-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Agricultural Uses*

Conservation areas

*Civic Uses*

Public parks and recreational areas

Public uses

*Commercial Uses*

Home occupations

*Miscellaneous Uses*

Accessory uses

Cluster developments

Greenhouses, non-commercial

Kennels, private

Marinas, private non-commercial  
Utilities, minor

*Residential Uses*

Dwellings, accessory  
Dwellings, multi-family  
Dwellings, single-family attached  
Dwellings, single-family detached  
Dwellings, townhouse  
Dwellings, two-family  
Group homes

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-8-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Agricultural Uses*

Equestrian facilities

*Civic Uses*

Educational facilities  
Public assembly  
Public recreation assembly  
Religious assembly

*Commercial Uses*

Adult retirement communities  
Assisted living facilities  
Campgrounds  
Daycare centers  
Family daycare homes  
Lodges  
Marinas, commercial  
Medical clinics  
Offices  
Outdoor recreation facilities  
Restaurants, general  
Restaurants, small  
Retail store, neighborhood convenience

Retail store, specialty

*Miscellaneous Uses*

Telecommunication facilities

Utilities, major

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-8-3. Area and residential density regulations.**

(A) The minimum lot area for permitted uses not utilizing central or public water and central or public sewerage systems shall be 87,120 square feet (2 acres). The maximum permitted residential density for such uses shall be one dwelling unit per two acres.

(B) The minimum lot area for permitted uses utilizing both central or public water and central or public sewerage systems shall be fifteen thousand (15,000) square feet. The maximum permitted residential density for such uses shall be two and nine-tenths (2.9) dwelling units per acre.

**Sec. 22-8-4. Setback regulations.**

Structures shall be located twenty-five feet (25') or more from any street right-of-way. This shall be known as the "setback line."

**Sec. 22-8-5. Frontage regulations.**

(A) The minimum frontage of lots for permitted uses not utilizing central or public water and central or public sewerage system shall be two hundred feet (200').

(B) The minimum frontage for permitted uses utilizing both central or public water and central or public sewerage systems shall be sixty feet (60').

**Sec. 22-8-6. Yard regulations.**

(A) Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten feet (10') on each side.

(B) Rear. Each main structure shall have a rear yard of twenty-five feet (25') or more, and no accessory building shall be placed within twenty-five feet (25') of any rear line.

**Sec. 22-8-7. Special provisions for corner lots.**

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

**Sec. 22-8-8. Cluster alternative development.**

Cluster development shall be permitted in any R-4 Residential District, subject to the following regulations:

- (A) Gross residential density: 2.9 dwelling units per 1 acre.
- (B) Minimum lot size: Seven thousand five hundred square feet.
- (C) Minimum frontage required: 24 feet for each dwelling unit, exclusive of required setbacks and yards.
- (D) Minimum lot width at minimum required setback shall be equal to minimum required frontage.
- (E) Minimum setback required (as measured from edge of right-of-way): 30 feet.
- (F) Minimum side yard:
  - (1) Single-family detached dwellings: 10 feet.
  - (2) All other residential uses: 20 feet between buildings and groups of attached units.
- (G) Minimum rear yard: 25 feet.
- (H) Open space required: Not less than 50% of gross site area, exclusive of road rights of way and other areas dedicated to public use, shall be set aside as open space.
- (I) All lots in any cluster subdivision shall be served by a lawfully approved public or central water and sewerage system.

**Sec. 22-8-9. Height regulations.**

Buildings and structures may be erected up to thirty-five feet (35') in height, except that:

(A) The height limit for dwellings may be increased up to forty-five feet (45') provided one foot (1') or more per side yard is added for each additional foot of building height over thirty-five feet (35').

(B) A public or semi-public building such as a school, place of worship, or library or general hospital may be erected to a height of sixty feet (60') from grade provided that required front, side, and rear yards shall each be increased one foot (1') for every foot in height over thirty-five feet (35').

(C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

(D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

**Sec. 22-8-10. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

**Sec. 22-8-11. Sign regulations.**

Sign regulations shall conform with Article 15 of this Chapter.

***Article 8.1. Reserved.***

***Article 9. Business, General, District B-1.***

**Sec. 22-9-1. Statement of intent.**

Generally this district covers those areas of the county as defined by the Comprehensive Plan that are intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors

other than occasioned by incidental light and noise of congregation of people and passenger vehicles.

**Sec. 22-9-2. Use Regulations.**

In Business, General, District B-1, structures to be erected or land to be used shall be for one (1) or more of the following uses, together with ordinary and necessary accessory uses, and no others.

(Ord. 12-16-15)

**Sec. 22-9-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Civic Uses*

- Amusements, public
- Cultural services
- Public recreation assembly
- Public uses
- Religious assembly
- Sheltered care facilities

*Commercial Uses*

- Assisted living facilities
- Auction houses
- Automobile repair service establishments
- Automobile sales
- Bakeries
- Bed and breakfasts
- Boarding houses
- Butcher shops
- Car washes
- Cemeteries, commercial
- Communications service
- Corporate offices
- Daycare centers
- Financial institutions
- Flea markets
- Funeral homes
- Garden center

Gas stations  
Greenhouses, commercial  
Grocery stores  
Guidance services  
Hospitals  
Hotels  
Indoor entertainment  
Indoor recreation facilities  
Laundries  
Marinas, commercial  
Medical clinics  
Nursing homes  
Offices  
Parking facilities  
Personal improvement services  
Personal service establishments  
Pharmacies  
Professional schools  
Recreational vehicle sales  
Restaurants, fast food  
Restaurants, general  
Restaurants, small  
Retail stores, general  
Retail stores, large-scale  
Retail stores, neighborhood convenience  
Retail stores, specialty  
Self-storage facilities  
Shooting ranges, indoor  
Studios, fine arts  
Taxidermists  
Vending carts  
Veterinary offices

*Miscellaneous Uses*

Accessory uses  
Utilities, minor

(Ord. 3-15-06; Ord. 11-20-07; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-9-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Civic Uses*

Educational facilities  
Public assembly

*Commercial Uses*

Amusements, commercial  
Dance halls  
Entertainment establishments, adult  
Halfway houses  
Kennels, commercial  
Landscaping materials supply  
Laundromats  
Lodges  
Manufactured home sales  
Outdoor entertainment  
Outdoor recreation facilities  
Retail stores, adult  
Transportation terminals

*Industrial Uses*

Contractor's storage yards  
Lumberyards  
Machine shops  
Railroad facilities  
Research laboratories

*Miscellaneous Uses*

Outdoor gatherings  
Telecommunication facilities  
Utilities, major

*Residential Uses*

Dormitories

(Ord. 3-15-06; Ord. 11-20-07; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-9-3. Requirements for permitted uses.**

All buildings, structures and uses in the B-1 District shall be subject to the provisions of Article 23: Site Development Plans of this Code. (Ord. 12-16-15)

**Sec. 22-9-4. Area regulations.**

None, except for permitted uses utilizing individual sewerage disposal system. The required area for any such use shall be approved by the administrator who may consult with the health official.

**Sec. 22-9-5. Setback regulations.**

(A) Buildings shall be located not less than fifty feet (50') from any public right-of-way. This shall be known as the "setback line." All parking lots shall be located not less than twenty-five feet (25') from any public right-of-way.

(B) A variation to the setback regulations may be granted by the Planning Commission for projects in a designated growth area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan. Appeals must be received in writing within thirty (30) days of the variation decision, and will then be forwarded to the Board of Supervisors for a final determination.

(Ord. 5-4-11)

**Sec. 22-9-6. Yard regulations.**

The minimum yard requirements for permitted uses adjoining or adjacent to a residential or agricultural district shall be fifty feet (50'). All parking lots and accessory uses shall be located not less than twenty-five feet (25') from any residential or agricultural district.

**Sec. 22-9-7. Height regulations.**

Buildings may be erected up to forty-five feet (45') in height from grade, except that:

(A) A public or semi-public building such as a school, place of worship, library, hotel and general hospital may be erected to a height of sixty feet (60') from grade provided that required front, side and rear yard each shall be increased one foot (1') for each foot in height over forty-five feet (45').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials sixty feet (60') limit. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

**Sec. 22-9-8. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

**Sec. 22-9-9. Sign regulations.**

Sign regulations shall conform to Article 15 of this Chapter.

**Sec. 22-9-10. Sidewalks.**

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. (Ord. 5-4-11)

***Article 10. Business, Convenience, District B-C.*****Sec. 22-10-1. Statement of intent.**

This district is for those areas of the county, adjacent to residential and/or agricultural areas, where it is in the public interest to establish retail and service businesses of a type which are ordinarily and necessarily convenient to and designed primarily to serve adjacent residential uses and which are not characterized either by trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than those occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail convenience stores, banks, business and professional offices and service stations.

**Sec. 22-10-2. Use regulations.**

In Business District B-C, structures to be erected or land to be used shall be for one (1) or more of the following retail sales and/or service uses.

**Sec. 22-10-3. Uses permitted by right.**

The following uses shall be permitted by right:

*Civic Uses*

Amusements, public  
Cultural services  
Public uses

*Commercial Uses*

- Bakeries
- Bed and breakfasts
- Butcher shops
- Daycare centers
- Financial institutions
- Funeral homes
- Garden center
- Gas stations
- Greenhouses, commercial
- Grocery stores
- Medical clinics
- Offices
- Parking facilities
- Personal service establishments
- Pharmacies
- Restaurants, fast food
- Restaurants, general
- Restaurants, small
- Retail stores, general
- Retail stores, neighborhood convenience
- Retail stores, specialty
- Studios, fine arts
- Taxidermists
- Vending carts

*Miscellaneous Uses*

- Accessory uses
- Utilities, minor

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-10-4. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Civic Uses*

- Educational facilities
- Religious assembly
- Sheltered care facilities

*Commercial Uses*

Amusements, commercial  
 Auction houses  
 Automobile repair service establishments  
 Car washes  
 Communications service  
 Dance halls  
 Guidance services  
 Hotels  
 Kennels, commercial  
 Landscaping materials supply  
 Laundromats  
 Laundries  
 Lodges  
 Personal improvement services  
 Professional schools  
 Self-storage facilities  
 Veterinary offices

*Miscellaneous Uses*

Outdoor gatherings  
 Telecommunication facilities  
 Utilities, major

*Residential Uses*

Dormitories

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-10-5. Requirements for permitted uses.**

All buildings, structures and uses in the B-C District shall be subject to the provisions of Article 23: Site Development Plans of this Code. (Ord. 12-16-15)

**Sec. 22-10-6. Area regulations.**

None, except for permitted uses utilizing individual sewerage disposal system. The required area for any such use shall be approved by the administrator who may consult with the health official.

**Sec. 22-10-7. Setback regulations.**

(A) Buildings shall be located not less than fifty feet (50') from any public right-of-way. This shall be known as the "setback line." All parking lots shall be located not less than twenty-five feet (25') from any public right-of-way.

(B) A variation to the setback regulations may be granted by the Planning Commission for projects in a designated growth area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan. Appeals must be received in writing within thirty (30) days of the variation decision, and will then be forwarded to the Board of Supervisors for a final determination.  
(Ord. 5-4-11)

**Sec. 22-10-8. Yard regulations.**

The minimum yard requirements for permitted uses adjoining or adjacent to a residential or agricultural district shall be fifty feet (50'). All parking lots and accessory uses shall be located not less than twenty-five feet (25') from any residential or agricultural district.

**Sec. 22-10-9. Height regulations.**

Buildings may be erected up to thirty-five feet (35') in height from grade, except that:

(A) Any building otherwise permitted may be erected to a height of forty-five feet (45') feet from grade and a public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60') from grade; provided, in any such case, that required setback and side and rear yards each shall be increased one foot (1') for each foot in height over thirty-five feet (35').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennas, and radio aerials are exempt. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

**Sec. 22-10-10. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

**Sec. 22-10-11. Sign regulations.**

Sign regulations shall conform to Article 15 of this Chapter.

**Sec. 22-10-12. Special provisions for accessory uses and structures.**

Uses and structures which are customarily accessory and clearly incidental shall be permitted, provided establishment of the same shall not be permitted until construction has commenced on the principal building or the principal use has been established.

**Sec. 22-10-13. Sidewalks.**

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. (Ord. 5-4-11)

**Article 11. Industrial, Limited, District I-1.**

**Sec. 22-11-1. Statement of intent.**

The primary purpose of this district is to permit certain light industries. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors and/or noise, landscaping, and the number of persons employed are imposed to protect and foster adjacent residential property while permitting certain light industries to locate near a labor supply.

**Sec. 22-11-2. Use regulations.**

In Industrial, Limited, I-1, structures to be erected or land to be used shall be for one or more of the following uses, together with ordinary and necessary accessory uses, and no others. (12-16-15)

**Sec. 22-11-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Civic Uses*

Public uses

*Commercial Uses*

Automobile repair service establishments

Automobile sales

Car washes

Communications service

Corporate offices  
Financial institutions  
Flea markets  
Gas stations  
Landscaping materials supply  
Laundries  
Medical clinics  
Offices  
Parking facilities  
Professional schools  
Recreational vehicle sales  
Retail stores, general  
Retail stores, large-scale  
Retail stores, neighborhood convenience  
Retail stores, specialty  
Self-storage facilities  
Shooting ranges, indoor  
Transportation terminals  
Vending carts  
Veterinary offices

*Industrial Uses*

Contractor's storage yards  
Lumberyards  
Machine shops  
Manufacturing, light  
Railroad facilities  
Research laboratories  
Sawmills, temporary  
Solid waste collection facilities  
Upholstery shops  
Wholesale warehouses

*Miscellaneous Uses*

Accessory uses  
Utilities, minor  
Woodstorage, temporary

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-11-2.2. Uses permitted by special use permit only.**

The following uses shall be permitted by special use permit only:

*Commercial Uses*

Amusements, commercial  
 Auction houses  
 Manufactured home sales  
 Outdoor entertainment  
 Outdoor recreation facilities  
 Restaurants, fast food  
 Shooting ranges, outdoor

*Industrial Uses*

Manufacturing, medium  
 Sanitary landfills  
 Sawmills, permanent  
 Solid waste material recovery facilities  
 Truck terminals

*Miscellaneous Uses*

Aviation facilities  
 Outdoor gatherings  
 Telecommunication facilities  
 Utilities, major

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 11-20-12)

**Sec. 22-11-3. Requirements for permitted uses.**

(A) Before a zoning permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the applicant for the proposed use shall comply with the provisions of Article 23 of this Chapter.

(B) Screening from adjacent business, residential and agricultural district shall be required.

(C) Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

**Sec. 22-11-4. Area regulations.**

None, except for permitted uses utilizing individual sewerage disposal system. The required area for any such use shall be approved by the administrator who may consult with the health official.

**Sec. 22-11-5. Setback regulations.**

Buildings and accessory uses shall be located not less than one hundred feet (100') from any street right-of-way and all parking lots shall be located not less than fifty feet (50') from any street right of way except that:

(A) Buildings and accessory uses may be located less than one hundred feet (100'), but not less than fifty feet (50'), from a street right-of-way, provided that said street:

- (i) is an access road within a subdivision for business or industrial uses and serves properties that contain industrial zoning district classifications only;
- (ii) is a cul-de-sac or an interior road; and

(B) All parking lots shall be located not less than twenty-five feet (25') from any street right of way.

This shall be known as the "building setback line."  
(Ord. 12-19-07)

**Sec. 22-11-6. Yard regulations.**

When permitted uses adjoin agricultural, residential, or business districts the minimum yard requirements shall be fifty feet (50'). All parking lots shall be located not less than twenty-five feet (25') from any residential or agricultural district.

**Sec. 22-11-7. Height regulations.**

Buildings may be erected up to forty-five feet (45') in height from grade, except that:

(A) A public or semi-public building may be erected to a height of sixty feet (60') from grade provided that required front, side and rear yard each shall be increased one foot (1') for each foot in height over forty-five feet (45').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials sixty feet (60') limit. Parapet walls may be up to four feet (4') feet above the height of the building on which the walls rest.

**Sec. 22-11-8. Coverage regulations.**

Impervious surface may cover up to eighty percent (80%) of the area of the lot.

**Sec. 22-11-9. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter.

**Sec. 22-11-10. Sign regulations.**

Sign regulations shall conform with Article 15 of this Chapter.

**Sec. 22-11-11. Sidewalks.**

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

Exceptions approved by the Planning Commission for locating sidewalks along road frontage may be acceptable with the placement of a trail network or greenway on the property providing sufficient pedestrian circulation.

(Ord. 5-4-11)

***Article 12. Industrial, General, District I-2.***

**Sec. 22-12-1. Statement of intent.**

The primary purpose of this district is to establish an area as defined by the Comprehensive Plan where the principal use of land is for heavy commercial and industrial operations, which may create some nuisance, and which are not properly associated with, nor particularly compatible with, residential, institutional, and neighborhood commercial service establishments. The specific intent of this district is to:

(A) encourage the construction of and the continued use of the land for heavy commercial and industrial purposes;

(B) prohibit residential and neighborhood commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district;

(C) to encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this ordinance.

**Sec. 22-12-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

*Civic Uses*

Public uses

*Commercial Uses*

Corporate offices

Transportation terminals

*Industrial Uses*

Contractor's storage yards

Lumberyards

Machine shops

Manufacturing, light

Manufacturing, medium

Railroad facilities

Research laboratories

Sawmills, permanent

Sawmills, temporary

Solid waste collection facilities

Truck terminals

Upholstery shops

Wholesale warehouses

*Miscellaneous Uses*

Accessory uses

Utilities, major

Utilities, minor

Woodstorage, temporary

(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-12-2.2. Uses permitted by special use permit.**

The following uses shall be permitted by special use permit only:

*Commercial Uses*

Manufactured home sales  
Medical clinics  
Offices  
Shooting ranges, indoor  
Shooting ranges, outdoor

*Industrial Uses*

Manufacturing, heavy  
Petroleum distribution facilities  
Resource extraction  
Salvage and scrap yards  
Sanitary landfills  
Slaughterhouses  
Solid waste material recovery facilities

*Miscellaneous Uses*

Aviation facilities  
Telecommunication facilities  
(Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10)

**Sec. 22-12-3. Requirements for permitted uses.**

(A) Before a zoning permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the applicant for the proposed use shall comply with the provisions of Article 23 of this Chapter.

(B) Screening from adjacent business, residential and agricultural district shall be required.

(C) Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards.

**Sec. 22-12-4. Area regulations.**

For permitted uses utilizing individual sewage disposal systems, the required area for any such use shall be approved by the health official. The administrator may require a greater area if considered necessary.

**Sec. 22-12-5. Setback regulations.**

Buildings shall be located not less than two hundred feet (200') from any street right-of-way. This shall be known as the "setback line."

**Sec. 22-12-6. Yard regulations.**

When permitted uses adjoin agricultural, residential, or business districts the minimum yard requirements shall be fifty feet (50').

**Sec. 22-12-7. Height regulations.**

Buildings may be erected up to forty-five feet (45') in height from grade, except that:

(A) A public or semi-public building such as a school, place of worship, library, hotel and general hospital may be erected to a height of sixty feet (60') from grade provided that required front, side and rear yard each shall be increased one foot (1') for each foot in height over forty-five feet (45').

(B) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.

**Sec. 22-12-8. Coverage regulations.**

Buildings or groups of buildings with their accessory buildings may cover up to sixty percent (60%) of the area of the lot. Additional coverage may be permitted by the governing body.

**Sec. 22-12-9. Off-street parking.**

Off-street parking shall conform with Article 26: Off-Street Parking and Loading Spaces of this Chapter. (Ord. 12-16-15).

**Sec. 22-12-10. Sign regulations.**

Sign regulations shall conform with Article 15 of this Chapter.

**Sec. 22-12-11. Sidewalks.**

Sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

Exceptions approved by the Planning Commission for locating sidewalks along road frontage may be acceptable with the placement of a trail network or greenway on the property providing sufficient pedestrian circulation.

(Ord. 5-4-11)

***Article 13. Manufactured Home Park, District MHP.***

**Sec. 22-13-1. Statement of intent.**

This district is intended to accommodate manufactured home parks with lots for rent exclusively. This district is based on the premise that the demand for manufactured homes can best be supplied by manufactured home parks. The following regulations are designed to provide an attractive and harmonious environment for manufactured home dwellings, with all amenities normally found in a substantial residential neighborhood. (Ord. 12-16-15)

**Sec. 22-13-2.<sup>7</sup> Use regulations.**

In Manufactured Home Park, District MHP, only one mobile or manufactured home and its accessory uses and structures shall be permitted on each minimum lot area. Structures to be erected or land to be used shall be for some combination of the following uses. Manufactured homes used pursuant to this section shall comply with the Flood Protection subsection of this Chapter found in Section 22-17-8A et seq. (Ord. 3-15-06; Ord. 9-17-08; Ord. 10-21-09; Ord. 11-3-10; Ord. 12-16-15)

**Sec. 22-13-2.1. Uses permitted by right.**

The following uses shall be permitted by right:

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<sup>7</sup> Editor's Note – This section as originally adopted was misnumbered as “Sec. 22-13-1.” This clerical error has been corrected by the editor.

*Civic Uses*

Public uses

*Commercial Uses*

Home occupations

*Miscellaneous Uses*

Accessory uses

Utilities, minor

*Residential Uses*

Manufactured homes

(Ord. 11-3-10)

**Sec. 22-13-2.2. Uses permitted by special use permit only.<sup>8</sup>**

The following uses shall be permitted by special use permit only:

*Miscellaneous Uses*

Utilities, major

(Ord. 11-3-10)

**Sec. 22-13-3. Area regulations.**

(A) The minimum area for each manufactured home park shall be five (5) acres. (Minimum number of spaces completed and ready for occupancy before first occupancy is permitted shall be ten (10)).

(B) Area. The minimum lot area of each individual manufactured home lot shall be six thousand (6000) square feet.  
(Ord. 12-16-15)

**Sec. 22-13-4. Setback regulations.**

(A) Manufactured home parks shall be located fifty feet (50') or more from any street right-of-way but not less than seventy-five feet (75') from the center line of the street. Lots fronting streets within manufactured home parks (interior lots) shall conform with

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<sup>8</sup> Editor's Note – conformed to title convention of this Code by the Editor.

subsection (B) below. The foregoing notwithstanding, every manufactured home within any such manufactured home park shall be set back from any abutting public road not less than the setback required for the property abutting the manufactured home park across such public road.

(B) No manufactured home lot shall be placed less than twenty-five feet (25') from any adjoining property line.

(C) No manufactured home shall be placed less than ten feet (10') from any lot or within twenty-five feet (25') of another manufactured home.  
(Ord. 12-16-15)

**Sec. 22-13-5. Frontage regulations.**

The minimum frontage for each manufactured home lot shall be sixty feet (60') with a minimum thirty feet (30') street frontage. (Ord. 12-16-15)

**Sec. 22-13-6. Required improvements within lots.**

(A) Markers for manufactured home lots. Every manufactured home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan submitted so that each lot may be easily identified.

(B) Streets. All streets, both public and private, serving manufactured home lots, shall conform to the construction standards of the Virginia Department of Transportation. Curb and gutters are encouraged; however, in the event that they are not provided, adequate drainage facilities shall be provided.

(C) Parking spaces. In each manufactured home park, parking spaces shall be provided at the rate of at least two (2) car spaces for each manufactured home lot. Space for one (1) car of the required two (2) car spaces shall be provided upon the lot, but if not so provided, in parking bays located convenient to such lots. Each such parking space shall be not less than ten feet (10') wide and twenty feet (20') deep, shall be surfaced for its entire area with a durable, hard surface material, suitable for all weather use, and shall have unobstructed access to a public street or highway. No parking space shall be more than three hundred feet (300') from the manufactured home lot which it serves.

(D) Water supply. An adequate supply of water approved by the State Health Department shall be furnished from a public water supply system or from a central water system conforming to all applicable laws, regulations, resolutions, and ordinances, with water

connections located on each manufactured home lot. No drinking water containers or fountains shall be located in any room housing toilet facilities. All water lines shall be made frost-free.

(E) Sewerage facilities. In each manufactured home park, all waste or waste water from a faucet, toilet, tube, shower, sink, slop-sink, drain, washing machine, garbage disposal unit or laundry shall empty into one or more public or central sewer systems approved by the Fluvanna County Health Department.

(F) Garbage and trash disposal. Each lot within a manufactured home park shall be provided with at least one (1) tight-fitting, closed-top garbage or trash container, and collection and disposal shall be provided at a frequency to assure it will not overflow.

(G) Lighting and electric receptacle outlets. Public areas of manufactured home parks shall be adequately lighted so as to permit safe movement of vehicles and pedestrians at night. All exterior lights in each park shall be located and when necessary shielded so as to prevent direct illumination of sleeping areas. At least one (1) grounded type receptacle outlet shall be provided each lot.

(H) Utilities. All utility service shall be underground to each lot.

(I) Recreational areas. There shall be provided a minimum of 30,000 square feet of recreational area, exclusive of required setback and yard requirements, per each thirty (30) manufactured home lots or multiple or fraction thereof.

(J) Additions to manufactured homes. No permanent or semi-permanent structure shall be affixed to any manufactured home as an addition to such manufactured home. The prohibition herein against any addition or accessory to a manufactured home shall not apply to a canopy or awning designed for use with a manufactured home, nor to any expansion unit or accessory structures specifically manufactured for manufactured homes. The lot coverage of a manufactured home, together with an expansion or accessory structure permitted thereto by this article shall not exceed twenty percent (20%) of the total manufactured home lot area.

(K) Height regulations. No manufactured home shall exceed fourteen feet (14') in height nor shall any storage facility or other accessory structure exceed the height of any manufactured home which it serves. Utilities, television antennae and radio aerials are exempt.

(L) Manufactured home standards. Every manufactured home occupied as a dwelling unit in Fluvanna County shall meet the minimum standards of the Virginia Manufactured Home Safety Regulations and shall have been manufactured under the

authority of the National Manufactured Home Construction and Safety Standards Act, as the same shall be in effect from time to time.

(M) Anchorage. Every parking space for manufactured homes shall be provided with devices for anchoring the unit to prevent overturning or uplift. The anchorage shall be adequate to withstand wind forces and uplift as required for buildings and structures in the Virginia Uniform Statewide Building Code.

(Ord. 12-16-15)

**Sec. 22-13-7. Site plan required.**

Each manufactured home park shall be subject to the provisions of Article 23: Site Development Plans of this Chapter. (Ord. 12-16-15)

***Article 14. Planned Unit Development District (PUD).***

**Sec. 22-14-1. Statement of intent.**

Planned unit developments (PUDs) are intended to promote the efficient use of land by allowing flexibility in design standards and variety in densities and land uses to preserve the rural areas of the county. Development of such districts shall be in accordance with an approved PUD Application Package which should provide a variety and range of uses and densities in designated areas of the site.

Planned unit developments should be located within the designated growth areas of the county as set forth in the comprehensive plan, and should implement the goals of each Community Planning Area. Planned unit developments should provide unified development that incorporates new urbanism and traditional neighborhood development principles, which includes a mix of residential and commercial uses, an interconnected system of internal roads, pedestrian sidewalks and walkways and well planned access points along existing roadways. In addition to a mix of residential and commercial uses, planned developments should also provide a mix and variety of housing types.

The PUD District is intended to be applied to privately initiated zoning map amendments for land located within the County's Community Planning Areas (CPAs) and the designated Zion Crossroads Urban Development Area (UDA). The Zion Crossroad UDA is located internal to the Zion Crossroads Community Planning Area, as depicted on the Future Land Use Map, as amended. The County's designated CPAs and UDA include:

- (a) Zion Crossroads Community Planning Area
- (b) Zion Crossroads Urban Development Area

- (c) Rivanna Community Planning Area
- (d) Palmyra Community Planning Area
- (e) Fork Union Community Planning Area
- (f) Columbia Community Planning Area
- (g) Scottsville Community Planning Area

(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-2. Procedure for rezoning.**

(1) Prior to submitting an official rezoning application for a PUD, the applicant shall schedule a pre-application meeting with the Planning Director for an introductory work session to discuss the key elements and impacts of the proposed project.

The Planning Director and other county agency representatives may provide specific guidance on: (a) application requirements, (b) timeframe for processing of the zoning map amendment application, (c) Comprehensive Plan compliance considerations, (d) identification issues related to public infrastructure and facilities, and (e) other matters as may be uniquely related to the applicant's property.

At this meeting, the applicant shall present a preliminary sketch plan and other exhibits that depict the following: (a) general boundary and location of property subject to the PUD rezoning application, (b) land area to be contained within the PUD District, (c) graphic representation of the arrangement of interior sub-areas, (d) planned mix of land uses and densities, and (e) general approach to addressing transportation, infrastructure and community facilities.

(2) After the pre-application meeting with staff, the applicant shall submit an application for rezoning with the Fluvanna County Planning Department. The PUD Application Package shall consist of the following primary sections: a narrative, an existing conditions map, a PUD Application Plan, a transportation plan, street design guidelines, lot development criteria, community design guidelines, and a traffic impact analysis.

- (i) PUD Application Package Narrative
  - a) A general statement of objectives to be achieved by the PUD district including a description of the character of the proposed development and the market for which the development is oriented;
  - b) A list of all adjacent property owners;
  - c) Site and lot development standards, including but not limited to mix of land uses, density for individual residential land uses, floor area

ratios for non-residential uses, building setbacks and yard regulations, maximum heights, maximum project density, and lot coverage;

- d) Proposed utilities and implementation plan, including documentation of adequate public facilities;
- e) Phased implementation plan;
- f) Comprehensive signage plan;
- g) Descriptions of any architectural and community design guidelines including but not limited to a code of development, building designs, orientations, styles, lighting, etc.;
- h) Specific proffers and conditions (if proposed).

(ii) Existing Conditions Map

- a) Topography, including the identification of steep slopes (>20%), to be prepared with minimum 2' contour elevations and 100' horizontal scale, and current boundary survey of the property subject to the PUD district;
- b) Water features, including existing stream buffers and stormwater or erosion control measures;
- c) Roadways;
- d) Structures;
- e) Tree lines;
- f) Major utilities;
- g) Significant environmental features, including unsuitable soils for land development purposes, wetlands, and FEMA designated 100-year floodplains;
- h) Existing and proposed ownership of the site along with all adjacent property owners;
- i) Zoning of the site and adjacent properties;

j) Locations of public improvements and facilities, including rights of way and easements, as may be recognized by the Comprehensive Plan, the Future Land Use Map, the Official Transportation Map, or state transportation plans, as may be applicable.

(iii) PUD Application Package

The PUD Application Package shall include a PUD Application Plan (master plan) to be prepared to a horizontal scale of 1"=100' or as otherwise may be approved by the Planning Director to be of sufficient clarity and scale to accurately identify the location, nature, and character of the proposed planned unit development (PUD) district. At a minimum, the PUD Application Plan shall include the following:

- a) Proposed PUD master plan layout and supporting land use documentation (tables, charts, etc.) for all proposed land uses within the PUD district, including the general location of uses, types of uses, mix of uses, lot types, density range of uses, and floor area ratio ranges;
- b) Methods of access from existing state maintained roads to proposed areas of development;
- c) General street alignments and parking areas, including proposed street sections and standards;
- d) General alignments of sidewalks, bicycle and pedestrian facilities;
- e) Schematic utility plans, indicating the infrastructure and facilities to serve the development, including but not limited to: water, sewer and storm drainage improvements, pump stations, treatment facilities, offsite improvements as needed, electrical substations, etc.;
- f) A general plan showing the location and acreage of the active and passive recreation spaces, parks, civic areas, and other public open areas;
- g) A general overall landscaping layout that includes methods of screening and buffering from adjacent properties and existing public right-of-ways, as well as stream buffers;

- h) A general stormwater management and best management practices master plan that includes how negative impacts to nearby streams, wetlands, surface water, and groundwater resources as a result of development would be avoided and mitigated;
- i) Phased development areas. Subsequent subdivision plats and site plans should be closely correlated with master plan phases;
- j) A schematic grading plan for the area of the PUD property proposed for development, with finished grades to be prepared at a 5' contour interval;
- k) Documentation and plan demonstrating general compliance with VDOT State Secondary Street Acceptance requirements and other requirements for public streets and intersections.



(iv) Traffic Impact Analysis

a) The Planning Director shall determine whether or not the subject PUD District project shall require a traffic impact statement to be prepared consistent with VDOT 527 regulations.

b) If a 527 traffic impact analysis is required, the Applicant shall prepare and submit a Pre-Scope of Work Meeting Form to the county on or before the date of formal submission of the zoning district amendment application. The Pre-Scope form shall be processed, reviewed by and between the county, VDOT and the Applicant in accord with adopted regulations and procedures.

c) If a 527 Traffic Impact Analysis is not required, the Applicant shall meet with the Planning Director to determine the required scope for a traffic analysis for the PUD project. The Planning Director shall approve the elements to be addressed in the study scope. The traffic analysis shall be submitted with the zoning amendment application. Minimum requirements may include the following:

1) Existing traffic counts (AM and PM peak hour) at intersections to be identified by the county;

2) Trip generation estimates for the planned land uses within the proposed development, employing Institute of Transportation Engineers (ITE) methodologies;

3) Trip distribution and assignments to the existing road network of traffic projected for the development at full-buildout;

4) Estimates of background traffic growth on impacted streets and highways;

5) Analysis of future conditions, to include Highway Capacity Manual (HCM) level-of-service calculations for impacted intersections;

6) Signal warrants analysis;

7) Statement of recommended transportation improvements to provide adequate levels of service for the traffic generated by the

proposed project.

(3) The PUD application package shall not be scheduled for consideration by the Planning Commission until the Planning Director has determined that the package is complete. Except as the Planning Director may determine otherwise in a particular case, for reasons beyond the control of the applicant, any application package which is not complete within thirty (30) days after its submission shall be deemed to have been withdrawn and shall not be further processed. Once the Planning Director has determined the application package to be complete, the following process shall commence:

- (i) The Planning Commission shall receive a public presentation on the proposed development at a regularly scheduled meeting, prior to advertising for a public hearing;
- (ii) The Planning Commission may schedule one or more work sessions to discuss the proposed development;
- (iii) Once a public hearing has been conducted by the Planning Commission, a recommendation shall be forwarded to the board of supervisors for their consideration;
- (iv) The board of supervisors may schedule one or more work sessions to discuss the proposed development and the Planning Commission recommendation, prior to conducting their public hearing;
- (v) The plan approved by the board of supervisors shall constitute the final master plan for the PUD district.

(4) All conditions and elements of the plan as submitted, including amendments and revisions thereto, shall be deemed to be proffers once the Board of Supervisors has approved the final master plan. All such conditions and elements shall be enforceable by the county pursuant to Section 22-17-9 of this Code.

(5) The approved final master plan shall serve as the sketch plans for the subdivision and site plan process.

(6) Prior to development of the site, a final site development plan pursuant to Article 23<sup>9</sup> of the zoning ordinance, shall be submitted for administrative review and approval for any business, limited industrial, or multi-family development.

(7) Additionally, if any land within the district is to be subdivided, preliminary and final subdivision plats pursuant to the subdivision regulations of Chapter 19 of the Fluvanna County Code shall be submitted for administrative review and approval prior to development of the site. Staff will determine if the submitted preliminary plats are in accordance with the approved final master plan.

(8) If staff determines that the preliminary or final subdivision plats or final site plan are not in accord with the approved final master plan, such plans will be sent to the Planning Commission for review. If the Planning Commission determines that such plans are not in accord with approved final master plan, the applicant shall then submit sketch plans for review and approval by the Planning Commission. The sketch plans shall either be in accord with the approved final master plan, or a master plan amendment shall be applied for, in which case the amendment procedure set out in the zoning ordinance shall be followed. (Ord. 8-5-09; Ord. 11-16-11)

### **Sec. 22-14-3. Character of development.**

The goal of the PUD district is to allow for and encourage development that incorporates new urbanism principles which includes:

- (1) Pedestrian orientation;
- (2) Neighborhood friendly streets and paths;
- (3) Interconnected streets and transportation networks;
- (4) Parks, recreation improvements, and open space as amenities;

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<sup>9</sup> Editor's Note – conformed to numbering convention of this code by the Editor. Appears as "Article 22-23" in the original.

- (5) Neighborhood centers and civic space;



**Planned Unit Development**

- (6) Buildings and spaces of appropriate scale;  
 (7) Relegated parking;  
 (8) Mixture of uses and use types;  
 (9) Mixture of housing types and affordability;  
 (10) Clear boundaries with any surrounding rural areas;  
 (11) Environmentally sensitive design (i.e., sustainability and energy efficiency);  
 (12) Adequate public facilities and infrastructure to serve the community.

An application is not necessarily required to possess every characteristic of the PUD district as delineated above in order to be approved. The size of the proposed district, its integration with surrounding districts, or other similar factors may prevent the application from possessing every characteristic.

(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-4. Uses permitted by-right.**

In the PUD district, all uses permitted by-right in the residential (R-1, R-2, R-3 and R-4), business (B-1 and B-C) and limited industrial (I-1) zoning districts may be permitted as

enumerated in the final PUD application package. Uses not specified within the PUD application package shall not be permitted. (See Planning Staff for matrix for use by applicant to designate proposed by-right land uses to be included in the PUD district. The applicant's completed table shall be established as a condition of approval of the PUD Application Package.) (Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-5. Uses permitted by special use permit.**

One or more of the uses permitted by special use permit in the residential and business zoning districts may be permitted in the PUD district, as enumerated in the final PUD application package, upon issuance of a special use permit by the board of supervisors. Uses not specified within the PUD application package shall not be permitted. (See Planning Staff for a matrix for use by applicant to designate proposed special use permit uses to be included in the PUD district. The applicant's completed table, including special conditions imposed during the zoning application process, shall become an element of the PUD application package.) (Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-6. Minimum area required for a planned unit development.**

(1) PUD districts shall be located on a single parcel of land or separate but contiguous parcels which are, or proposed to be, under common ownership, subject to approval of the rezoning application. The minimum area required for a PUD district shall be as follows:

- (i) Zion Crossroads Community Planning Area: 20 acres
- (ii) Zion Crossroads Urban Development Area (applicable to a PUD district application on designated UDA land located within the Zion Crossroads CPA): no minimum area required.
- (iii) Rivanna Community Planning Area: 10 acres
- (iv) Palmyra Community Planning Area: 5 acres
- (v) Fork Union Community Planning Area: 5 acres
- (vi) Columbia Community Planning Area: 5 acres
- (vii) Scottsville Community Planning Area: 5 acres

(2) Additional land area may be added to an established PUD district if it is adjacent to and forms a logical addition to the approved development. The procedure for an addition shall be the same as if an original PUD zoning amendment application was filed, and the requirements of this article shall apply, except the minimum acreage requirement. (Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-7. Open space, recreation, parks and civic areas.**

(1) In the Community Planning Areas, not less than thirty percent (30%) of the gross area of a PUD district shall be preserved as open space, provided that supplemental regulations for application to the Zion Crossroads UDA apply as indicated herein below. The required thirty percent (30%) open space may include private common and public open areas; perimeter open space; buffers between various uses, densities and adjacent properties; recreational space, neighborhood parks, civic areas; easements; water bodies and any undisturbed land not occupied by building lots, structures, streets, and parking lots. By way of this Section, yards of individual residences shall not be considered open space.

(2) Land designated for future facilities (i.e. schools, fire and rescue stations, places of worship, daycare centers, etc.) shall not be included toward the open space.

(3) Not less than fifteen percent (15%) of the total open space shall be provided for active and/or passive recreational activities.



**Open Space**

(4) Private common open areas shall be owned, maintained and operated by a property owner’s association. A property owner’s association document shall be prepared declaring and specifying the care and maintenance of the common areas. This document shall be reviewed and approved by the Fluvanna County Attorney prior to final approval.

(5) Upon request of the Applicant, the Planning Commission, at its sole discretion, (a) may decrease or eliminate certain requirements for open space and recreation land and improvements in a PUD District project, provided that the revised regulations shall be established and conditioned by the PUD Application Package.

(6) For PUD projects in the Zion Crossroads UDA that are less than fifteen (15) acres in gross area, the Applicant may contribute to a pro-rata share fund lieu of provision for

all or a portion of the required open space. The county shall reserve and employ these funds for the purpose of community open space, park, recreation, or civic space development within the Zion Crossroads Community Planning Area.

(7) For PUD projects in the Zion Crossroads UDA with a gross area of fifteen (15) acres or greater, the quantity, location, mix, type, quality and phasing of open space, civic space, parks, recreation areas, buffer areas, and protected natural areas shall be consistent with the policies of the Comprehensive Plan or other criteria for traditional neighborhood development as may be established by the County. These areas shall be delineated on the PUD Application Plan and may include greens, squares, plazas, community centers, club houses, swimming facilities, outdoor recreational fields, trails, pocket parks, or community gardens.

(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-8. Density.**

(1) The maximum residential base density permitted for individual land uses to be located in the PUD districts shall be as follows in Table 1 below.

(2) The allowable density for individual uses within the PUD District shall be calculated based on the Net Acreage of the land subject to the PUD zoning amendment application. The calculation of minimum and maximum yield for individual uses shall be based on the application of the minimum and maximum density for each use (see Table 1) to an adjusted Net Acreage. The Net Acreage reduces the gross area of the PUD land by the total of the non-qualifying land components within property. The Net Acreage = Gross Acreage - Non-Qualifying Area (acreage of the sum of the Non-Qualifying land components.) The components that comprise the Non-Qualifying areas include:

- area of existing dedicated public rights of way and easements
- areas depicted on an adopted Official Transportation Map for future public improvements,
- area of existing land uses and structures, including platted lots, that are intended to remain as a part of the PUD project,
- areas deemed unbuildable due to geological, soils, or other environmental deficiencies,
- areas of wetlands and floodplains (as defined by FEMA 100-year floodplain or engineering study),

- area of existing ponds, stormwater management facilities, and water features that are not defined as wetlands or floodplains, and
- area of terrain with slopes in excess of thirty percent (30%).

<b>PUD District Density Regulations</b>								
<b>Community Planning Area</b>	<b>Minimum &amp; Maximum Density</b>							
	Dwelling Units per acre for Residential – Floor Area Ratio for Commercial							
	<b>Single Family</b>		<b>Townhouses</b>		<b>Multifamily</b>		<b>Commercial</b>	
	min.	max.	min.	max.	min.	max.	min.	max.
Zion Crossroads Community Planning Area		6		9		16		
Zion Crossroads Urban Development Area	4	6	6	9	12	16	0.4	
Rivanna Community Planning Area		4		6		12		
Palmyra Community Planning Area		4		6		12		
Fork Union Community Planning Area		4		6		12		
Columbia Community Planning Area		4		6		12		
Scottsville Community Planning Area		4		6		12		

**Table 1: PUD Density Regulations**

(3) An increase in the maximum residential density for a PUD district may be permitted in the following instances:

Open Space:

If 50% or more of the gross area of a PUD is preserved as open space, then a 20% increase in density may be permitted. If 75% or more of the gross area of a PUD is preserved as open space, then a 30% increase in density may be permitted.

Affordable Housing (as defined in the Comprehensive Plan):

If between 10% and 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 20% increase in density may be permitted. If more than 15% of the total number of dwelling units within a PUD are reserved for affordable housing, then a 30% increase in density may be permitted.

Open Space and Affordable Housing:

Density bonuses may also be permitted with a combination of both open space and affordable housing. The increase in density that may be permitted shall be based on the following combinations of open space and affordable housing:

<b>Open Space Provided</b>	<b>Affordable Housing Provided</b>	<b>Density Bonus Permitted</b>
50%	10-15%	35%
50%	>15%	45%
75%	10-15%	40%
75%	>15%	50%

Transfer/Purchase of Development Rights:

(Reserved for future Transfer of Development Rights/Purchase of Development Rights density bonuses)  
 (Ord. 8-5-09; Ord. 11-16-11; Ord. 12-16-15)

**Sec. 22-14-9. Setbacks.**

(1) Minimum setbacks and yard regulations for each planned land use within the PUD district shall be specifically enumerated in a table to be included in the PUD Application Package.

(2) Lots at the perimeter of the PUD district shall conform to the setback requirements of the adjoining district, or to the setback requirements of the planned district, whichever is greater.

(3) Refer to the Comprehensive Plan for illustrative examples of residential lot types for traditional neighborhood development projects.  
(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-10. Streets.**

(1) Streets within the PUD district may be either public or private, but shall conform to VDOT road design standards. Private subdivision streets shall be permitted in accordance with the provisions of Sec. 19-18-1(C) of this Code.

(2) Alleys may be allowed within the PUD district provided they conform to either VDOT design standards or as otherwise prescribed in the master plan.

(3) Sidewalks shall generally be provided on both sides of any streets, public or private, within the PUD district. Sidewalks shall conform to VDOT standards.

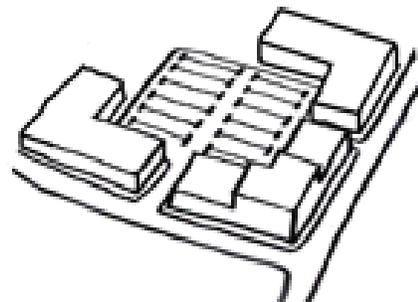
(4) Traffic access and circulation within the PUD district shall be designed to provide safe accommodation of all users of the transportation network including pedestrians and bicyclists. Sidewalks, bicycle lanes and multi-use trails shall be provided where appropriate. Mixed-use areas of the development shall be designed to give priority to pedestrian and bicycling traffic.

(5) Internal streets within the PUD district shall be permitted to intersect with existing public streets to the extent necessary. Such intersections shall provide reasonable access and service to uses contained within the development and shall be developed using VDOT principles of access management.

(6) Refer to the Comprehensive Plan for illustrative examples of residential streets for traditional neighborhood development projects.  
(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-11. Parking.**

(1) Off-street parking facilities in mixed-use, business, industrial, and multi-family residential areas shall generally be relegated behind the front building line.



**Relegated Parking**

(2) On-street parking shall be permitted, where appropriate.

(3) In addition to the regulations included herein, all off-street parking shall be provided in accordance with the off-street parking and loading requirements of Article 26<sup>10</sup> of the zoning ordinance.

(4) The provisions of Article 26<sup>11</sup> for the application of individual parking standards for projects located within the Zion Crossroads UDA may be modified at the discretion of the Planning Commission, provided that the Applicant submits a parking impact study that fully justifies the modification to the standards based on the mix of uses, the phasing of development, and other factors, including relationship of parking location to individual land uses within the project.

(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-12. Height of buildings.**

The height regulations for the PUD district shall be as follows:

<b>PUD Maximum Heights</b>						
<b>Building Types</b>	<b>Community Planning Areas</b>					
	<b>Zion Crossroads</b>	<b>Rivanna</b>	<b>Palmyra</b>	<b>Fork Union</b>	<b>Columbia</b>	<b>Scottsville</b>
Single-Family	45 Feet	45 Feet	45 Feet	45 Feet	45 Feet	45 Feet
Multi-Family	55 Feet	45 Feet	45 Feet	45 Feet	45 Feet	35 Feet
Business, Industrial & Non-Residential	75 Feet	55 Feet	45 Feet	45 Feet	55 Feet	35 Feet

(1) For purposes of this section, height shall be the vertical distance of a structure measured from the highest finished grade to the highest point of the structure.

<sup>10</sup> Editor’s note – conformed to numbering convention of this Code by the Editor. Appears as “Article 22-26” in the original.

<sup>11</sup> Editor’s note – conformed to numbering convention of this Code by the Editor. Appears as “Article 22-26” in the original.

(2) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials: sixty feet (60') from grade, unless otherwise enumerated in the master plan.

(3) Roof-mounted mechanical equipment (i.e. air conditioners, condensers, ductwork, etc.) shall not be visible at any point from ground-level. Parapet walls shall not extend more than four feet (4') above the maximum height permitted for buildings within the PUD district.

(4) Buildings with a mixture of business and residential uses are subject to the height regulations of business, industrial and non-residential buildings.  
(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-13. Utilities.**

(1) All uses and structures within a PUD district shall be served by both central water and sewerage systems, whether publicly or privately provided.

(2) No overhead utility lines shall be permitted within a PUD district. All utility lines, including but not limited to, electric, telephone, cable television lines, etc. shall be placed underground.

(3) Telecommunications facilities are encouraged on the roofs of buildings within a PUD district to provide coverage to the district and surrounding area.  
(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-14. Building design and architecture.**

(1) Within the multi-family residential, business, industrial, and mixed-use areas of a PUD district, building design styles shall be compatible with each other and shall exhibit consistency in terms of their exterior materials, architectural style, size, shape, scale, and massing.

(2) With the exception of detached single family dwellings, building facades shall maintain a consistent street edge. The street elevation of principal structures shall have at least one street-oriented entrance and contain the principal windows of the structure, with the exception of structures in a courtyard style.

(3) Site plans shall include drawings, renderings, or perspectives of a professional quality which illustrate the scale, massing, roof shape, window size, shape and spacing, and exterior materials of the structure.

(Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-15. Amendment.**

(1) The Planning Director may approve a minor change to an approved PUD Application Package and Application Plan at the written request of the owner of the development. For purposes of this section, a “minor change” refers to changes of location and design of buildings, structures, streets, parking, recreational facilities, open space, landscaping, utilities, or similar details which do not significantly change the character of the approved PUD application package and PUD master plan.

(2) If the Planning Director determines that the requested change constitutes a significant change, or something more than a minor change to the approved zoning application package, then the owner may seek an amendment to the PUD Application Package and Application Plan from the board of supervisors. The application procedure for such an amendment shall be the same as the application procedure for the original approval. (Ord. 8-5-09; Ord. 11-16-11)

**Sec. 22-14-16. Construction of article.<sup>12</sup>**

The provisions of this Article shall be construed in such manner as to be consistent with other provisions of this Code to the extent that such construction may be reasonably applied. To the extent that any provision of this Article shall be inconsistent with any other provision of this Code, the provisions of this Article shall be deemed to be controlling. (Ord. 8-5-09; Ord. 11-16-11)

***Article 15. Sign Regulations.***

**Sec. 22-15-1. Statement of intent.**

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the county, to protect public investment in

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<sup>12</sup> Note: The term “shall generally”, as used in the context of this section of the ordinance, indicates that the stated requirement is expected unless there are compelling, specific, and extenuating circumstances for why it cannot be met. (Editor’s note – “this section of the ordinance” refers to Article 14 as a whole.)

streets and highways, to promote the safety and recreational value of public travel, to minimize possible adverse effects of signs on nearby public and private property, to preserve natural beauty, to protect the environment from litter and refuse, including abandoned signs, to identify, direct and provide necessary information efficiently to motorists and pedestrians, to decrease distraction of motorists and pedestrians by limiting confusing, distracting and obsolete signs, and to reduce obstruction of the roadway. No sign shall be permitted erected or used in the county, except as permitted in this article. (Ord. 6-16-10; Ord. 12-16-15)

**Sec. 22-15-2. General provisions.**

(1) Restricted Signs – The following types of signs are prohibited in all zoning districts:

- (a) Flashing signs;
- (b) Inflatable signs;
- (c) Moving signs;
- (d) (Intentionally omitted);
- (e) Pennant signs;
- (f) Portable signs;
- (g) Roof signs;
- (h) Any sign that obstructs any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, as required by law;
- (i) Any sign which imitates or resembles any official traffic sign, signal or device, or uses the words “Stop” or “Danger” in close proximity to any public right-of-way, or interferes with any other public traffic sign;
- (j) Signs which produce noise or any visible smoke, vapor, particles, or odor;

(k) Signs which advertise any activities which are illegal under state or federal law or regulations in effect at the location of such sign or at the location of such activities; and

(l) Signs that violate state or federal laws, whether or not identified in this ordinance as being permitted.

(2) Exempt Signs – Exempt signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. Exempt signs shall be legible, and shall be reasonably maintained in good repair, and in safe, neat, and clean condition. Any temporary exempt sign, defined in Section 22-22-1 of this Code, shall be posted a reasonable time before, but in no event greater than sixty (60) days prior to and shall be removed a reasonable time after, but in no event greater than ten (10) days after the event, election, production, group, occurrence, speaker, program or seasonal activity to which the temporary sign refers. The following types of signs, as defined in and subject to the regulations in Sec. 22-22-1, are exempt from the sign permit requirements in all zoning districts:

- (a) Auction signs;
- (b) Banner signs;
- (c) Construction signs;
- (d) Directional signs;
- (e) Estate signs;
- (f) Public signs;
- (g) Real estate signs;
- (h) Temporary signs;
- (i) Temporary directional signs;
- (j) Warning signs; and

(k) Window signs.

(3) Illuminated Signs

(a) Signs may be illuminated, either internally or externally, as permitted by this ordinance, provided that the illumination is fully shielded and directed at the sign and not in a manner as to cause a traffic hazard.

(b) Where a permit is required, the permit shall not be issued until the location and illumination of the sign has been approved by the zoning administrator, or designee.

(c) No light from any illuminated sign shall cause direct glare onto any adjoining piece of property, right-of-way, or building other than the building to which the sign applies to.

(d) The copy of electronic message signs may not flash, scroll, move, or change at timed intervals of less than twenty (20) seconds.

(e) All electronic message signs must be equipped with an automatic dimmer that controls the intensity of the light source. The intensity of light allowed for all illuminated signs shall be eight-five percent (85%) by day and fifty percent (50%) at night.

(f) All electronic message signs must be turned off at the close of business, unless displaying time or temperature.

(4) Setbacks

(a) Signs shall be exempt from setback requirements in all zones, provided that no sign shall be located as to interfere with vehicular sight distances at intersections or to create a safety hazard.

(b) Signs shall not be located within any public right-of-way, unless approved by the Virginia Department of Transportation.

(5) Sign Area

(a) The sign area shall be measured as the area of the sign face which includes the advertising surface and any framing, trim, or molding. Two-sided sign faces shall be counted as a single sign face.

(b) Area not included: the sign area shall not include any of the support structure or architectural features that are not an integral part of the sign which may consist of landscaping, building structural form complementing the site in general.

(6) Sign Height

(a) The sign height shall be measured as the vertical distance from the normal grade directly below the sign to the highest point of the sign or sign structure, whichever is higher and shall include the base and any support structure.

(b) Signs shall not exceed six feet (6') in height, except as otherwise permitted by this article.

(Ord. 6-16-10; Ord. 12-16-15)

**Sec. 22-15-2.1. Repealed.**

(Ord. 6-16-10; Ord. 12-16-15)

**Sec. 22-15-3. Signs permitted.**

(1) Agricultural (A-1) – The following signs shall be permitted in the A-1, Agricultural, General zoning district:

Type of Sign	Number Allowed	Max. Sign Area	Max. Sign Height
Awning Sign	1 per establishment	6 sq. ft.	N/A
Business Sign	1 per parcel	24 sq. ft. (freestanding or monument)	6 feet
Home Occupation Sign	1 per parcel	12 sq. ft.	4 feet

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Projecting Sign	1 per establishment	9 sq. ft.	Roof line of the building
Subdivision Sign	1 per entrance	40 sq. ft.	6 feet
Temporary Subdivision Advertising Sign	1 per public road that property has frontage on	32 sq. ft.	8 feet
Wall Sign	1 per road frontage	3 sq. ft. per 1 lineal foot of building/tenant frontage*	Roof line of the building

\*No more than 50% of the total sign area may be displayed on the front of the building. The remaining 50% may be distributed on the sides and rear of the building, with a maximum of 25% distribution per side and a maximum of 50% distribution on the rear of the building.

(2) Residential (R-1, R-2, R-4, MHP) – The following signs shall be permitted in the R-1, Residential, Limited; R-2, Residential, General; R-4, Residential, Limited; and MHP, Manufactured Home Park zoning districts:

Type of Sign	Number Allowed	Max. Sign Area	Max. Sign Height
Business Sign	1 per parcel	20 sq. ft. (freestanding or monument)	6 feet
Home Occupation Sign	1 per parcel	9 sq. ft.	4 feet
Subdivision Sign	1 per entrance	40 sq. ft.	6 feet
Temporary Subdivision Advertising Sign	1 per public road that property has frontage on	32 sq. ft.	8 feet

(3) Residential (R-3), Business (B-1, B-C), Planned Unit Development (PUD), and Industrial (I-1, I-2) – The following signs shall be permitted in the R-3, Residential, Planned Community; B-1, Business, General; B-C, Business, Convenience; PUD, Planned Unit Development; I-1, Industrial, Limited; and I-2, Industrial, General zoning districts:

Type of Sign	Number Allowed	Max. Sign Area	Max. Sign Height
Awning Sign	1 per establishment	6 sq. ft.	N/A

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Business Sign (standalone businesses or not part of business/ industrial park)	1 per parcel	24 sq. ft. (freestanding)  28 sq. ft. (monument)	6 feet (freestanding)  8 feet (monument)
Business Sign (shopping centers or business/ industrial parks)	1 per shopping center or business park entrance	1.5 square feet of sign area for each lineal foot of building/tenant frontage – up to a maximum of 150 sq. ft. aggregate	10 feet (freestanding)  15 feet (monument)
Canopy Sign	1 per establishment	12 sq. ft.	N/A
Directory Sign	1 per establishment or development	16 sq. ft.	6 feet
Electronic Message Sign	1 per parcel	28 sq. ft.	8 feet
Projecting Sign	1 per establishment	12 sq. ft.	Roof line of the building
Subdivision Sign	1 per entrance	40 sq. ft.	8 feet
Temporary Subdivision Advertising Sign	1 per public road that property has frontage on	32 sq. ft.	8 feet
Wall Sign	1 per road frontage	3 sq. ft. per 1 lineal foot of building/tenant frontage*	Roof line of the building

\*No more than 50% of the total sign area may be displayed on the front of the building. The remaining 50% may be distributed on the sides and rear of the building, with a maximum of 25% distribution per side and a maximum of 50% distribution on the rear of the building.

(Ord. 6-16-10)

**Sec. 22-15-4. Administration.**

(1) Permit Requirements – Except as otherwise provided herein, no sign shall be erected, altered, refaced or relocated unless a sign permit has been approved by the Zoning Administrator. Where there is a discrepancy between Fluvanna County and the Virginia Department of Transportation sign regulations, the more stringent shall apply. Where the Fluvanna County sign regulations do not recognize a particular type of sign, the Virginia Department of Transportation regulations shall apply.

(2) Maintenance and Removal

(a) All signs shall be constructed in compliance with the Uniform Statewide Building Code, as adopted by the Virginia State Code.

(b) All signs and components thereof shall be legible and shall be maintained in good repair and in a safe, neat, and clean condition.

(c) The Zoning Administrator may cause to have removed or repaired immediately any sign which, in the Zoning Administrator's opinion, has become insecure, in danger of falling, or otherwise unsafe, and, as such, presents an immediate threat to the safety of the public. If such action is necessary to render a sign safe, the cost of such emergency removal or repair shall be at the expense of the owner or lessee thereof.

(d) Any sign that is obsolete, because of discontinuance of the subject activity or any other reason that would cause the sign to be obsolete, shall be removed within ten (10) days.

(e) Any sign located on property, which becomes vacant and is unoccupied for a period of two (2) years or more shall be deemed abandoned. An abandoned sign shall be removed by the owner or lessee of the property. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner fifteen (15) days written notice to remove it. Upon failure to comply with this notice, the Zoning Administrator may initiate such action as may be necessary to gain compliance with this provision.

(Ord. 6-16-10; Ord. 12-16-15)

**Sec. 22-15-4.1. “Going out of business” and “Special” sales.**<sup>13</sup>

(A) All persons must obtain a permit from the county in order to advertise or conduct a sale for the purpose of discontinuing a retail business, or to modify the word “sale” in any advertisement with the words “going out of business” or any other words which tend to insinuate that the retail business is going to be discontinued and the merchandise liquidated.

(B) The applicant shall submit an application for a permit to the county administrator, or his designee, which shall include the following:

- (1) A statement of the purpose of the sale (i.e. liquidation of assets, terminating retail business);
- (2) An inventory including the kind and quantity of all goods to be offered for sale during the sale;
- (3) A copy of any proposed advertisements which may be posted or published in connection with the special sale; and
- (4) A fee of \$50<sup>14</sup> for the processing of the permit, which shall not be refunded.

(C) Upon receipt of the complete application and fee, the county administrator or his designee, shall issue a special sale permit which shall be valid for a maximum of sixty (60) days. An extension of the sale or additional sale shall require an additional permit application and fee as described above. A maximum of one (1) permit beyond the initial sixty (60) day permit may be granted solely for the purpose of liquidating only those goods contained in the initial inventory list which remain unsold.

(D) The permittee shall prominently display the permit number and effective dates of the special sale on any and all advertisements for such sale. The permittee may not advertise along with its special sale any goods not listed in the inventory provided to the county in its application.

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<sup>13</sup> For state law requiring the county to oversee and permit such sales, see Code of Va., §§ 18.2-223 and 18.2-224.

<sup>14</sup> *Editor’s Note* – The Board of Supervisors resolution of 12-16-15 approved a fee of \$50, previously Sect. 22-15-4.1(B)(4) had required a fee of \$65.

(E) The permittee may not commingle or add to the special sale any goods not listed in the inventory list provided to the county. Upon proof that the permittee has commingled or added goods not listed in the inventory list to the special sale, the county may revoke the special sale permit.

(F) The county administrator's designee shall inspect the advertisement and conducting of the special sale to insure it is being advertised and conducted in conformity with the permit.

(G) Advertising or conducting a special sale without a permit, as required by this Section, shall be punishable as a Class 1 misdemeanor.  
(Ord. 12-16-15)

**Sec. 22-15-5. Non-conforming signs.**

(1) No nonconforming sign shall be enlarged nor be worded so as to advertise or identify any use other than that in effect at the time it became a nonconforming sign.

(2) Signs lawfully existing on the effective date of this ordinance or prior ordinances, which do not conform to the provisions of this ordinance, and signs which are accessory to a nonconforming use shall be deemed to be nonconforming signs and may remain except as qualified below. Such signs shall not be enlarged, extended or structurally reconstructed or altered in any manner, except a sign face may be changed so long as the new face is equal to or reduced in height and/or sign area. The burden of establishing the nonconforming status of signs and of the physical characteristics/location of such signs shall be that of the owner of the property. Upon notice from the Zoning Administrator, a property owner shall submit verification that sign(s) lawfully existed at time of erection. Failure to provide such verification shall be cause for order to remove sign(s) or bring sign(s) into conformance with the current ordinance.

(3) Nothing in this Section shall be deemed to prevent keeping in good repair a nonconforming sign; provided, however, that no nonconforming sign which has been declared by the Zoning Administrator to be unsafe because of its physical condition, as provided for in this ordinance, shall be repaired, rebuilt or restored unless such repair or restoration will result in a sign which conforms to all applicable regulations.

(4) No nonconforming sign shall be moved for any distance on the same lot or to any other lot unless such change in location will make the sign conform to the provisions of this Article.

(5) If a nonconforming sign is removed, the subsequent erection of a sign shall be in accordance with the provisions of this Article.

(6) A nonconforming sign that is destroyed or damaged by any casualty to an extent not exceeding fifty percent (50%) of its replacement value may be restored within two (2) years after such destruction or damage but shall not be enlarged in any manner. If such sign is so destroyed or damaged to an extent exceeding fifty percent (50%), it shall not be reconstructed except for a sign, which would be in accordance with the provisions of this Article.

(7) A nonconforming sign that is changed to, or replaced by, a conforming sign shall no longer be deemed nonconforming, and thereafter such sign shall be in accordance with the provisions of this Article.

(8) A nonconforming sign shall be removed if the structure to which it is accessory is demolished or destroyed to an extent exceeding fifty percent (50%) of its appraised value.

(9) The ownership of the sign or the property on which the sign is located shall not, in and of itself, affect the status of a non-conforming sign.

(10) A nonconforming sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two (2) years. After the two (2) year period, the Zoning Administrator shall make a reasonable attempt to contact the property owner. If the property owner refuses to remove the abandoned sign, the county's agents or employees may enter the property upon which the sign is located and remove such sign and charge the cost of removal to the owner of the property. Nothing herein shall prevent the county from applying to the appropriate courts for an order requiring removal of the abandoned nonconforming sign by injunction or other appropriate remedy.<sup>15</sup>

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<sup>15</sup> For state authority as to the removal of abandoned nonconforming signs, see Code of Va., § 15.2-2307.

(Ord. 6-16-10; Ord. 12-16-15)

**Article 16. Nonconforming Uses.**

**Sec. 22-16-1. Continuation.**

(A) If, at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner or use or purpose may be continued as herein provided. In addition, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance if the landowner is the beneficiary of, relies on, or incurs extensive obligations or substantial expenses due to a significant governmental act pursuant to all provisions of section 15.2-2307 of the Code of Virginia.

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

(C) If any nonconforming use, structure or activity is discontinued for a period exceeding two (2) years, after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of the ordinance.

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

(E) Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded, except as provided in subsection (C) above.

(F) Automobile graveyards and junkyards in existence at the time of the adoption of this ordinance are to be considered as nonconforming uses. They shall be allowed up to three (3) years after adoption of this ordinance in which to screen completely, on any side open to view from a public road.

**Sec. 22-16-2. Permits.**

(A) All nonconforming uses shall be identified and catalogued, and zoning permits and certificates of occupancy shall be issued by the zoning administrator within one year after the adoption of this ordinance.

(B) The construction or use of a nonconforming building for which a building permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, after the effective date of this ordinance.

**Sec. 22-16-3. Repairs and maintenance.**

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

**Sec. 22-16-4. Changes in district boundaries.**

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change, shall become subject to the provisions of this article.

**Sec. 22-16-5. Expansion or enlargement.**

(A) A nonconforming structure may be extended, expanded, or enlarged by a total of not more than one hundred percent (100%) of its square footage as of its initial construction provided that all setback and yard requirements of the ordinance are met by the addition. The foregoing notwithstanding, in the case of any such extension, expansion or enlargement to a structure which does not conform to the requirements of this ordinance, the setbacks and/or rear and/or side yards provided for such addition shall in no event be less than the setback and/or rear and/or side yard requirements in effect on January 1, 1974, or on the date of completion of the initial construction of the nonconforming structure, whichever date is later.

(B) In addition to the foregoing, a nonconforming structure which was lawfully in existence prior to January 1, 1974, and which does not conform to the setback and/or yard requirements of this ordinance, or of any predecessor zoning ordinance, may be extended, expanded or enlarged to a reasonable extent, not to exceed one hundred percent (100%) of its square footage as of its initial construction without regard to such requirements provided that the zoning administrator shall determine that:

- (1) such extension, expansion or enlargement would not cause the structure to be made more nonconforming;

(2) such extension, expansion or enlargement would be reasonable and would not be of substantial detriment to adjacent property, and the character of the zoning district would not be changed thereby;

(3) such extension, expansion or enlargement cannot reasonably be accommodated in a manner consistent with such requirements; and

(4) the failure to permit such extension, expansion or enlargement would be unreasonable under the circumstances.

(C) Structures which are accessory to a nonconforming primary structure shall comply with the regulations in effect at the time the primary structure was built.

(D) A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.  
(Ord. 3-15-06; Ord. 6-16-10)

**Sec. 22-16-6. Nonconforming unimproved lots.**

Any unimproved lot of record at the time of the adoption of this ordinance which is less in frontage, area or width than the minimum required by this ordinance may be used only when the requirements of the relevant district regarding setbacks and side and rear yards are met. The foregoing notwithstanding, in the case of any unimproved lot of record at the time of the adoption of this ordinance such lot may be used provided that the setbacks and/or rear and/or side yards provided for construction or other development shall in no event be less than the setback and/or rear and/or side yard requirements in effect on January 1, 1974, or on the date of recordation of the nonconforming lot, whichever date is later. In addition to the foregoing, a nonconforming unimproved lot which was lawfully of record prior to January 1, 1974, and which does not conform to the setback and/or yard requirements of this ordinance, or of any predecessor zoning ordinance, may be used to a reasonable extent, without regard to such requirements provided that:

(1) the failure to permit construction or other development for such use would be unreasonable under the circumstances;

(2) such construction or other development for such use would be reasonable and would not be of substantial detriment to adjacent property and the character of the zoning district would not be changed thereby; and

(3) construction or other development for such use cannot reasonably be accommodated in a manner consistent with such requirements.  
(Ord. 6-16-10)

**Sec. 22-16-7. Prohibition against creation of lots below width and area requirements for district.**

No lot or parcel or portion thereof shall be used or sold in a manner diminishing compliance with lot width and area requirements established in each district by this ordinance, nor shall any division be made which creates a lot with width or area below the requirements in each district established by this ordinance.

**Sec. 22-16-8. Repair and restoration after damage.**

(A) Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started within twelve (12) months from the date of damage or partial destruction. Such restoration shall not exceed two hundred percent (200%) of its size in square footage when destroyed. Any such expansion exceeding one hundred percent (100%) of the original structure shall conform with the yard requirements of this ordinance. Any such repair or restoration must be carried out in compliance with the Uniform Statewide Building Code and Fluvanna County flood regulations, as required by section 15.2-2307 of the Code of Virginia.

(B) If a nonconforming structure is in an area under a federal disaster declaration and the structure has been damaged or destroyed as a direct result of the conditions that gave rise to the federal disaster declaration, then it may be repaired or restored for an additional two (2) years after the time permitted in subsection (A) above.

(C) Any manufactured home which was lawfully in existence in the county on the effective date of this ordinance may be replaced by another manufactured home, subject to the following:

- (1) The replacement manufactured home shall contain the same or greater floor area as the manufactured home being replaced;
- (2) The replacement manufactured home shall comply with all building and construction codes in the Commonwealth of Virginia applicable to manufactured homes;

(3) The replacement manufactured home shall be located on the same parcel so as to comply with all yard and setback requirements of the ordinance unless the dimensions of the parcel are such that such compliance is infeasible, in which case the replacement manufactured home shall be located substantially in the same location as the manufactured home being replaced;

(4) The manufactured home being replaced shall be removed from the parcel no later than ninety (90) days after the replacement manufactured home is placed on the parcel.

(5) There shall be no dual occupancy when such manufactured homes are being replaced.

(6) The replacement manufactured home shall be located on the parcel not more than ninety (90) days after removal of the manufactured home to be replaced.

(Ord. 12-16-15)

### ***Article 17. General Provisions.***

#### **Sec. 22-17-1. Zoning permits.**

(A) Buildings or structures shall be started, reconstructed, or enlarged only after a zoning permit has been obtained from the administrator or his designated agent.

(B) Each application for a zoning permit shall be accompanied by a site plan which complies with the provisions of Article 23: Site Development Plans of this Chapter. In the case of any building, structure or use which is exempt from the provisions of Article 23, a sketch plan shall be submitted. Each such sketch plan shall show the property in such detail as the administrator may deem necessary to ensure compliance with this chapter. Except as may otherwise be required in a particular case, such sketch shall show the size and shape of the parcel of land on which the proposed building, structure or use is to be established, the nature of the proposed use of the building or land, and the size, shape and location of such building, structure or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land, including all setbacks and required yards as prescribed by this chapter and by all applicable deed restrictions known to the applicant. The sketch plan shall also include any other information which the administrator may deem necessary for construction of the application. If the proposed building, structure or use is in conformity with the provisions of this chapter, a permit shall be issued to the applicant by the administrator.

(C) Activity for which a zoning permit was issued must commence within twenty-four (24) months or such permit shall expire and be of no further effect.  
(Ord. 12-16-15)

**Sec. 22-17-2. Reserved.**<sup>16</sup>

**Sec. 22-17-3. Certificate of occupancy.**

Land or buildings may be used or occupied only after a certificate of occupancy has been issued by the administrator or his designated agent. Such a permit shall state that the building, or the proposed activity, or the use of the land, complies with the provisions of this Chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this Chapter.

**Sec. 22-17-4. Special use permits.**

(A) When permitted by this chapter, special use permits may be authorized by the governing body upon the governing body's finding that the proposed use will not be detrimental to the character and development of the adjacent area.

(B) The governing body may place conditions on the issuance of a special use permit.

(C) All applications for a special use permit shall require notice and public hearing pursuant to section 15.2-2204 of the Code of Virginia. In addition to the notice required by section 15.2-2204, the applicant shall cause a sign to be erected on the property which is the subject of any proposed amendment. Such sign shall be of a type approved by the zoning administrator and shall be posted on the subject property at the nearest public road or at its point of access to the nearest public road. A rezoning application and, when required, a special use permit, may be applied for simultaneously and the required public hearing and the required notice and the rezoning request and special use permit request may be held jointly.  
(Ord. 2-18-15)

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<sup>16</sup> Sec. 22-17-2 is inserted by the Editor as a reserved section to correct the omission of this section number in the Code.

(D) In the governing body's consideration of a special use permit application, the governing body shall consider the following guidelines:

- (1) The proposed use shall not tend to change the character and established pattern of the area or community in which it proposes to locate.
- (2) The proposed use shall be compatible with the uses permitted by right in that zoning district and shall not adversely affect the use and/or value of neighboring property.
- (3) The applicant shall also submit with the application a current survey of the subject property and a sketch plan of all proposed improvements.

(E) Applications for a special use permit shall be accompanied by a filing fee as determined by a fee schedule adopted by the governing body.

(F) Any special use permit issued pursuant to this article may, after notice and hearing as provided in subsection (C) hereof, be revoked by the governing body upon a finding that (1) the use for which such permit was granted has been abandoned; or (2) that the holder of such permit has substantially breached the conditions of such permit. For purposes of this section, a special use permit may be deemed abandoned by the governing body if the approved use has not been initiated within two (2) years from the date of approval.

(G) In the event that any parcel which is subject to a special use permit issued pursuant to this article shall be rezoned to any other district, the effect of such rezoning on such permit shall be as follows:

- (1) If such use shall be a use by right in such other district, such permit shall be deemed to be repealed and the use shall be deemed a use by right;
- (2) If such use shall be a use by special use permit only, such permit shall remain in full force and effect, subject to the provisions of this Chapter;
- (3) If such use shall not be a permitted use, such permit shall be deemed to have been repealed, and the use permitted thereby shall be deemed to be a non-conforming use in accordance with Article 16 of this Chapter.

**Sec. 22-17-5. Uses not provided for.**

If in any district established under this chapter, a use is not specifically permitted and an application is made by a property owner to the administrator for such use, the administrator shall refer the application to the planning commission. Thereafter, the said application shall be treated as a resolution of the planning commission in accordance with Section 22-20-1(C) of this Chapter.

**Sec. 22-17-6. Widening of highways and streets.**

Whenever there shall be plans in existence for a project in the Secondary or Primary Six Year Plan that has been approved by the Virginia Department of Transportation and the governing body for the widening of any street or highway, the administrator may require additional front yard setbacks for any new construction or for any structures altered or remodeled adjacent to the future planned right of way, in order to preserve and protect the right of way for such proposed street or highway widening. (Ord. 12-16-15)

**Sec. 22-17-7. Reserved.**

**Sec. 22-17-8A. FLOOD PROTECTION.<sup>17</sup>**

This section is adopted pursuant to the authority granted to localities by section 15.2-2280 of the Code of Virginia. (Ord. 6-17-15)

**Sec. 22-17-8A.1. Purpose.**

The purpose of these provisions is to prevent: the loss of life and property, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by

(A) regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;

(B) restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

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<sup>17</sup> Section 22-17-8. and all subsections (22-17-8.1. through 22-22-17-8.9., inclusive) were repealed and Section 22-17-8A., including subsections thereof, was adopted by 12-19-07 Ordinance.

(C) requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; and,

(D) protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

(Ord. 12-19-07; Ord. 6-17-15)

**Sec. 22-17-8A.2. Applicability.**

These provisions shall apply to all privately and publicly held lands within the jurisdiction of Fluvanna County and identified as areas of special flood hazard according to the flood insurance rate map (FIRM) that is provided to Fluvanna by the Federal Emergency Management Agency (FEMA). (Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

**Sec. 22-17-8A.3. Definitions.**

For purposes of this Section 22-17-8A., the following terms shall be defined as follows:

(A) Base flood - The flood having a one percent chance of being equaled or exceeded in any given year.

(B) Base flood elevation - The FEMA designated one hundred (100) year water surface elevation. The water surface elevation of the Base flood in relation to the datum specified on the Fluvanna County FIRM. For purposes of this ordinance, the base flood is the one percent (1%) annual chance of flood. (Ord. 6-17-15)

(C) Basement - Any area of the building having its floor sub-grade (below ground level) on all sides.

(D) Board of Zoning Appeals - The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

(E) REPEALED (Ord. 5-7-08)

(F) Development - Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(G) Elevated building - A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers).

(H) Existing construction- For the purposes of the insurance program, structures for which the “start of construction” commenced before August 15, 1978. “Existing construction” may also be referred to as “existing structures” or “pre-FIRM.” (Ord. 6-17-15)

(I) Flood or flooding -

(1) A general or temporary condition of partial or complete inundation of normally dry land areas from

(a) the overflow of inland or tidal waters; or,

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

(c) mudflows which are proximately caused by flooding as defined in paragraph(1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (Ord. 6-17-15)

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition. (Ord. 6-17-15)

(J) Flood Insurance Rate Map (FIRM) – An official map of a community, on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). (Ord. 6-17-15)

(K) Flood Insurance Study (FIS) – A report by FEMA that examines, evaluates and

determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards. (Ord. 6-17-15)

(L) Floodplain or flood-prone area - Any land area susceptible to being inundated by water from any source.

(M) Flood-proofing- Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. (Ord. 6-17-15)

(N) Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. (Ord. 6-17-15)

(O) Freeboard - A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

(P) Highest adjacent grade – the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (Ord. 6-17-15)

(Q) Historic structure - Any structure that is

(1) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

(4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either

(a) by an approved state program as determined by the Secretary of the Interior; or,

(b) directly by the Secretary of the Interior in states without approved programs.

(R) REPEALED (Ord. 5-7-08)

(S) Hydrologic and Hydraulic Engineering Analysis – Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, or other frequency floods, flood elevations, floodway information and boundaries, and flood profiles. (Ord. 6-17-15)

(T) Letters of Map Change (LOMC) – A Letter of Map change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS). LOMC include:

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

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, flood-plain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with Fluvanna County's floodplain management regulations.

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

(Ord. 6-17-15)

(U) Lowest adjacent grade - The lowest natural elevation of the ground surface next to the walls of a structure. (Ord. 6-17-15)

(V) Lowest floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

(W) Manufactured home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

(X) Manufactured home park or subdivision - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Ord. 6-17-15)

(Y) Mean Sea Level - An elevation point that represents the average height of the ocean's surface (such as the halfway point between the mean high tide and the mean low tide) which is used as a standard in reckoning land elevation. (Ord. 6-17-15)

(Z) New construction - For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after August 15, 1978, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Such structure is also referred to as "post-FIRM." (Ord. 6-17-15)

(AA) Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after August 15, 1978. (Ord. 6-17-15)

(BB) Pre-FIRM structures - A structure for which construction or substantial improvement occurred before August 15, 1978. (Ord. 6-17-15)

(CC) Recreational vehicle - A vehicle which is

(1) built on a single chassis;

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

(DD) Repetitive Loss Structure – A building covered by a contract for flood insurance that has incurred flood-related damages on two occasions in a ten (10) year period, in which the cost of the repair, on the average, equaled or exceeded twenty-five percent (25%) of the market value of the structure at the time of each such flood event; and at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage. (Ord. 6-17-15)

(EE) Severe Repetitive Loss Structure - A structure that:

- (a) is covered under a contract for flood insurance made available under the NFIP; and
- (b) has incurred flood related damage –
  - a) for which four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or
  - b) for which at least two (2) separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure. (Ord. 6-17-15)

(FF) Special flood hazard area - The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Article 17, Section 22-17-8A. of this ordinance. (Ord. 6-17-15)

(GG) Start of construction - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The

actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(HH) Structure – For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. (Ord. 6-17-15)

(II) Substantial damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(JJ) Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be

the minimum necessary to preserve the historic character and design of the structure.  
(Ord. 6-17-15)

(KK) Violation - the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 22-17-8A. of this ordinance is presumed to be in violation until such time as that documentation is provided. (Ord. 6-17-15)

(LL) Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.  
(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

#### **Sec. 22-17-8A.4. Compliance and Liability.**

(A) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

(B) The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district, or that land uses permitted within such district will be free from flooding or flood damages.

(C) Records of actions associated with administering this ordinance shall be kept on file and maintained by the Zoning Administrator in his duties as Floodplain Administrator.  
(Ord. 6-17-15)

(D) This ordinance shall not create liability on the part of Fluvanna County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.  
(Ord. 12-19-07; Ord. 6-17-15)

#### **Sec. 22-17-8A.4.1. Penalty for Violations.**

Any person who fails to comply with any of the requirements or provisions of this article or directions of the Director of Planning or any authorized employee of Fluvanna County shall be guilty of the appropriate violation and subject to the penalties therefore.

The VA USBC addresses building code violations and the associated penalties in Sections 104, 115. Violations and associated penalties of the Fluvanna County Zoning Ordinance are addressed in Article 19, Section 22-19.

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

(Ord. 6-17-15)

**Sec. 22-17-8A.5. Abrogation and Greater Restrictions.**

This ordinance supersedes any ordinance currently in effect in flood-prone districts. However, any underlying ordinance shall remain in full force and effect to the extent that its provisions are more restrictive than this ordinance. (Ord. 12-19-07)

**Sec. 22-17-8A.6. Severability.**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable. (Ord. 12-19-07)

**Sec. 22-17-8A .7. Establishment of Zoning Districts.**

(Ord. 6-17-15)

**Sec. 22-17-8A .7.1. Description of Special Flood Hazard Districts.**

(A) Basis of Districts

The various special flood hazard districts shall include special flood hazard areas (SFHAs). The basis for the delineation of these districts shall be the Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) for Fluvanna County, Virginia and Incorporated Areas prepared by the Federal Emergency Management Agency, dated as of May 16, 2008, as amended or revised. (Ord. 5-7-08)

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

- (1) The Floodway District is in an AE Zone and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one foot (1') at any point. The areas included in this District are specifically defined in the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE Zone:

- (a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.
- (b) Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with Fluvanna County’s endorsement – for a Conditional Letter of Map Revision (CLOMR), and receives the approval of FEMA.

If Section 22-17-8A.7.1(A)(1)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 22-17-8A.12., 22-17-8A.13., 22-17-8A.14., and 22-17-8A.19..

(c) The following uses are prohibited in the Floodway District:

1. Dwellings, and
2. Manufactured homes, mobile homes or trailers.

(d) The following uses may be permitted within the Floodway District in accordance with the requirements of this section and as specifically provided in the underlying zoning district:

1. General farming, agriculture, dairying and forestry.
2. Parks and playground.
3. Preserves and conservation areas.
4. Small boat docks (with repair).
5. Off-street parking as required by this ordinance.
6. Accessory uses, as defined by this ordinance.

(e) The following uses shall be permitted only by special use permit approved by the governing body pursuant to Article 17 of this chapter:

1. Lodges, hunting clubs, boating clubs, camping facilities, and golf clubs.
2. Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; public water and sewer transmission lines, treatment facilities, and pumping facilities; electrical power transmission lines and substation; oil and gas transmission lines and substation; oil and gas transmission pipelines and pumping stations; microwave transmission and relay towers and substations; unmanned telephone exchange centers.
3. Extraction of sand, gravel and other material (except no increase in level of flooding or velocity is caused thereby).  
(Ord. 12-19-07; Ord. 5-7-08)

(2) The AE, or AH Zones on the FIRM accompanying the FIS shall be those areas for

which one-percent annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE or AH Zone [44 CFR 60.3(c)\*]:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30 and AE or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within Fluvanna County.

Development activities in Zones A1-30 and AE or AH, on Fluvanna County's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies, with Fluvanna County's endorsement, for a Conditional Letter of Map Revision, and receives the approval of FEMA.

\* The requirement in 63.3(c)(10) only applies along rivers, streams, and other watercourses where FEMA has provided base flood elevations. The requirement does not apply along lakes, bays and estuaries, and the ocean coast.

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

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one hundred (100)-year floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the base flood elevations and floodway information from federal, state, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U. S. Army Corps of Engineers Floodplain Information Reports, U. S. Geological Survey Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this base flood elevation. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted non-detailed technical concepts, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies,

analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such base flood elevation data is utilized, the lowest floor shall be elevated to no lower than three feet above the highest adjacent grade or one foot above the base flood level, whichever is higher. (Ord. 5-7-08)

During the permitting process, the Floodplain Administrator shall obtain:

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

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

- (4) The AO Zone on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply [44 CFR 60.3(c)]:
  - a) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
  - b) All new construction and substantial improvements of non-residential structures shall
    - i. have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least

two feet above the highest adjacent grade; or,

- ii. together with attendant utility and sanitary facilities be completely flood-proofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- c) Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.

(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

**Sec. 22-17-8A.8. Overlay concept.**

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

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

(C) In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable. (Ord. 12-19-07)

**Sec. 22-17-8A.9. Official Flood Hazard Area and Floodplain Map.**

The boundaries of the Special Flood Hazard Area and Floodplain Districts are established as shown on the Flood Boundary and Floodway Map and/or Flood Insurance Rate Map which is declared to be a part of this ordinance and which shall be kept on file at the Fluvanna County offices. (Ord. 12-19-07)

**Sec. 22-17-8A.10. District boundary changes.**

The delineation of any of the Floodplain Districts may be revised by Fluvanna County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the U. S. Army Corps of Engineers or other qualified agency, or an individual documents the need for such change. However, prior to

any such change, approval must be obtained from the Federal Emergency Management Agency. (Ord. 12-19-07; Ord. 6-17-15)

**Sec. 22-17-8A.11. Interpretation of district boundaries.**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires. (Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.12. Permit and application requirements.**

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a zoning permit. Such development shall be undertaken only in strict compliance with the provisions of this Code, including, without limitation, this Chapter and Chapter 19: Subdivisions, and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC). Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable state and federal laws and shall review all sites to assure they are reasonably safe from flooding. No use, activity, and/or development will be permitted which would adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

(A) Site Plans and Permit Applications

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

- (1) For structures to be elevated, the elevation of the lowest floor (including basement).
- (2) For structures to be flood-proofed (non-residential only), the elevation to which the structure will be flood-proofed.
- (3) The elevation of the one hundred (100)-year flood (base flood) at the site. (Ord. 12-19-07)

- (4) Topographic information showing existing and proposed ground elevations.

(Ord. 12-19-07; Ord. 6-17-15)

**Sec. 22-17-8A.13. General standards.**

The following provisions shall apply to all permits issued under Section 22-17-8A.12.:

(A) New construction and substantial improvements shall be according to the Virginia Uniform Statewide Building Code, and anchored to prevent flotation, collapse or lateral movement of the structure. (Ord. 5-7-08)

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(D) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

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

(I) Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the U.S. Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected jurisdictions, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

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

(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

**Sec. 22-17-8A.14. Elevation and construction standards.**

In all identified flood hazard areas where base flood elevations have been provided in the Flood Insurance Study (FIS) or generated in accordance with Section 22-17-8A.7.1(A)(3) the following provisions shall apply:

(A) Residential Construction

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed base flood elevations shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.

(B) Non-Residential Construction

New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation.

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

(C) Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- (1) not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator);
- (2) be constructed entirely of flood resistant materials below the regulatory flood protection elevation; and
- (3) include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria: (Ord. 5-7-08)
  - a) Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  - b) The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  - c) If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.
  - d) The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
  - e) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
  - f) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not

require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

(D) Standards for Manufactured Homes and Recreational Vehicles

(1) All manufactured homes placed, or substantially improved, must meet all the requirements for new construction, including the elevation and anchoring requirements in 22-17-8A.13. and 22-17-8A.14.

(2) All recreational vehicles placed on sites must either

a) be on the site for fewer than 180 consecutive days, be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions); or,

b) meet all the requirements for manufactured homes in 22-17-8A.14(D)(1).

(Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

**Sec. 22-17-8A.15.** REPEALED. (Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

**Sec. 22-17-8A.16.** REPEALED. (Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.17.** REPEALED. (Ord. 12-19-07; Ord. 5-7-08; Ord. 6-17-15)

**Sec. 22-17-8A.18.** REPEALED. (Ord. 12-19-07; Ord. 5-7-08)

**Sec. 22-17-8A.19. Standards for subdivision proposals.**

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and

(D) Base flood elevation data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty (50) lots or five (5) acres, whichever is the lesser.  
(Ord. 12-19-07; Ord. 6-17-15)

**Sec. 22-17-8A.20. Existing structures in floodplain areas.**

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

(A) Existing structures in the Floodway Area shall not be expanded or enlarged unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed expansion would not result in any increase in the base flood elevation.

(B) Any modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use located in any floodplain areas to an extent or amount of less than fifty percent (50%) of its market value shall conform to the VA USBC and the appropriate provisions of this ordinance.

(C) The modification, alteration, repair, reconstruction, or improvement of any kind to a structure and/or use, regardless of its location in a floodplain area to an extent or amount of fifty percent (50%) or more of its market value shall be undertaken only in full compliance with this ordinance and shall require the entire structure to conform to the VA USBC.  
(Ord. 6-17-15)

**Sec. 22-17-8A.20.1 Variances.**

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

While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half

acre, the technical justification required for issuing a variance increases. Variances may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section.

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

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

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

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

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

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

(E) The importance of the services provided by the proposed facility to the community.

(F) The requirements of the facility for a waterfront location.

(G) The availability of alternative locations not subject to flooding for the proposed use.

(H) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(I) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(J) The safety of access by ordinary and emergency vehicles to the property in time of flood.

(K) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(L) The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(M) Such other factors which are relevant to the purposes of this ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

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

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.  
(Ord. 6-17-15)

**Sec. 22-17-8A.21. Administration.** (Ord. 6-17-15)

**Sec. 22-17-8A.21.1. Designation of the Floodplain Administrator.** [44 CFR 59.22(b)]

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

(A) Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by Fluvanna County's Administrator.

(B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.

(C) Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve Fluvanna of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

(Ord. 6-17-15)

**Sec. 22-17-8A-21.2. Duties and responsibilities of the Floodplain Administrator.** [44 CFR 60.3]

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

(A) Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).

(B) Interpret floodplain boundaries and provide available base flood elevation and flood hazard information.

(C) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(D) Review applications to determine whether all necessary permits have been obtained from the Federal, State or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.

(E) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE) and have submitted copies of such notifications to FEMA.

(F) Advise applicants for new construction or substantial improvement of structures that are located within an area of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that Federal flood insurance is not available on such structures; areas subject to this limitation are shown on FIRMs as Coastal Barrier Resource System Areas (CBRS) or Otherwise Protected Areas (OPA).

(G) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.

(H) Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.

(I) Review Elevation Certificates and require incomplete or deficient certificates be corrected.

(J) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Fluvanna County, within six months after such data and information becomes available if the analyses indicate changes in base flood elevations.

(K) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

- (1) Flood Insurance Studies, Flood Insurance Rate Maps (including historic studies and maps and current effective studies and maps) and Letters of Map Change; and

(2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been flood-proofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(L) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.

(M) Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(N) Administer the requirements related to proposed work on existing buildings:

(1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.

(2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct, and prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(O) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(P) Notify the Federal Emergency Management Agency when the corporate boundaries of Fluvanna County have been modified and:

(1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

(2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

(Q) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(R) It is the duty of the Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of Fluvanna County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).  
(Ord. 6-17-15)

**Sec. 22-17-8A-21.3. Use and interpretation of FIRMs. [44 CFR 60.3]**

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

(A) Where field surveyed topography indicates that adjacent ground elevations:

(1) Are below the base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;

(2) Are above the base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the SFHA.

(B) In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified SFHAs,

any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.

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

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

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

(1) Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

(2) Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 22-17-8A-7.1(A)(3) and used where no base flood elevations and/or floodway areas are provided on the effective FIRM.

(3) Prior to issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary base flood elevations or floodway areas exceed the base flood elevations and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(Ord. 6-17-15)

**Sec. 22-17-8A.21.4. Jurisdictional boundary changes.** [44 CFR 59.22, 65.3]

The county floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the

amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to the Department of Conservation and Recreation(Division of Dam Safety and Floodplain Management) and FEMA.

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

In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the county suitable for reproduction, clearly delineating the new corporate limits or new area for which the county has assumed or relinquished floodplain management regulatory authority must be included with the notification.  
(Ord. 6-17-15)

**Sec. 22-17-8A.21.5. Submitting technical data.** [44 CFR 65.3]

Fluvanna County's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the county shall notify FEMA of the changes by submitting technical or scientific data. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and flood plain management requirements will be based upon current data.  
(Ord. 6-17-15)

**Sec. 22-17-8A.21.6. Letters of Map Revision.**

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

Example cases:

- Any development that causes a rise in the base flood elevations within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges) 44 Code of Federal Regulations §65.3 and §65.6(a)(12)

The public purpose for such amendment is to conform the zoning ordinance to federal flood insurance regulations.  
(Ord. 6-17-15)

**Sec. 22-17-9. Conditional rezoning.<sup>18</sup>**

(A) As part of a rezoning or amendment to the zoning map, the owner of any property subject to any application for such rezoning or amendment to the zoning map, may voluntarily proffer, in writing submitted to the zoning administrator prior to a public hearing before the governing body, reasonable conditions for such rezoning or amendment to the zoning map, in addition to the regulations provided for the zoning district by this chapter, provided that such proffered conditions comply in full with all provisions of sections 15.2-2297 and 15.2-2298 of the Code of Virginia.

(B) Once proffered and accepted as part of an amendment to the zoning ordinance, such conditions shall continue in effect until a subsequent amendment changes the zoning on the property covered by such conditions; however, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance. No amendment or variation of conditions created pursuant to this section shall take effect until after a public hearing before the governing body advertised in accordance with section 15.2-2204 of the Code of Virginia. Except as the governing body may expressly provide in a particular case, each such condition shall be deemed to be integral to, and nonseverable from, the rezoning or amendment to the zoning map to which it applies.

(C) No proffer for the dedication of real property or payment of cash shall be accepted unless the county has adopted a capital improvement program pursuant to section 15.2-2239 of the Code of Virginia. No such dedication or cash payment shall be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program, provided that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program. If such proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered.

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<sup>18</sup> As to state law regarding conditional rezoning, see Code of Va., § 15.2-2296 et seq.

(D) In the event proffered conditions include a requirement for the dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property subject to such conditions, nor the conditions themselves, nor any amendments to the text of the ordinance with respect to the zoning district applicable thereto initiated by the governing body, which eliminate, or materially restrict, reduce or modify the uses, the floor area ratio, or the density of use permitted in the zoning district applicable to such property shall be effective with respect to such property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

(E) Nothing in this section shall be construed to affect or impair the authority of the governing body to:

(1) Accept proffered conditions which include provisions for timing or phasing of dedications, payments or improvements; or

(2) Accept or impose valid conditions pursuant to subsection (A)(3) of section 15.2-2286 of the Code of Virginia or other provision of law.

(F) The zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The zoning administrator is vested with all necessary authority on behalf of the governing body and pursuant to section 15.2-2299 of the Code of Virginia to administer and enforce conditions attached to a rezoning or amendment to a zoning map, though all decisions made pursuant to this Section are subject to appeal to the governing body according to the procedures described in section 15.2-2301 of the Code of Virginia.

(Ord. 12-16-15)

#### **Sec. 22-17-10. Sewerage system required.**

Every use, structure or building in which sanitary sewer facilities is required by the Uniform Statewide Building Code, or in which any such facility is proposed to be used, shall be served by a lawful public sewerage system or a private sewerage system approved by appropriate authority and designed in accordance with the regulations of the Virginia Department of Health. No administrative permit for any approval pursuant to this chapter shall be approved unless and until the applicant for such permit shall have established that such a system is available to the use, structure or building proposed. In the case of any septic

disposal system, the applicant shall demonstrate, to the reasonable satisfaction of the Fluvanna County Health Department and to the zoning administrator, that the parcel of land to be used for such use, structure or building is capable of supporting a primary septic disposal system as well as a full backup system adequate to serve the use proposed. (Ord. 9-17-08)

**Sec. 22-17-11. Frontage and lot width requirements.**

(A) Except as otherwise expressly provided in this chapter, every parcel of land shall abut a road dedicated to public use and maintained by the Virginia Department of Transportation. Except as specifically permitted in this section, frontage shall not be less than required by the regulations of the district in which the parcel is located.

- (1) Frontage on a cul-de-sac may be reduced to not less than fifty feet (50'), provided that driveway separation shall be in accordance with the standards of the Virginia Department of Transportation and no more than five (5) lots shall have frontage on any one cul-de-sac.
- (2) For a lot located at the end of an access easement, frontage shall not be less than the full width of the easement.
- (3) Minimum required lot width at the setback line shall be the same as the minimum frontage required by the regulations of the district in which the parcel is located and shall not be reduced under this Section.

**Sec. 22-17-12. Special provisions relating to open space.**

(A) Open space defined: For purposes of this chapter, except as otherwise provided in this Chapter, "open space" shall mean land or water left in undisturbed natural condition and unoccupied by building lots, structures, streets and roads and parking lots. The foregoing notwithstanding, the following shall be permitted in open space: (Ord. 9-17-08)

- (1) Agriculture, forestry and fisheries, including appurtenant, non-residential structures, including, but not limited to, barns, sheds, fences and the like;
- (2) Private, non-commercial recreational structures;
- (3) Public utilities otherwise permitted;
- (4) Wells and sewage disposal systems otherwise permitted;

(5) Stormwater detention and flood control devices.

(B) Designation and protection of open space: Open space shall be designated and shall be dedicated to public use or subject to easements in a form approved by the governing body and the county attorney as sufficient to restrict the land subject thereto as provided herein. Except as otherwise approved in a particular case, such easements shall be granted to the county or to the Commonwealth of Virginia. Any easement dedicated or granted in accordance with the terms of Chapter 10.1, Title 10.1 of the Code of Virginia (sections 10.1-1009, ff.) or with the terms of Chapter 17, Title 10.1 of the Code of Virginia (sections 10.1-1700, ff.) shall be deemed, prima facie, to be sufficient to satisfy this section. (Ord. 9-17-08)

**Sec. 22-17-13. Location of certain accessory buildings.**

Except as otherwise expressly provided in this chapter, in the A-1, R-1 and R-2 districts, no accessory building shall be located within twenty-five feet (25') of any rear lot line or within fifteen feet (15') of any side lot line.

**Sec. 22-17-14. Height regulations applicable to certain structures.** [Repealed] (Ord. 9-21-11)<sup>19</sup>

**Sec. 22-17-14.1. Special provisions related to amateur radio antennas.** [Repealed] (Ord. 9-21-11)<sup>20</sup>

**Sec. 22-17-15. Special exception for placement of manufactured home.**

The zoning administrator may approve placement of a manufactured home in the event that a residence is destroyed or made unlivable by fire, flood, wind, or other natural causes, provided that placement shall be for a period not longer than twelve (12) months from the date of occurrence of the event, and also provided that written approval is obtained from the respective property owners association, if any. (Ord. 12-16-15)

**Sec. 22-17-16. Special use permit for power production plants.**

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<sup>19</sup> Prior ordinance references: 8-2-06.

<sup>20</sup> Prior ordinance references: 6-15-05.

(A) A power production plant may be constructed pursuant to Section 22-4-2.2 and Section 22-17-4 of this Chapter, upon showing by the applicant of the following:

- (1) The proposed location for the power plant is supported by a clear dependence upon the confluence of utilities necessary for the operation of the power production plant and the transmission of the electricity the plant generates;
- (2) The proposed power plant will not be of substantial detriment to adjacent property and the general character of the district will not be changed as a result of its operation. This shall be accomplished, in part, by meeting the following minimum criteria:
  - (a) The proposed site shall be a minimum of 300 acres and allow for at least eighty-seven (87%) of the property to be left as open space;
  - (b) The proposed site features natural vegetation or topographical features that provide for ample perimeter screening and buffering to minimize any visual or other impacts on adjacent property;
  - (c) The proposed location has adequate access to the road system and shall not create or exacerbate traffic congestion;
- (3) In addition to meeting the minimum site-related criteria listed in (A)(2)(a), (b) and (c) above, the design of the proposed electrical power production plant shall be subject in all respects to the provisions of this Chapter except as listed in (A)(3)(a) through (e), below. These exceptions shall be deemed to be compatible with the general character of the district and provide further protection of adjacent property from potential adverse impacts:
  - (a) The height of any buildings or structures shall not exceed the lesser of 145 feet above ground level or the height of the tallest chimney as determined by paragraph (b) below;
  - (b) The height of any chimney shall not exceed the lesser of 145 feet above ground level or the height determined by "good engineering practice" as determined by the State Air Pollution Control Board or the Department of Environmental Quality pursuant to applicable regulations addressing stack heights;
  - (c) The amount of impervious surface coverage shall be thirteen percent (13%) or less, provided that storm water detention ponds or reservoirs shall be considered pervious surface(s);

- (d) Any buildings or structures over twelve feet (12') in height shall be located a minimum of 300 feet distant from adjoining property lines or edge of road rights-of-way;
  - (e) There shall be a minimum of 300-foot wide vegetated buffer around the development which, in all other respects, conforms to the county landscaping requirements to be reviewed and approved along with the other requirements of a site development plan;
  - (4) In addition to obtaining zoning approval from Fluvanna County, the proposed power plant also will obtain and maintain valid permits as required by all other regulatory bodies of the state and federal governments.
- (Ord.12-16-15)

**Sec. 22-17-17. Public safety buildings exempt from certain requirements.**

Except as otherwise expressly provided hereinafter, any building used exclusively for the provision of public safety services shall be exempt from the acreage, frontage, setback and yard requirements of this ordinance. The foregoing notwithstanding, reasonable acreage, frontage, setbacks and yards may be required by the county, in the review of a site plan, in any case in which it shall be determined that particular requirements relating to acreage, frontage, setbacks and yards are necessary to protect the public safety. For purposes of this section, the term "public safety services" shall be deemed to include (a) the Sheriff of the county; (b) the Virginia State Police; (c) any other police agency established under the laws of the Commonwealth and certified by the Sheriff as providing public police services within the county; and (d) fire and/or emergency medical services companies and departments as defined in Section 27-8.1 of the Code of Virginia.

**Sec. 22-17-18. Necessary subordinate uses.**

Notwithstanding any other provision of this Chapter, there shall be permitted in all districts all uses which are necessary, subordinate, incidental and essential to a lawful main use and which cannot reasonably be located entirely on the same parcel, or in the same district, as the main use. Such necessary subordinate uses shall include, but shall not necessarily be limited to, driveways and other means of physical access; utility facilities, including sewerage and water supply systems; required off-street parking; surface water drainage and stormwater management facilities and structures. (Ord. 03-15-06; Ord. 12-16-15)

***Article 18. Provisions for Appeal and Variance.***

**Sec. 22-18-1. Board of zoning appeals.**<sup>21</sup>

(A) A board consisting of five (5) members shall be appointed by the Circuit Court of Fluvanna County. Members of the board shall be residents of Fluvanna County. Members of the board may receive such compensation as may be authorized by the governing body. Members shall be removable for cause by the appointing court after hearing held after at least fifteen (15) days' notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

(B) The term of office shall be for five (5) years, except that of the first five (5) members appointed, one (1) shall serve for five (5) years, one (1) for four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the board shall hold no other public office in the county, except that one of the five appointed members may be an active member of the planning commission.

(C) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has a legal interest.

(D) The board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman. The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board. A secretary who is not a member of the board shall not be entitled to vote on matters before the board.

(Ord. 12-16-15)

**Sec. 22-18-1.1. Ex parte communications and proceedings.**<sup>22</sup>

(A) The non-legal staff of the governing body may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law does occur, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication and the identity of the

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<sup>21</sup> As to state law authorizing the formation of the county's board of zoning appeals, see Code of Va., § 15.2-2308.

<sup>22</sup> As to state law provisions regarding board of zoning appeals ex parte communications and proceedings, see Code of Va., § 15.2-2308.1.

individuals involved in the communication. For the purposes of this section, regardless of whether all parties participate, ex parte communication shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the governing body, the applicant, landowner or his agent or attorney are all invited.

(B) Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the board, shall be made available without cost to such applicant, appellant or other person aggrieved under section 15.2-2314 of the Virginia Code, as soon as practicable thereafter, but no more than three (3) business days after providing such materials to a member of the board. If the applicant, appellant or other person aggrieved under section 15.2-2314 of the Virginia Code requests additional documents or materials be provided by the locality other than those materials provided to the board, such request shall be made in accordance with the FOIA requirements in section 2.2-3704 of the Virginia Code. Any such materials furnished to a member of the board shall also be made available for public inspection as required by section 2.2-3707(F) of the Virginia Code.

(C) For the purposes of this section, “non-legal staff of the governing body” means any staff who is not in the office of the county attorney, or for the board, or who is appointed by special law. Nothing in this section shall preclude the board from having ex parte communications with any attorney or staff or any attorney where such communication is protected by attorney-client privilege or other similar privilege or the protection of confidentiality.

(D) This section shall not apply to cases where an application for a special exception has been filed pursuant to this Chapter.  
(Ord. 12-16-15)

**Sec. 22-18-2. Powers of the board of zoning appeals.**<sup>23</sup>

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

(A) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.

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<sup>23</sup> As to state law regarding powers of the board of zoning appeals, see Code of Va., § 15.2-2309.

- (1) The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct.
- (2) At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden to rebut such presumption of correctness by a preponderance of the evidence.
- (3) The board shall consider any applicable ordinances, laws, and regulations in making its decision. For the purposes of this Section, determination means any order, requirement, decision or determination made by an administrative officer.
- (4) Any appeal of a determination to the board shall be in compliance with this Section, notwithstanding any other provision of law, general or special.

(B) Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined by section 15.2-2201 of the Virginia Code. The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in section 15.2-2201 of the Virginia Code and the criteria set out in this section, as follows:

- (1) Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance and
  - (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
  - (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
  - (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

(iv) the granting of such variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

(v) the relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.

(2) No such variance shall be considered except after notice and hearing as required by section 15.2-2204 of the Code of Virginia, as amended; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to section 1.2-2309 of the Code of Virginia.

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

(C) To hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by section 15.2-2204 of the Code of Virginia; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to section 15.2-2309 of the Code of Virginia.

(D) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by section 15.2-2204 of the Code of Virginia, the board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to section 15.2-2309 of the Code of Virginia. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

(E) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the governing body.

(Ord. 12-16-15)

**Sec. 22-18-3. Rules and regulations.**

(A) The board of zoning appeals may adopt, alter and rescind such rules and regulations for its procedures, consistent with to ordinances of the county and the general laws of the Commonwealth, as it may consider necessary.

(B) Meetings of the board shall be held at the call of its chairman or at such times a quorum of the board may determine.

(C) The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

(D) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(E) All meetings of the board shall be open to the public.

(F) A quorum shall be at least three (3) members.

(G) The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass or to effect any variance from the ordinance.

**Sec. 22-18-4. Applications for variances, appeals to the board of zoning appeals.<sup>24</sup>**

(A) Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the zoning administrator in accordance with rules adopted by the board. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board who shall place the matter on the docket to be acted upon by the board. The zoning administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the board or appear as a party at the hearing. Substantially the same application will not be considered by the board within one year after the decision of the board.

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<sup>24</sup> As to state law regarding appeals to the board of zoning appeals, see Code of Va., § 15.2-2311.

(B) An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county affected by any decision of the zoning administrator or from any order, requirement, decisions or determination made by any other administrative officer in the administration and enforcement of this Article, any ordinance adopted pursuant to this Article, or any modification of zoning requirements pursuant to this Chapter.

(1) Any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal he notice of a zoning violation or a written order within thirty (30) days in accordance with this Section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this Section.

(2) Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof.

(3) Upon the filing of the appeal, the zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

(4) A decision by the board on appeal shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order.

(5) An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause

imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

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

(C) In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

(Ord. 12-16-15)

**Sec. 22-18-5. Appeal procedure.**

(A) Applications for variance and appeals shall be filed with the board of zoning appeals in care of the zoning administrator.

(B) Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the governing body. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs, as provided in section 15.2-2311(A) of the Code of Virginia. (Ord. 9-21-05)

(C) All other procedural requirements of section 15.2-2312 of the Code of Virginia shall be observed by the board of zoning appeals.

(D) For the conduct of any hearing, a quorum shall not be less than three members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved, and the staff of the local governing body, pursuant to section 15.2-2308 of the Code of Virginia.

(Ord. 12-16-15)

**Sec. 22-18-6. Public hearing.**<sup>25</sup>

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within ninety days. In exercising its powers, the board may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. (Ord. 12-16-15)

**Sec. 22-18-7. Certiorari to review decisions of board of zoning appeals.**

(A) Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any taxpayer or any officer, department, board or bureau of the county, may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the board.

(B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(C) The board of zoning appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(D) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

(E) Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or person who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

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<sup>25</sup> As to state law regarding the timing of public hearing and powers of the board of zoning appeals, see Code of Va., § 15.2-2312.

(Ord. 12-16-15)

**Sec. 22-18-7.1. Presumptions and burdens of proof.**

(A) In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision, or any modification of zoning requirements, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. The court shall hear any arguments on questions of law de novo.

(B) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut the presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.

(C) In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board (i) was plainly wrong, (ii) was in violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.

(D) In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

(Ord. 12-16-15)

***Article 19. Violation and Penalty.***

**Sec. 22-19-1. Conformity with Chapter.**

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

**Sec. 22-19-2. Violation of Chapter.**

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating, causing or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$10.00 nor more than \$1,000.00. Such person, firm or corporation shall be deemed to be guilty of a separate offense for each successive ten (10) day period during which any portion of any violation of this ordinance is committed, continued, or permitted by such persons, firm or corporation, and shall be punishable by a fine of not less than \$100.00 nor more than \$1500.00.

**Sec. 22-19-3. Authority of zoning administrator.**

In addition to the foregoing, the zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance, including the ordering in writing of the remedying of any condition found in violation of the ordinance, and the bringing of legal action to insure compliance with the ordinance, including injunction, abatement or other appropriate action or proceeding.

***Article 20. Amendments and Rezoning.*****Sec. 22-20-1. Power of governing body; initiation of change; fees.**

The regulations, restrictions and boundaries established in this ordinance may from time to time be amended, supplemented, changed, modified or repealed by the governing body pursuant to section 15.2-2285 of the Code of Virginia as follows:

(A) By the filing with the zoning administrator of a petition by owners or the contract purchaser, with the owner's permission, of land proposed to be zoned, which petition shall be accompanied by a fee as prescribed by a fee schedule adopted by the governing body; or

(B) By the adoption of the board of supervisors of a resolution of intention to amend which resolution upon adoption shall be referred to the Planning Commission; or

(C) By the adoption by the Planning Commission of a resolution of intention to propose an amendment.

(D) Any such resolution by such governing body or commission proposing the rezoning shall state the above public purposes therefor.

(E) Any provision of this Chapter notwithstanding, except as otherwise expressly provided by law, none of the fees provided for in this Chapter shall apply to any property owned by the County and used for County purposes.

(Ord. 7-6-16)

**Sec. 22-20-2. Planning commission -- Public hearing; recommendations.**<sup>26</sup>

The planning commission shall hold at least one public hearing on such proposed amendments after notice as required by section 15.2-2204 of the Code of Virginia, and may make appropriate changes in the proposed amendment as a result of such hearing. In addition to the notice required by section 15.2-2204, the applicant shall cause a sign to be erected on the property which is the subject of any proposed amendment. Such sign shall be of a type approved by the zoning administrator and shall be posted on the subject property at the nearest public road or at its point of access to the nearest public road. Upon the completion of its work, the commission shall present the proposed amendment to the governing body together with its recommendations and appropriate explanatory materials. (Ord. 2-18-15)

**Sec. 22-20-3. Governing body -- Public hearing.**<sup>27</sup>

Before approving and adopting any amendment, the governing body shall hold at least one public hearing as required by section 15.2-2204 of the Code of Virginia, after which the governing body may make appropriate changes or corrections in the proposed amendment; provided, however, that no land may be zoned to a more intensive use classification than was containing in the public notice without an additional public hearing after notice required by section 15.2-2204 of the Code of Virginia. In addition to the notice required by section 15.2-2204, the applicant shall cause a sign to be erected on the property which is the subject of any proposed amendment. Such sign shall be of a type approved by the zoning administrator and shall be posted on the subject property at the nearest public road or at its point of access to the nearest public road. An affirmative vote or at least a majority of the members of the governing body shall be required to amend the zoning ordinance. (Ord. 2-18-15)

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<sup>26</sup> Editor's Note – This section as adopted 4-5-04 contained a clerical error in the reference to the applicable statute. This error has been corrected by the editor.

<sup>27</sup> Editor's Note – This section as adopted 4-5-04 contained a clerical error in the reference to the applicable statute. This error has been corrected by the editor.

**Sec. 22-20-4. Limitation on reconsideration.**

Except as the governing body may permit in a particular case, substantially the same petition shall not be reconsidered for a period of one (1) year from the date of the original decision by the governing body.

***Article 21. Administration and Interpretation.*****Sec. 22-21-1. Administrator.**

The ordinance shall be enforced by the administrator, who shall be appointed by the governing body. The administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the ordinance.

**Sec. 22-21-2. Effect of enactment of ordinance.**

Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was lawfully issued prior to the effective date of this ordinance. However, such construction must commence within thirty (30) days after this ordinance becomes effective. If construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this ordinance for the district in which the operation is located.

**Sec. 22-21-3. Interpretation.**

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

(A) Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries, as the case may be.

(B) Where a district boundary is indicated to follow a river, creek or branch or other body of water, said boundary shall be construed to follow the center line at the low water or at the limit of the jurisdiction and in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

(C) If no distance, angle, curvature, description or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the board of zoning appeals which shall determine the boundary.<sup>28</sup>  
(Ord. 12-16-15)

**Sec. 22-21-4. Effective date.**

This zoning ordinance of Fluvanna County, Virginia, shall be effective at and after 12:00 a.m., January 1, 1974. Each and every amendment hereto, except as otherwise expressly provided therein, shall be effective upon adoption.

**Article 22. Definitions.**

**Sec. 22-22-1. Rules of construction; definitions.**

The following terms shall have the meanings assigned to them as hereinafter set forth. Except as expressly otherwise defined herein, all terms used in this chapter shall have their ordinary and established meanings, as the context may require. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing; and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things.

*Accessory use:* A use or structure subordinate to the main use or structure on the same lot and serving a purpose naturally incidental to the main use or structure. When an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered a part of the main structure.

*Adult retirement community:* A planned development providing residences for elderly persons that emphasizes social and recreational activities but may also provide personal services, limited health facilities, and transportation.

*Agricultural enterprise:* Agricultural related use that provides an agricultural service or produces goods from agricultural resources. These include processes that are a direct

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<sup>28</sup> As to state law provisions regarding district boundary lines, see Code of Va., § 15.2-2309(4).

outgrowth, yet more intensive, of the products derived through agriculture, as defined. Related uses include sawmill, winery and other similar facilities.

*Agriculture:* The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, aquaculture, horticulture, floriculture, viticulture, forestry, livestock, and poultry and the necessary accessory uses for packing, treating, or storing the produce.

*Agricultural sales, wholesale:* The wholesale distribution of agricultural related products including, but not limited to, farm tools and implements, tack, animal care products, and other farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but shall include harnesses, saddles, and other related equine equipment.

*Alley:* A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

*Alteration:* Any change in the total floor area, use or adaptability of an existing structure.

*Amusement, commercial:* The provision of entertainment or games of skill to the general public for a fee, as permitted by general law.

*Amusement, public:* Fund-raising activities including those activities sponsored by charitable organizations for which remuneration must be paid by sponsor.

*Assisted living facility:* A publicly or privately operated long-term care alternative for persons aged 55 and over, or persons with disabilities, as defined by the Federal Americans with Disabilities Act, that provides the availability of professionally managed personal and health care services to occupants on premises. These premises are designed for this population; are residential in character and appearance; may include cooking facilities; and in all respects are intended to enable residents to age in place in a home-like environment. The facility operation shall have the capacity to provide residents with an array of services supporting Activities of Daily Living (ADL's) that may include, but are not necessarily limited to, meals, personal care housekeeping, transportation, and supervision of self-administered medication, while optimizing their physical and psychological independence. Such facility shall be deemed a single unit for purpose of calculating density when and as required by section 15.2-2291 of the Code of Virginia. (Ord. 12-16-15)

*Auction house:* A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other, with all events and storage of inventory entirely enclosed in a building or structure.

*Automobile graveyard:* Any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind that are incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found. See *Salvage and scrap yard* use.

*Automobile repair service establishment:* A facility for the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, or providing collision services, including body, frame, or fender repair, and overall painting.

*Automobile sales:* The use of any building, land area or other premises for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other repair service conducted as an accessory use.

*Aviation facility:* Facilities for the take-off and landing of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, informational facilities and devices, terminal buildings, aircraft maintenance facilities, aviation instruction facilities, and heliports.

*Bakery:* A place for preparing, cooking, baking, and selling of products on the premises.

*Base flood/one-hundred year flood:* A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

*Basement:* Any area of the building having its floor sub-grade (below ground level) on all sides.

*Bed and breakfast:* A transient lodging establishment, within an owner occupied property, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

*Berm:* A mound of earth, usually linear in form, used to shield, screen, or buffer views; separate land uses; provide visual interest; or block noise, lights, or glare.

*Bicycle parking:* Bicycle racks and similar structures, permanently affixed to the ground, designed and used for storing bicycles in a secure, upright position.

*Biotention area:* A vegetated depression engineered to collect, store, and infiltrate runoff generated on-site.

*Board of zoning appeals:* The board appointed to review appeals made by individuals with regard to decisions of the Zoning Administrator in the interpretation of this ordinance.

*Boarding house:* A building where, for compensation, lodging and meals are provided for at least five (5) and up to fourteen (14) persons.

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

*Building mass:* The height, width, and depth of a structure

*Building, height of:* The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

*Building, main:* The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

*Butcher shop:* A shop in which meat, poultry, and fish are processed and sold.

*Cabaret, adult:* A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas for observation by patrons therein. See *Entertainment establishment, adult* use.

*Caliper:* A measure of tree size, determined by measuring the diameter of a tree at a point six inches (6") above the root ball, at the time of planting, or twelve inches (12") above the ground, for established vegetation.

*Camp:* A tract of land, complete with all necessary and accessory uses and structures, used for organized recreational activities under trained supervision. Seasonal accommodations may be provided and such uses shall include boarding camps, day camps and summer camps.

*Campground:* An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar transportable or temporary sleeping quarters of any kind. For purposes of this definition, transient shall be for no more than 120 days.

*Car wash:* Facilities for the washing and cleaning of vehicles, including automatic and self-service car washes.

*Cellar:* The portion of the building partly underground, having half or more than half of its clear height below the average grade of the adjoining ground.

*Cemetery, commercial:* A place where human remains are interred, above or below ground, and where plots are sold for that purpose, and perpetual care of the graves is furnished. Such uses shall also allow for cemeteries for the burial of domestic animal remains.

*Cemetery, non-commercial:* A place where human remains are interred above or below ground and where plots are not sold. Such uses shall also allow for cemeteries for the burial of domestic animal remains.

*Central sewerage system:* A sewerage system consisting of pipelines or conduits, pumping stations, force mains or sewage treatment plants, including, but not limited to, septic tanks and/or drain fields, or any of them designed to serve three (3) or more connections, used for conducting or treating sewage which is required to be approved by the board of supervisors in accordance with the Virginia Waste Management Act. See *Utilities, major* and *minor* uses. (Ord. 12-16-15)

*Central water supply:* A water supply consisting of a well, springs or other source and the necessary pipes, conduits, mains, pumping stations and other facilities in connection therewith, to serve or to be capable of serving three (3) or more connections, which is required to be approved by the board of supervisors in accordance with the Virginia State Water Control Board Regulations. See *Utilities, major* and *minor* uses. (Ord. 12-16-15)

*Child day center:* A child day program offered (i) to two (2) or more children under the age of thirteen in a facility that is not the residence of the provider or of any of the children in care or (ii) thirteen (13) or more children at any location. See also *Child day program, Family day home*. (Ord. 12-16-15)

*Child day program:* A regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of

thirteen for less than a twenty-four (24) hour period. See also *Child day center, Family day home*. (Ord. 12-16-15)

*Cluster development*: A development design technique that concentrates buildings on a portion of the site to allow the remaining land to be used for recreation, open space, or the preservation of historically or environmentally sensitive features.

*Commission, The*: The Planning Commission of Fluvanna County, Virginia.

*Communications service*: Establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as major utilities or telecommunication facilities. Typical uses include, but are not limited to, television studios, telecommunication service centers, radio stations, or film and sound recording facilities.

*Comprehensive plan*: The Fluvanna County Comprehensive Plan.

*Condominium*: A building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportionate undivided basis.

*Condominium association*: The community association that administers and maintains the common elements of a condominium.

*Connection, water or sewer*: The provision of water and/or sewerage services to any dwelling unit or commercial or industrial establishment.

*Conservation area*: Any parcel or area of substantially undeveloped land conserved in its natural state to preserve or protect endangered species, critical environment features, viewsheds, or other natural elements including, but not limited to, preserves, wildlife management areas and refuges, open spaces and habitat protection areas.

*Contractor's storage yard*: Storage yards operated by, or on behalf of, a contractor for storage of large equipment, vehicles, or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

*Corporate office:* An establishment primarily engaged in providing internal office administration services as opposed to customer service. Such uses generally include the headquarters, regional offices or administrative offices for a corporation.

*Correctional facility:* A public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from a surrounding community.

*Cul-de-sac:* The turnaround at the end of a dead-end street.

*Cultural services:* A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts or sciences.

*Curvilinear street system:* A pattern of streets that is primarily curved.

*Dance hall:* Establishments in which more than ten percent (10%) of the total floor area is designed or used as a dance floor, or where an admission fee is directly collected, or some other form of compensation is obtained for dancing, except when sponsored by civic, charitable, or nonprofit groups.

*Daycare center:* See *Child day center*, *Child day program*, and *Family day home*. (Ord. 12-16-15)

*Development:* Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Diameter at breast height:* A measure of tree size, determined by measuring the diameter of a tree at a point four and one-half feet (4.5') above the ground.

*Dormitory:* A residence hall providing rooms for individuals or for groups usually without private baths. Also, a large room containing numerous beds.

*Dripline:* A vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

*Drive-in window:* A facility designed to provide access to commercial products and/or services for customers remaining in their automobiles.

*Dwelling:* Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, manufactured or mobile homes, and travel trailers.

*Dwelling, accessory:* A separate, independent dwelling unit located on the same property as the primary dwelling unit subject to the following: (1) A dwelling unit contained within a single-family dwelling that may equal the existing finished square footage of the primary dwelling, such as a basement, attic, or additional level; or (2) A dwelling unit attached to the primary single-family dwelling, or as a dwelling unit contained within a detached accessory unit; that shall be no more than one-half the size of the finished square footage of the primary dwelling unit located on the subject property. One accessory dwelling shall be permitted per property plus one additional accessory dwelling for each fifty (50) acres of contiguous property. Accessory dwelling units shall be subject to the setback requirements for primary structures.

*Dwelling, multi-family:* A building or portion thereof which contains two or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing and condominiums.

*Dwelling, single-family attached:* Two or more single family dwellings sharing two or more common walls, each on its own individual lot. Attached dwellings are not vertically stacked.

*Dwelling, single-family detached:* A building designed for occupancy by one family which has no connection by a common party wall to another building or structure similarly designed.

*Dwelling, townhouse:* A single-family attached dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

*Dwelling, two-family:* A building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

*Dwelling unit:* Any building or portion of building intended to be used for residential purposes by a single family and designed or arranged in such a manner that none of the

facilities or areas customarily provided for cooking, sleeping, eating sanitation, or other residential functions is shared by any other family or persons residing in the same structure.

*Educational facility:* A public or private institution for the teaching of children or adults including primary and secondary schools, colleges, and similar facilities.

*Egress:* An exit.

*Elevated building:* A non-basement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, or columns (posts and piers). (Ord. 6-17-15)

*Entertainment establishment, adult:* Any adult cabaret, adult motion picture theater, or adult video-viewing or arcade booth.

*Equestrian facility:* Facilities designed and used primarily for equestrian related activities including, but not limited to: riding schools, horse exhibition facilities, polo fields, and pack stations. This includes barns, stables, corrals, and paddocks accessory and incidental to the above uses.

*Evergreen:* A plant with foliage that remains year-round.

*Family:* (1) An individual; or

- Two (2) or more persons related by blood, marriage, adoption, or guardianship, plus not more than (2) unrelated persons living together as a single housekeeping unit in a dwelling or dwelling unit; or
- A group of not more than four (4) persons not related by blood, marriage, adoption or guardianship living together as a single housekeeping unit in a dwelling or dwelling unit.
- A group home of eight (8) or fewer people residing in a single-family residence as described in section 15.2-2291 of the Code of Virginia.

*Family day home:* A child day program offered in the residence of the provider or the home of any of the children in care for one (1) through twelve (12) children under the age of thirteen, exclusive of the provider's own children and any children who reside in the home,

when at least one (1) child receives care for compensation. Family day homes service six (6) through twelve (12) children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four (4) children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all grandchildren of the provider shall not be required to be licensed. See also *Child day center, Child day program*. (Ord. 12-16-15)

*Family daycare home:* See *Child day center, Child day program, and Family day home*. (Ord. 12-16-15)

*Farm:* One or more parcels of land used for the primary purpose of agricultural production.

*Farm tenant housing:* A dwelling located on a farm for the purpose of housing an employee of that farm operation and his/her family. Also included in this use type would be multi-family dwelling(s) for seasonal employees in connection with an orchard or other agricultural use which relies on seasonal employees who must be housed.

*Farm sales:* The sale of agricultural produce or merchandise produced primarily by the resident operator on his farm.

*Financial institution:* An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies, such as: trust companies, savings banks, industrial banks, savings and loan associations, building and loan associations, commercial banks, credit unions, federal associations, and investment companies.

*Flea market:* A market held in an open area or building where goods are offered for sale to the public by individual sellers, generally on an occasional or periodic basis.

*Flood:* A general or temporary condition of partial or complete inundation of normally dry land areas.

*Flood, Base:* The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood. (Ord. 6-17-15)

*Flood Elevation, Base:* The Federal Emergency Management Agency designated one hundred (100) year water surface elevation. The water surface elevation of the base flood in relation to the datum specified on the Fluvanna County FIRM. (Ord. 6-17-15)

*Flood Hazard Area, Special:* The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 17, Section 22-17-8A. of this ordinance. (Ord. 6-17-15)

*Floodplain or Flood-Prone Area:* Any land area susceptible to being inundated by water from any source. (Ord. 6-17-15)

*Floodplain encroachment:* The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1'), at any point. (Ord. 6-17-15)

*Floor area ratio:* The gross floor area of all buildings or structures on a lot divided by the total lot area.

*Footcandle:* A quantitative unit of measure referring to the measurement of illumination incident at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.

*Frontage:* The continuous uninterrupted distance along which a parcel abuts a single adjacent road or street.

*Funeral home:* A facility for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. Typical uses include funeral homes or mortuaries.

*Garden center:* A retail business in which plants, which may or may not be cultivated on-site, are offered for sale to the general public. Supplemental items used in planting and landscaping, such as pre-packaged mulch, pre-packaged topsoil, plant containers, yard ornaments, hand tools, and the like, may be sold on-site as secondary or incidental items. Such a use is not characterized by frequent heavy equipment operation, other than the occasional delivery or shipment of product.

*Gas station:* Any place of business used primarily for the storage, dispersal, sale or offering of fuels and oils for motor vehicles. Such uses may also include the retail sale of

convenience items as a secondary activity. Any use associated with automobile fuel sales shall be considered a gas station.

*Governing body:* The Board of Supervisors of Fluvanna County, Virginia.

*Greenhouse, commercial:* A facility employing a glass, plastic, or similar enclosure for the cultivation of plants, in which plants are offered for sale to the public, either at wholesale or at retail. Supplemental items used in planting and landscaping, such as mulch, topsoil, plant containers, yard ornaments, hand tools, and the like, may be sold on-site as secondary or incidental items. Such a use is not characterized by frequent heavy equipment operation, other than the occasional delivery or shipment of product.

*Greenhouse, non-commercial:* A facility employing a glass, plastic, or similar enclosure for the cultivation of plants, in which no product is offered for sale to the public.

*Greenway:* (1) A linear open space established along either a natural corridor, such as a riverfront, stream valley, or ridge line, or over land along a railroad right-of-way converted to recreational use, a canal, a scenic road, or other route; (2) any natural or landscaped course for pedestrian or bicycle passage; (3) an open space connector lining parks, natural reserves, cultural features, or historic sites with each other and with populated areas; and (4) locally, certain strip or linear parks designated as a parkway or greenbelt.

*Grocery store:* A retail business primarily engaged in the sale of unprepared food for personal or household preparation and consumption. Such a facility may also engage in incidental sales of prepared foods for personal consumption on- or off-site.

*Group home:* A licensed residential facility in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance. Such facility shall be licensed by the Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, in order to qualify as a single-family use.

*Guidance services:* A use providing counseling, guidance, recuperative, or similar services for person requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar conditions for only part of a twenty-four (24) hour day.

*Halfway house:* An establishment providing accommodations, supervision, rehabilitation, counseling, and other guidance services to persons suffering from alcohol or

drug addiction, to person re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

*Health official:* The legally designated health authority of the State Board of Health for Fluvanna County or his authorized representative.

*Historical area:* As indicated on the zoning map to which the provisions of this chapter apply for protection of a historical heritage.

*Historic structure:* Any structure that is (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program as determined by the Secretary of the Interior; or (b) directly by the Secretary of the Interior in states without approved programs.

*Home occupation:* An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display, no one is employed other than members of the family residing on the premises, there is no substantial increase in traffic, and provided that not more than twenty-five (25%) of the gross floor area of such dwelling shall be used for such occupation.

*Homeowners association:* A community organization, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

*Hospital:* An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medial offices, and staff residences.

*Hotel:* A building or group of attached or detached buildings containing lodging units intended primarily for rental or lease to transients by the day, week or month. Such uses

generally provide additional services such as daily maid service, restaurants, meeting rooms and/or recreation facilities. Such uses include hotels, motels, motor lodges, and motor courts.

*Hunt club:* Areas reserved to members of the club for private hunting of wildlife, fishing, and accessory uses in support of those activities.

*Hunting preserve:* An area licensed by the commonwealth for public or private hunting of wildlife, fishing, and accessory uses in support of those activities.

*Impervious surface:* Any material that prevents absorption of stormwater into the ground.

*Indoor entertainment:* Predominantly spectator uses conducted within an enclosed building, but not including public facilities. Typical uses include, but are not limited to, motion picture theaters, and concert or music halls.

*Indoor recreation facility:* Predominantly participant uses conducted within an enclosed building, but not including public facilities. Typical uses include bowling alleys, ice and roller skating rinks, indoor racquetball, swimming, and/or tennis facilities.

*Inoperable motor vehicle:* (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal, as provided in section 15.2-904 of the Code of Virginia. (Ord. 12-16-15)

*Junk:* Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

*Junkyard:* An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills. See *Salvage and scrap yard* use.

*kennel, commercial:* A place designed and used to house, board, breed, handle or otherwise keep or care for dogs, cats, or other household pets for the specific intent of sale or in return for compensation.

*kennel, private:* The keeping, breeding, raising, showing, or training of four (4) or more dogs, cats, or other household pets over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.

*Landscaping materials supply:* A business used primarily for the bulk storage and sale of landscaping supplies, such as soil, gravel, potting mix, mulch, sand, stone, and the like, either wholesale or at retail, necessitating the frequent use of heavy equipment. Plants and supplemental items used in planting and landscaping, such as plant containers, yard ornaments, hand tools, and the like, may be sold on-site as secondary or incidental items.

*Laundromat:* A building where clothes or other household articles are washed in self-service machines and where such washed clothes and articles may also be dried or ironed.

*Laundry:* Establishments primarily engaged in the provision of laundering, cleaning, or dyeing services other than those classified as Personal Service Establishments. Typical uses include, but are not limited to, bulk laundry and cleaning plants, diaper services, or linen supply services.

*Level of service:* A description of traffic conditions along a given roadway or at a particular intersection.

*Livestock feed lot, commercial:* A commercial establishment where livestock is fattened for sale and where feed is transported from other places.

*Livestock sale yard, commercial:* A commercial establishment wherein livestock is collected for sale or auctioning.

*Lodge:* A facility, owned or operated by a corporation, association, person or persons, for social, educational or recreational purposes, to which membership is required for participation and not primarily operated for profit nor to render a service that is customarily carried on as a business. A lodge does not include facilities for members to reside.

*Lot:* A parcel of land, including a residue, described by metes and bounds or otherwise or shown on a plat, and intended as a unit of real estate for the purpose of ownership, conveyance or development.

*Lot, corner:* A lot abutting upon two (2) or more street rights-of-way at their intersection. Of the two sides of a corner lot, in the absence of evidence to the contrary based

on actual development, the front shall be presumed to be the shorter of the two sides fronting on streets.

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

*Lot, double frontage:* An interior lot having frontage on two (2) streets.

*Lot, interior:* Any lot other than a corner lot.

*Lot, pipestem:* A large lot not meeting minimum frontage requirements and where access to the public road is by a narrow private right of way or driveway.

*Lot, reverse frontage:* A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

*Lot, through:* A lot that fronts upon two (2) parallel streets or that fronts upon two (2) streets that do not intersect at the boundaries of the lot.

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

*Lot of record:* A lot, a plat or description of which has been recorded in the clerk's office of the Circuit Court.

*Low-impact development:* A design strategy with the goal of maintaining or replicating the pre-development hydrologic regime through the use of design techniques to create a functionally-equivalent site design. Hydrologic functions of storage, infiltration and groundwater recharge, as well as the volume and frequency of discharges, are maintained through the use of integrated and distributed micro-scale stormwater retention and detention areas, reduction of impervious surfaces, and the lengthening of runoff flow paths and flow time. Examples of low-impact development techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters.

*Lowest floor:* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Federal Code 44CFR §60.3.

*Lumberyard:* An area used for the storage, distribution, and sale of finished or rough-cut lumber and lumber products, plywood, drywall, paneling, concrete masonry unit (CMU) blocks and other concrete products, but not including the manufacture of such products.

*Machine shop:* Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating, and electrical repair shops; and overhaul shops.

*Manufactured home:* A factory-built, single-family structure that is manufactured under the authority of the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. Also referred to as mobile homes.

*Manufactured home sales:* Establishments primarily engaged in the display, retail sale, rental, and repair of new and used manufactured homes, modular homes, parts, and equipment.

*Manufacturing, Heavy:* The manufacture or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.

*Manufacturing, Light:* The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing.

*Manufacturing, Medium:* The processing and manufacturing of materials or products predominantly from extracted or raw materials. These activities do not necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process.

*Marina, commercial:* A marina designed and operated for profit or operated by any club or organized group where hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

*Marina, private:* A marina, including a dock for the use of a single parcel, designed and intended to be used for mooring of boats owned by residents of the general neighborhood with no commercial facilities other than those necessary for minor servicing and repairs.

*Media, adult:* Magazines, books, videotapes, movies, slides, CD-ROMs, DVDs or blu-ray or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. See *Retail store, adult* use. (Ord. 12-16-15)

*Medical clinic:* A facility providing medical, psychiatric, or surgical service for persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. The term, “medical clinic” includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

*Mining:* The breaking or disturbing of the surface soil or rock in order to facilitate or accomplish the extraction or removal of minerals; any activity constituting all or part of a process for the extraction or removal of minerals so as to make them suitable for commercial, industrial, or construction use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction. Nothing herein shall apply to mining of coal. This definition shall not include, nor shall this title, chapter, or section be construed to apply to the process of searching, prospecting, exploring or investigating for minerals by drilling (section 45.1-180 of the Virginia Code). See *Resource extraction* use.

*Mobile home:* See *Manufactured home*.

*Manufactured Home Park:* Any site, lot, field or tract of land which is held out for the locations of occupied trailers which trailers or lots are intended for use by a person or persons other than the property owner, except as otherwise permitted in this chapter.

*Modular home:* A dwelling unit primarily manufactured off-site in accordance with the Virginia Uniform Statewide Building Code standards and transported to the building site for final assembly on a permanent foundation.

*Motion picture theater, adult:* An establishment that shows sexually oriented movies, distinguished or characterized by an emphasis on the exhibition of specified sexual activities or specified anatomical areas as a significant part of its business. See *Entertainment establishment, adult* use.

*Mural:* A work of art (as a painting) applied to and made integral to a building wall, fence, etc., that is prepared by, or under the direction of, a skilled artist and shows imaginative skill in arrangement or execution and specifically not attempt to advertise any specific business, product or service.

*Natural meadow:* A continuous area designated on a landscape plan that is planted with grasses and wildflowers native to Virginia that are allowed to grow in their natural habit. Such areas are actively managed to prevent the growth of woody vegetation and invasive species.

*Nonconforming activity, nonconforming use:* The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located.

*Nonconforming lot:* An otherwise legally platted lot that does not conform to the minimum area or width requirements of the ordinance for the district in which it is located.

*Nonconforming structure:* An otherwise legal building or structure that does not conform with the lot area, yard, height, lot, coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located.

*Nursery:* A place where plants are grown commercially, either for retail or wholesale distribution. Plants cultivated on-site may be offered for sale to the general public. See *Farm sales* use.

*Nursing home:* Any place, institution, facility or any identifiable component of any facility, other than a hospital, licensed pursuant to section 32.1-123 of the Code of Virginia, in which the primary function is the provision, on a continuing basis, of nursing and health-related services for the treatment and inpatient care of two (2) or more nonrelated individuals, including, but not limited to, facilities known as convalescent homes, skilled nursing facilities, skilled care facilities, intermediate care facilities, extended care facilities, and nursing, or nursing care facilities. (Ord. 12-16-15)

*Office:* A room, suite of rooms, or building used for conducting the affairs of a business, profession, service industry, or government.

*Off-street parking area:* Space provided for vehicular parking outside the dedicated street right of way as required by Article 26 (Sec. 22-26-1 through 22-26-8) of this chapter.

*Outdoor entertainment:* Predominantly spectator uses conducted in open or partially enclosed or screened facilities, but not including public facilities. Typical uses include, but are not limited to, sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

*Outdoor gathering:* Any temporary organized gathering expected to attract 200 or more people at one time in open spaces outside an enclosed structure. Included in this use type would be entertainment and music festivals, church revivals, carnivals and fairs, and similar transient amusement and recreational activities not otherwise listed in this section. Such activities held in public parks or on public school property shall not be included within this use type.

*Outdoor recreation facility:* Predominantly participant uses conducted in open or partially enclosed or screened facilities, but not including public facilities. Typical uses include, but are not limited to, golf courses, driving ranges, tennis courts, motorized cart and motorcycle tracks, paintball facilities, swimming pools, athletic ball fields.

*Package Treatment Plant:* Small, self-contained sewage treatment facility built to serve designated service areas. See *Utility, major* use.

*Parking area:* Any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated areas of public streets.

*Parking bay:* A continuous row of parking, containing twenty (20) parking spaces or less, bounded on both ends by a parking island, as specified in Article 26: Off-Street Parking and Loading Spaces of this Chapter. (Ord. 12-16-15)

*Parking facility:* A site for surface parking or a parking structure use which provides one (1) or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use. This use type excludes temporary parking facilities permitted by County Code.

*Pavers:* Preformed paving blocks that are installed on the ground to form patterns while at the same time facilitate pedestrian and vehicular travel.

*Personal improvement services:* Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services. Typical uses

include, but are not limited to, driving schools, health or physical fitness studios, dance studios, handicraft and hobby instruction.

*Personal service establishment:* An establishment or place of business engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops; dry cleaners; and seamstresses, tailors, and shoe repair.

*Pervious surface:* Any material that permits full or partial absorption of stormwater into previously unimproved land.

*Petroleum Distribution Facility:* A facility for the storage and distribution of fuels or other volatile products.

*Pharmacy:* An establishment engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

*Plat:* A schematic representation of a parcel or subdivision.

*Plat, preliminary:* A plat showing the existing boundaries and certain existing features of a parcel to be subdivided, together with the property lines or proposed lots and certain proposed features and improvements.

*Plat, final:* A plat showing the new property lines and certain features and improvements installed pursuant to the preliminary plat, showing their location as built, and prepared for recordation. Final plat approval gives the subdivider the right to record such plat with the Clerk of the Circuit Court and to convey the individual lots shown thereon.

*Professional school:* A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills, or other similar activity or occupational pursuit, but not including educational facilities.

*Property Owners' Association:* An entity established, pursuant to section 55-508 et seq. of the Code of Virginia, or otherwise, for the purpose of maintaining land or property owned in common by the owners of property in a subdivision.

*Public assembly:* Facilities that accommodate public assembly for purposes such as sports, amusements, or entertainment. Typical uses include, but are not limited to, auditoriums, sports stadiums, convention facilities, and incidental sales and exhibition facilities.

*Public park and recreational area:* Publicly owned and operated parks, picnic areas, playgrounds, indoor/outdoor athletic or recreation facilities, indoor/outdoor shelters, amphitheaters, game preserves, open spaces, and other similar uses but not including public recreation assembly.

*Public recreation assembly:* Publicly owned and operated community, civic, or recreation centers, year-round swimming facilities, or indoor performing arts/auditoriums.

*Public safety facility:* Public agency facilities that provide public safety and emergency services including fire, rescue squad, and police stations and related administrative facilities. See *Public use*.

*Public use:* Uses, structures, and facilities made available for public service including, but not limited to, parks, playgrounds, libraries, public safety and emergency facilities, and administrative buildings.

*Public water and sewer system:* A water or sewer system owned and operated by a municipality, county or other political subdivision of the Commonwealth.

*Pumping station:* A building or structure containing the necessary equipment to pump a fluid to a higher level.

*Railroad facility:* Railroad yards, equipment servicing facilities, and terminal facilities.

*Recreation, active:* Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

*Recreation, passive:* Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, and table games.

*Recreational vehicle:* A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projects; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, traveling, or seasonal use.

*Recreational vehicle sales:* Retail sales of recreational vehicles and boats, including service and storage of vehicles and parts and related accessories.

*Rectilinear street pattern:* A pattern of streets that is primarily characterized by right-angle roadways, grid pattern blocks, and four-way intersections.

*Religious assembly:* A use providing regular organized religious worship or related incidental activities, except primary or secondary schools and day care facilities.

*Research laboratory:* A facility for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

*Residential area (gross):* The total area of land and water within a residential development.

*Residential area (net):* That area of land and water within a development designed for residential purposes and unoccupied by streets, open space or parking areas; provided that individual private driveways accessory to residential uses shall not be considered streets or parking areas.

*Residential density (gross):* The total number of dwelling units within a development divided by the gross residential area and expressed in dwelling units per acre.

*Residential density (net):* The total number of dwelling units within a development divided by the net residential area and expressed in dwelling units per acre.

*Residue:* The remainder of a lot after a subdivision has detached one or more lots, which residue shall be deemed, for purposes of this chapter, to be a new lot.

*Resource extraction:* A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

*Restaurant, fast food:* An establishment primarily engaged in the preparation of food and beverages, for take-out, delivery, or consumption on the premises, served in disposable containers at a counter or to drive-up or drive-thru customers in motor vehicles.

*Restaurant, general:* An establishment engaged in the preparation of food and beverages containing more than 2,000 gross square feet and characterized primarily by table service to customers in non-disposable containers.

*Restaurant, small:* An establishment engaged in the preparation of food and beverages containing no more than 2,000 gross square feet and typically characterized by table service to customers.

*Retail store, adult:* An establishment that: offers for sale or rent items from any of the following categories: (a) adult media, (b) sexually oriented goods, or (c) goods marketed or presented in a context to suggest their use for specified sexual activities; and the combination of such items constitutes more than fifteen percent (15%) of its stock in trade or occupies more than fifteen percent (15%) of its gross public floor area; and where there is no on-site consumption of the goods, media, or performances for sale or rent.

*Retail store, general:* A retail sales establishment offering the sale or rental of commonly used goods and merchandise for personal or household use but excludes those classified more specifically by definition.

*Retail store, large-scale:* A retail sales establishment of more than 30,000 square feet of gross floor area engaged in the sale or rental of goods for consumer or household use.

*Retail store, neighborhood convenience:* A retail sales establishment primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as, but not limited to, prepackaged food and beverages, limited household supplies and hardware, and limited food preparation and service. Such uses that include fuel pumps or the selling of fuel for motor vehicles shall be considered gas stations.

*Retail store, specialty:* A retail sales establishment of not more than 4,000 square feet that specializes in one type or line of merchandise or service including, but not limited to, antique stores, bookstores, shoe stores, stationary stores, jewelry stores, auto parts stores, and hardware stores.

*Right-of-way:* A strip or other portion of a parcel of land conveyed to a person, a partnership, a property owners' association, a corporation, or a government agency for the purpose of constructing and maintaining a road or utility facility, or similar use.

*Riparian protection area:* A vegetated zone adjacent to an intermittent or perennial stream where development is restricted or controlled to minimize the effects of development

on local water quality. Indigenous vegetation, including existing ground cover, is preserved to the maximum extent possible.

*Salvage and scrap yard:* Facilities engaged in the storage, sale, dismantling or other processing of uses or waste materials which are not intended for reuse in the original forms. Typical uses include, but are not limited to, paper and metal salvage yards, automotive wrecking yards, junk yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.

*Sanitary landfill:* A place for the disposal of solid wastes approved in accordance with the regulations of the Department of Environmental Quality (DEQ).

*Sawmill, permanent:* A permanent facility where logs or lumber are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products.

*Sawmill, temporary:* A portable sawmill located on private property for not more than sixty (60) days unless used for the processing of timber cut only from that property or the property immediately contiguous thereto.

*Self-storage facility:* A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

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

*Sheltered care facility:* A facility providing temporary sheltering for the homeless or for victims of crime or abuse including emergency housing during crisis intervention for individuals, such as victims of rape, child abuse, or physical beatings.

*Shooting, private recreational:* The use of land for target shooting and other recreational activities, other than hunting, involving the use of firearms or other projectiles by the owner or occupant of a parcel and their guests, not in return for compensation. Associated facilities shall be subject to approval by the zoning administrator in accordance with safety guidelines issued by the National Rifle Association (NRA) or other recognized authority.

*Shooting range, indoor:* The use of a structure for firearms or other projectiles for the purpose of target practice or competitions, and in return for compensation.

*Shooting range, outdoor:* The use of land for shooting clubs and other facilities for the discharge of firearms or other projectiles for the purposes of target practice, skeet and trap shooting, mock war games, or formal competitions, or in return for compensation.

*Shrub:* A low woody plant, with multiple shoots or stems from the base, which attains a mature height of less than fifteen feet (15').

*Sign:* Any object, device, display, or structure that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, projected images, or any combination thereof.

*Sign, auction:* A temporary sign, not illuminated, advertising an auction to be conducted on the lot or premises upon which it is situated, such signs shall not exceed twenty (20) square feet in area. (Ord. 12-16-15)

*Sign, awning:* A sign that is painted or otherwise applied on or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, or window of a building.

*Sign, banner:* A temporary sign, not exceeding thirty-two (32) square feet, made of fabric or other flexible material, suspended from a fixed structure, rope, wire, string, or cable. Banner signs are for the advertising of a special event, product, or group and are not to be displayed for a period of more than thirty (30) consecutive days, and not more than sixty (60) days total in a calendar year. (Ord. 12-16-15)

*Sign, business:* A sign which directs attention to a product, commodity, or service available on the premises including professional offices or institutional use.

*Sign, canopy:* A type of wall sign that is attached to the fascia of a canopy.

*Sign, construction:* A temporary sign that identifies an architect, engineer, contractor, subcontractor, or material supplier who participates in construction on the property on which the sign is located. Such signs shall not exceed thirty-two (32) square feet in area and eight (8) feet in height, and may be erected once the land disturbance permit has been issued for the property and must be removed upon issuance of a final certificate of occupancy. (Ord. 12-16-15)

*Sign, directional:* A sign, not to exceed four (4) square feet, providing on-premise directions for pedestrian and vehicular traffic including, but not limited to, entrance/exit signs, parking areas, loading zones, and circulation direction.

*Sign, directory:* A sign that lists the names, uses, or locations of the businesses or activities conducted within a building or group of buildings of a development.

*Sign, electronic message:* A monument sign or portion thereof in which the copy is composed of a series of lights that may be changed through electronic means. The total area of the electronic message display area for such signs shall not exceed thirty percent (30%) of the total area of the sign area permitted for that site.

*Sign, estate:* An on-premise sign that identifies the name, occupant, and/or street address of a private residence, property, or farm. Such signs shall not exceed nine (9) square feet.

*Sign face:* The area or display surface used for the message.

*Sign, flashing:* An illuminated sign of which all or part of the illumination is flashing or intermittent, or changing in degrees of intensity, brightness or color. Electronic message signs that meet the requirements this Article and Section 22-15 shall not be considered flashing signs.

*Sign, freestanding:* A sign anchored directly to the ground or supported by one or more posts, columns, or other vertical structures or supports, and not attached to or dependent for support from any building.

*Sign, home occupation:* A sign containing only the name and occupation of a permitted home occupation on the premises.

*Sign, illuminated:* A sign, or any part of a sign, which is externally or internally illuminated or otherwise lighted from a source specifically intended for the purpose of such illumination or lighting.

*Sign, inflatable:* Any display capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

*Sign, monument:* A sign affixed to, and made an integral part of, a structure built on grade that does not involve the use of poles as its major support.

*Sign, moving:* A sign, any part of which moves by means of an electrical, mechanical, or other device, or that is set in motion by wind.

*Sign, nonconforming:* A sign lawfully erected and maintained prior to the adopting of this ordinance that does not conform with the requirements of this ordinance.

*Sign, off-premise:* A sign that directs attention to a business, product, service or establishment, conducted, sold or offered at a location other than the premises on which the sign is erected.

*Sign, on-premise:* Any sign identifying or advertising a business, person, property, activity, goods, products, or services, located on the premises where the sign is installed and maintained.

*Sign, pennant:* A sign, with or without a logo, made of flexible materials suspended from one or two corners, used in combination with other such signs to create the impression of a line, such as streamers.

*Sign, political:* A temporary sign expressing or implying the opinion or opinions of an individual or group intended to influence the election or appointment of government officials and/or to influence the actions, policies and /or conduct of government. (Ord. 10-18-00; Ord. 12-16-15)

*Sign, portable:* A sign that is not permanently affixed to the ground or to a permanent structure, or a sign that can be moved to another location including, but not limited to, signs with attached wheels, signs mounted upon or applied to a trailer, or signs mounted on or applied to a vehicle that is parked and visible from the public right-of-way.

*Sign, projecting:* A sign, attached to and supported by a building or wall, that projects out perpendicularly from that wall more than twelve inches (12") but not more than four feet (4').

*Sign, public:* A sign that is erected and maintained by a federal, state, or local government agency.

*Sign, real estate:* A sign pertaining to the sale or lease of the premises on which the sign is located. Such signs shall not exceed nine (9) square feet.

*Sign, roof:* A sign that is mounted on the roof of a building or which extends above the top edge of the wall of a flat-roofed building, above the eave line of a building with a hip, gambrel, or gable roof, or the deck line of a building with a mansard roof.

*Sign structure:* The supports, uprights, bracing and/or framework of any structure, be it single-faced, double-faced, v-type or otherwise exhibiting a sign.

*Sign, subdivision:* A monument sign erected at the entrance of a residential, commercial, or industrial development that identifies the development.

*Sign, temporary:* A sign for the advertising of a special event, product, group, occurrence, speaker, program or seasonal activity and not intended or designed for permanent display, including by way of example and not limitation, signs advertising an event, election, or campaign of an educational, political, religious, civic, philanthropic or historical organization. Temporary signs shall be posted a reasonable time before, but in no event greater than sixty (60) days prior to such event, as defined herein, and shall be removed a reasonable time after, but in no event greater than ten (10) days after such event, as defined herein. Temporary signs shall be of reasonable size and no larger than the largest permitted signs in the zoning district, unless otherwise specified in this Code. (Ord. 12-16-15)

*Sign, temporary directional:* A temporary sign directing individuals to the location of a special event or gathering. (Ord. 12-16-15)

*Sign, temporary subdivision advertising:* A sign erected on a parcel or at the entrance to a residential, commercial, or industrial subdivision that identifies the name of the development and advertises for sale lots within the development. Such signs shall be permitted for six (6) month increments, with a letter requesting renewal from the applicant for additional six (6) month increments and to be removed upon issuance of a permit for the placement of a permanent subdivision sign.

*Sign, wall:* A sign mounted flat against, or painted on, the exterior wall of a building or structure and not projecting more than twelve inches (12") from the surface of the building, unless on the mansard portion of a roof.

*Sign, warning:* A sign located on a property for warning or prohibitions on parking, trespassing, hunting, fishing, swimming, or other activity. (Ord. 12-16-15)

*Sign, window:* A permanent or temporary sign affixed to the interior or exterior of a window or door, or within three feet (3') of the interior of the window or door; provided that the display of goods available for purchase on the premises is not a window sign. Such signs

shall not exceed twenty-five percent (25%) of the total area of the window or door on which it is located.

*Sketch plan:* An informal conceptual map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion.

*Slaughterhouse:* A commercial facility where livestock is slaughtered, processed, and prepared for distribution to butcher shops or retail establishments such as grocery stores.

*Small Home Industry:* Small commercial, professional, or light industrial uses which do not in any way detract from adjacent agricultural or residential uses and while clearly excluding large scale industrial and commercial uses and that are located within the same parcel as the residence of the owner and within 500 feet of said residence.

*Solid Waste Material Recovery Facility:* A solid waste management facility which may receive municipal solid waste and recyclables from off premises for processing and consolidation and shipment out of the county for further processing or disposal.

*Solid Waste Collection Facility:* Any storage or collection facility which is operated as a relay point for recyclables or municipal solid waste which ultimately is to be shipped for further processing or disposal. No processing of such items occurs at such facility.

*Source shielded illumination:* A source of illumination shielded to prevent direct viewing of the light source, including bulbs, lenses or any portions thereof. The only light that can be seen is that reflected from the sign.

*Special use permit:* A permit issued by the governing body for a use which is only permitted upon such permit; a special exception. See Article 17 of this chapter.

*Specified anatomical areas:*

(1) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities:* Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

*Story:* That portion of building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

*Story, half:* A space under a sloping roof, which has the line of intersection of roof decking and wallface more than three feet (3') above the floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use.

*Stream, intermittent:* A natural stream or portion of a natural stream containing flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Such streams are defined as a dotted blue line on the 1:24,000 USGS topographic maps.

*Stream, natural:* A non-tidal waterway that is part of the natural topography, which typically maintains a continuous, seasonal, or intermittent flow during the year, and which is characterized as being irregular in cross-section with a meandering course. A constructed channel such as a drainage ditch or swale is not a natural stream.

*Stream, perennial:* A natural stream or portion of a natural stream containing flowing water year-round during a year of normal precipitation. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow. Such streams are defined as a solid blue line on the 1:24,000 USGS topographic maps.

*Street (road):* Any vehicular way that: (1) is an existing state roadway; (2) is shown upon a plat approved pursuant to the subdivision ordinance that is duly filed and recorded.

*Structure:* Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings and buildings, etc.

*Structure, main:* A building in which is conducted the principal use of the lot.

*Studio, fine arts:* A building, or portion thereof, used as a place of work by a sculptor, artist, or photographer; or used as a place to exhibit and offer for sale works of the visual arts (other than film).

*Subdivider:* Any individual, partnership, corporation or other entity or association thereof owning or having an interest in land, or representing the owners of any land and proposing to subdivide such land.

*Subdivision:* The division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer, or ownership, or building or lot development. The term shall include the resubdivision of land.

*Subdivision Agent:* The individual appointed and authorized by the Fluvanna County Board of Supervisors to administer and enforce this Chapter.

*Subdivision, family:* A single division of a lot or parcel for the purpose of a gift or sale to any natural or legally defined offspring, spouse, sibling, grandchild, grandparent, or parent of the property owner.

*Subdivision, major:* The division of a parcel of land into six (6) or more lots, and not a family subdivision. A subdivision shall be deemed to be a major subdivision if the parcel from which such subdivision is divided was, within five (5) years next preceding the application, divided into an aggregate of five or more lots or divided in such a way as to create a new public or central water or sewer system or one or more public streets.

*Subdivision, minor:* Any division of a parcel of land creating fewer than six (6) lots, and not a family subdivision.

*Substantial damage:* Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. (Ord. 6-17-15)

*Substantial improvement:* Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

*Taxidermist:* Establishments for conducting the business of preparing, stuffing, and mounting the skins of animals to make them appear life-like.

*Telecommunications facility:* A tower, pole or similar structure, 125 feet or greater in height, that transmits and/or receives electromagnetic signals for the purpose of transmitting analog or digital voice or data communications. Includes antennas, microwave dishes, horns, and all equipment and structures necessary to support said equipment.

*Traffic impact study:* A report analyzing anticipated roadway conditions.

*Trailer:* See *Manufactured home*.

*Transportation terminal:* A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of ground transportation, including bus terminals, railroad stations, and public transit facilities.

*Travel trailer:* A vehicular, portable structure built on chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification "travel trailer" thereon; and when factory equipped for the road. See *Recreational vehicle*.

*Tree canopy:* All areas of coverage by plant material exceeding ten feet (10') in height at a maturity of ten (10) years after planting, in accordance with Article 24: Landscaping and Tree Protection of this Chapter.

*Tree, evergreen:* A tree with foliage year-round, planted primarily for screening or ornamental purposes, which attains a mature height of at least fifteen feet (15').

*Tree, large shade:* A tree, usually deciduous, planted primarily for overhead canopy, which attains a mature height of at least forty feet (40').

*Tree, mature:* An existing tree with a diameter at breast height (DBH) of twelve inches (12") or greater, which is in healthy condition as determined by a certified landscape architect or arborist.

*Tree, medium shade:* A tree, usually deciduous, planted primarily for overhead canopy, which attains a mature height of twenty-five feet (25') to forty feet (40').

*Tree, ornamental:* A tree, either single-stemmed or multi-stemmed, noted for its flowers, leaves, bark, form, shape, and/or other aesthetic characteristics, which attains a mature height of ten feet (10') to thirty feet (30').

*Tree, street:* A shade tree planted along an existing or proposed public street, either within the right-of-way itself or within a landscape strip continuous to such right of way.

*Truck terminal:* A facility for the receipt, transfer, short-term storage, and dispatching of good transported by truck. Included in the use type would be express and other mail and package distribution facilities, including such facilities operated by the U.S. Post Office.

*Underground utilities:* The placement of electric, telephone, cable, and other utilities customarily carried on poles in underground vaults or trenches.

*Upholstery shop:* A business that repairs and replaces upholstery to household and office furnishings.

*Utility:* All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

*Utility, Major:* Facilities for the distribution, collection, treatment, production, transmission and generation of public, private and central utilities including, but not limited to, transmission lines, production plants, electrical substations, pumping stations, treatment facilities, information and communication facilities. (Ord. 12-16-15)

*Utility, Minor:* Facilities for the distribution and collection of public, private and central utilities including poles, lines, transformers, pipes, meters, information and communication distribution lines. (Ord. 12-16-15)

*Variance:* A variance is a reasonable deviation from the provisions of the zoning ordinance regulating the size or area of a lot or parcel of land, or the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning. (Ord. 12-16-15)

*Vehicle trip:* A motor vehicle moving from an origin point to a destination point.

*Vending cart:* The vending of food, beverages, or merchandise from a movable stand or trailer that is located as an accessory use on the same lot as a permitted use.

*Veterinary office:* An establishment for the care and treatment of animals and where the boarding of said animals is prohibited except when necessary in the medical treatment of the animal.

*Video-viewing booth or arcade booth, adult:* An enclosure designed for occupancy by no more than five persons, used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media, or live performances or lingerie modeling, for observation by patrons therein. See *Entertainment establishment, adult* use.

*Village:* A small, compact center of predominantly residential character but with a core of mixed-use commercial, residential, and community services whether or not incorporated as a municipality.

*Warehouse, wholesale:* Facilities for the display, storage, and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment, including moving and storage facilities, warehouses, storage activities, and distribution centers.

*Watercourse:* A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

*Woodstorage, temporary:* A lot utilized for the temporary (30, 60 or 90 days) storage/loading of forestry products transported from some other location. (Ord. 12-16-15)

*Yard:* An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures except as otherwise provided herein.

*Front:* An open space on the same lot as a building between the front line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the front line and the rear line of the lot and extending the full width of the lot.

*Rear:* An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the rear line of the lot, and extending the full width of the lot.

*Side:* An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the side line of the lot, and extending from the front yard line to the rear yard line.

*Zoning Administrator:* The official charged with the enforcement of the zoning ordinance. The administrator may be any appointed or elected official who is by formal resolution designated to the position by the governing body. The administrator may serve with or without compensation as determined by the governing body.

*Zoning district:* A division of territory within Fluvanna County for the purposes of regulation of its use under the provisions of this Chapter.

*Zoning permit:* Any permit issued by the zoning administrator in accordance with this ordinance.

(Ord. 6-19-96; Ord. 10-18-00; Ord. 9-17-08; Ord. 10-15-08; Ord. 10-21-09; Ord. 6-16-10; Ord. 11-3-10; Ord. 8-1-12; Ord. 11-20-12; Ord. 12-16-15)

### **Article 23. Site Development Plans.**

#### **Sec. 22-23-1. Statement of intent.**

The intent of this Article is to encourage harmonious development with the surrounding properties in accordance with the guidelines as provided in the comprehensive plan, the requirements of the Zoning Ordinance, and the requirements of other local and state ordinance and policies pertaining to the physical development of a site. This Article will serve to protect valuable resources within Fluvanna County, including unique natural features, historic sites, and significant view; to protect the environment, and to maintain the carrying capacity of the land, including, among other things, the protection of wetland, steep slopes, and other environmentally sensitive areas; to provide safe and convenient vehicular and pedestrian circulation; to provide adequate police and fire protection, water, sewerage, flood protection; and otherwise to protect the health, safety and welfare of the citizens of Fluvanna County.

#### **Sec. 22-23-2. When required.**

A site plan shall be required for any development, on any site, in all zoning districts in any case in which construction or a change in use of the existing site which increases the number of on-site parking spaces or anything that causes a visible change in the site. A "visible change" includes grading, removal of vegetation in preparation for future development of the site, mining, digging, and riverbank removal, addition to a building that changes the traffic circulation on the site, or any other change which the Director of Planning determines to be cause a significant impact to the public health, safety and welfare.

**Sec. 22-23-2.1. Site plan exemptions.**

The foregoing notwithstanding, no site plan shall be required for the following:

- (1) Construction of, or addition to, a single family dwelling on an individual lot.
- (2) Construction of, or addition to, a two-family dwelling on an individual lot.
- (3) Accessory structures to single-family dwellings, (not meant for commercial use).
- (4) Accessory buildings or structures on property used for the growing of agricultural crops, livestock, or forestry timber when such buildings or structures are necessary for such growing.
- (5) Harvesting of plants or trees growing on the site.
- (6) Clearing of a site for use for agricultural or pasture purposes.

**Sec. 22-23-3. Issuance of permits by county.**

No building permit, or other county permit required prior to the initiation of construction of any building or structure or development, shall be issued by any officer or employee of the county for any development which is subject to the provisions of this article until a site plan has been approved. Compliance with the terms contained on any site plan shall be deemed a condition of each and every permit issued by the county. Any permit issued prior to the approval of a site plan is automatically null and void.

**Sec. 22-23-4. Waiver of minor requirements.**

Any minor requirement of this article may be waived by the Director of Planning where such waiver is consistent with the purpose of this article. For any waiver, the applicant must establish that in his specific case either an undue hardship would result from the failure

to grant the requested waiver or that the requirement requested to be waived is unreasonable as applied to his specific case. The decision of the Director of Planning in this regard is appealable to the Planning Commission.

The Director of Planning shall not grant any requested waiver if the request is opposed in writing by any county or state official or employee who has regulatory authority relating to the approval of a site plan.

**Sec. 22-23-5. Submittal of plans; director of planning as agent.**

(A) The Director of Planning acting as an agent for the governing body will receive site plans for review.

(B) The plan shall be prepared at a scale of not less than 1"=20' except for the index sheet, unless approved by the Director of Planning.

(C) All landscape plans shall be on sheets not exceeding twenty-four inches (24") by thirty-six inches (36").

(D) If the plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.

(E) Dimensions shall be in feet and decimals of feet to the closest one hundredth of a foot.

**Sec. 22-23-6. Site plan content.**

(1) The site plan, or any portion thereof, involving engineering, urban planning, landscape architecture, architecture, or land surveying, shall be prepared by a qualified person.

(2) Final site plans submitted for approval shall be certified by an architect, landscape architect, engineer, or land surveyor licensed or certified to practice by the Commonwealth of Virginia within the limits of his respective license or certification.

(3) All minor or major site plan shall include:

(A) The proposed title of the project and the name of the engineer, architect, landscape architect, surveyor, and developer, as applicable.

- (B) A signature panel for the Director of Planning to indicate approval.
- (C) A north arrow, scale graphic, and date.
- (D) A vicinity map.
- (E) The existing zoning and zoning district boundaries on the property in the development and on immediately surrounding properties; all special zoning requirements attached directly to the site as a result of the issuance of any Special Use Permit, variance, or rezoning; and the proposed changes in zoning, if any.
- (F) The boundaries of the property in the development, including bearings and distances.
- (G) All existing property lines, existing streets or rights-of-way opened or unopened; buildings, watercourses, and lakes; and other existing physical features in or adjoining the project. The physical features, such as watercourses, waterways and lakes on the adjoining properties need only be shown in approximate scale and proportion.
- (H) The features of particular historic, cultural, scientific, or scenic significance as identified in the Comprehensive Plan, by the Director of Planning, or by any county department or state agency having site plan review responsibilities, or by the Virginia Department of Historic Resources the Virginia Department of Conservation and Recreation, or the Virginia Outdoors Foundation including, but not limited to, historic features, archaeological features, and graveyards.
- (I) The building setback lines; the location of all proposed buildings and structures, accessory and main; number of stories and height; proposed general uses for each building; the number, size, and type of dwelling units where applicable; and the preliminary plans and elevations for main and accessory buildings.
- (J) The type, location, height, and materials of all existing and proposed fences and walls.
- (K) The site coverage, showing percentage of site in buildings, parking, and open space.

(L) All existing and proposed topography and contour lines of the development site with a contour interval of two feet (2') or less for major site plans, five feet (5') or less for minor site plans, supplemented where necessary by spot elevations.

(M) The location and size of sanitary and storm sewers, gas lines, water mains, culverts, and other underground structures; all overhead utilities and supporting poles in or affecting the development area, including existing and proposed facilities; and easements for these facilities.

(N) The location, dimension, and character of construction of proposed streets, alleys, and driveways; and the location, type and dimensions of means of ingress and egress to the site. When proposed streets intersect with or adjoin existing streets, both edges of existing pavement surface or curb and gutter must be indicated for a minimum of one hundred fifty feet (150') or the length of connection, whichever is the greater distance.

(O) The location of all existing and proposed off-street parking and parking bays, loading spaces, and pedestrian walkways, indicating types of surfacing, dimensions of stalls, width of aisles and a specific schedule showing the number of parking spaces. See Article 26 Off-Street Parking and Loading Spaces of this Chapter. To the greatest extent possible, parking areas shall not be located between the adjacent right-of-way and the principal parking structure on the site unless topographic features or vegetation provide effective screening. Cul-de-sacs may not be construed or employed as a parking area.

(P) The location on the site of all living trees with a diameter of twelve inches (12") or greater at DBH (diameter at breast height) proposed to be removed. The site plan shall show heavily wooded areas to be preserved, trees to be retained, removed, and planted, and designated by symbols coincident with the areas of the trees. See Article 24 Landscaping and Tree Protection of this Chapter.

(Q) The location, height, and character of all outdoor lighting systems. See Article 25 Outdoor Light Control of this Chapter.

(R) The location, character, height, means of lighting, and orientation of proposed signs. See Article 15 Sign Regulations of this Chapter.

- (S) All paving, including, without limitation, gravel or other pervious surfaces, which shall be of a design and quality to support the traffic which can reasonably be expected to be generated by the proposed use, as required by Article 26 Off-Street Parking and Loading Spaces of this Chapter.
- (T) The limit of the one hundred (100) year floodplain, as defined in Section 22-17-8A. et seq. of this Chapter.
- (U) The location of any wetlands in compliance with applicable federal, state, and local definition of wetlands.
- (V) The location and dimensions of proposed recreation or open space, and required amenities and improvements, including details of disposition, in accordance with any open space or recreation plan adopted by the county.
- (W) Any necessary notes required by the Director of Planning to explain the purpose of specific items on the plan.
- (X) All suitable easements for future public water and sewer facilities necessary to serve the property.
- (Y) All new electrical, telephone, cable television, fiber optic, and other utility lines on the site which shall be installed underground.
- (4) In the B-1 and B-C zoning districts, a variation to the setback regulations may be granted by the Planning Commission for projects in a community planning area that meet new urban/neo-traditional planning principles, and further the objectives and goals set forth in the comprehensive plan.

Primary considerations for such requests include:

- location of proposed development;
- size, scale, character, orientation of proposed development;
- adequacy of ROW for future transportation system (evaluate with input from VDOT);
- appropriateness of the proposed setback with surrounding development (proposed and/or existing);
- compatibility with the goals and objectives of the comprehensive plan (applicant should enumerate as many as possible); and

- compatibility with new urban/neo-traditional principles (applicant should enumerate as many as possible).

(5) Site planning shall consider the future development of adjacent parcels as recommended by the Fluvanna County Comprehensive Plan or other approved local plan and as may be indicated by any filed site plan, whether approved or under review. The site plan shall provide for safe and convenient vehicular and pedestrian circulation between sites to be occupied by complementary uses.

(6) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private.

(A) A variation to the sidewalk regulations may be granted by the Planning Commission for projects where:

- 1) The Virginia Department of Transportation prohibits the construction of sidewalks;
- 2) The physical conditions on the lot or adjoining lots, including but not limited to, existing structure and parking areas, existing utility easements, environmental features, or the size and shape of the lot, make it impossible or unfeasible to provide the required sidewalks;
- 3) The application of the aforementioned requirements would not further the goals of the Comprehensive Plan or otherwise serve the greater public's health, safety, and welfare.

(B) The applicant shall file a written request with the Department of Planning and Community Development stating why application of a sidewalk variation is necessary and how the before mentioned circumstances may apply to the property.

(C) The Planning Commission shall act on the variation request in conjunction with the county's action on the site plan, subdivision plat or special use permit or, if no such action is required, within sixty (60) days of the date the application was submitted and determined to be complete. The Planning Commission may grant the variation if it determines that one or more applicable circumstances exist. In granting a variation, the Planning Commission may impose conditions deemed necessary to protect the public health, safety, or welfare.

(D) The denial of a variation, or the approval of a variation with conditions objectionable to the applicant, may be appealed to the Board of Supervisors. In considering a variation on appeal, the Board of Supervisors may grant or deny the variation based upon its determination of whether one or more applicable circumstances exist, amend any condition imposed by the Planning Commission, or impose any conditions deemed necessary to protect the public health, safety, or welfare.

(Ord. 5-4-11; Ord. 12-16-15)

**Sec. 22-23-7. Additional improvements and standards for major site plans.**

The following improvements and minimum standards, as applicable, shall be required and provided for in a major site plan:

(A) All streets and highway construction standards and geometric design standards shall be in accordance with those specified by Fluvanna County and the Virginia Department of Transportation.

(B) The pavement of vehicular travel lanes, driveways, or alleys shall be designed to permit vehicular travel on the site and to and from adjacent property and parking areas.

(C) All parking and other vehicular areas shall be so designed as to provide safe and convenient access by all vehicles which can reasonably be anticipated to use the site, including delivery and service vehicles as well as customer and employee vehicles.

(D) Safe and convenient pedestrian and bicycle access to, from, and within the site shall be provided.

(1) In the B-1, B-C, I-1, and I-2 zoning districts, sidewalks that comply with the most recent VDOT specifications shall be required on both sides of all roadways, public and private. A variation to the sidewalk regulation may be granted per Section 22-23-6(6) of this Chapter.

(E) Widening or extension of the nearest abutting developed street shall be provided as required by Fluvanna County and the Virginia Department of Transportation. Where the proposed development does not abut a developed public street, a plan of access shall be submitted for approval in conjunction with the site plan.

(F) Traffic control devices, signs, and pavement markings shall be required. Electric traffic control devices shall be provided by the developer where the anticipated traffic

volume from the proposed development exceeds the thresholds established by the Virginia Department of Transportation.

(G) All drainage structures and facilities shall be adequate to provide efficient and complete drainage of surface waters from the site into adequate channels. They shall comply with the standards and applicable provisions of the Virginia Erosion and Sediment Control Handbook of the Virginia Department of Environmental Quality, the Drainage Manual of the Virginia Department of Transportation, and the regulations of the Virginia Department of Environmental Quality.

(H) All public water supply and sewerage systems shall comply with the provisions hereof, and obtain all applicable approvals and permits from Fluvanna County and the relevant Virginia Boards and Departments.

(I) Provisions shall be made for the adequate disposition of surface water in accordance with design criteria and construction standards of the Fluvanna County, indicating location, sizes, types and grades of ditches, catch basins, and pipes; and connection to existing drainage systems.

(J) Provisions and schedules shall be made for approval of adequate control of erosion and sedimentation, in accordance with the Fluvanna County Erosion and Sedimentation Control program, found in Chapter 6: Erosion and Sedimentation Control of this Code.

(Ord. 5-4-11; Ord. 12-16-15)

#### **Sec. 22-23-8. Procedure.**

Generally:

(1) Sufficient copies of the proposed site plan, as required by the Director of Planning, of the proposed site plan shall be submitted to the Director of Planning.

(2) An applicant may appeal any decision by the Planning Director within thirty (30) days in writing to the Planning Commission.

(3) All fees for site plans shall be as established by the board of supervisors and shall be paid in full before any site plan is accepted for review.

(4) An applicant must submit a sketch plan for review and comment prior to filing a preliminary site plan.

(5) No site plan shall be fully and finally approved unless it has sufficiently accurate dimensions and construction specifications to support the issuance of construction permits.

(A) Sketch Plan Required:

(1) Prior to incurring significant cost to prepare a Minor or Major Site Plan, the applicant shall prepare a sketch plan as set forth below.

(2) The applicant shall meet with the Director of Planning to review the sketch plan and receive comments from the county. If the sketch plan is a prelude to a Major Site Plan, the Planning Commission shall also review the proposed sketch plan. The applicant shall submit twenty (20) additional copies of the proposed sketch plan to the Director of Planning and it shall be placed on the Planning Commission agenda within sixty (60) days. The Planning Commission shall have forty-five (45) days to review the sketch plan and provide comments to the applicant.

(3) Site Plans for developments involving expansion of an existing building or use, in which: 1) building expansion is less than 500 square feet; 2) the area of disturbance is less than 2,500 square feet; 3) the development has no additional external lighting; and 4) no more than four (4) additional parking spaces are constructed then "Sketch Plans" can be reviewed for final approval.

(4) Associated with the review of this sketch plan, the Director of Planning may also require an on-site field inspection with the applicant or a representative at the applicant's choosing.

(5) The sketch plan will convey the general concept of the proposed site development and shall only include the following:

(a) A general analysis of the site, showing existing slopes, drainageways, tree stands, site features and amenities to be preserved, conservation areas, historic features, and the like.

(b) Approximate location and size of the buildings.

(c) General points of access.

(d) General street, roadway, and parking layouts.

- (e) Any exterior lighting.
- (6) Thereafter, no preliminary or final site development plan shall be approved by the Director of Planning unless the same shall substantially conform to the approved sketch plan, including all required modifications thereto which may be required as a result of comments by the planning commission.
- (B) Minor Site Plans:
- (1) Site Plans for developments involving expansion of an existing building or use, in which the building expansion is less than 2,500 square feet and greater than 500 square feet and the area of disturbance is less than 10,000 but greater than 2,500 square feet are considered “Minor Site Plans”.
  - (2) The plan approval authority for Minor Site Plans is the Director of Planning.
  - (3) After the Director of Planning has deemed the application to be complete, he shall have thirty (30) days to circulate the plan to the relevant county departments and state agencies for written comments. At the end of the thirty (30) day period, the site plan may be approved or returned to the applicant with a written report on why the site plan cannot be approved. If the Director of Planning takes no action by the end of the thirty (30) day period, the site plan shall be deemed approved.
  - (4) Minor site plans shall contain all the elements in Section 22-23-6 of this Chapter.
- (C) Major Site Plans:
- (1) All site plans except those considered “Minor Site Plans” are considered “Major Site Plans.”
  - (2) The Planning Director is the plan approving authority for Major Site Plans.
  - (3) After the Director of Planning has deemed the application to be complete, he shall have forty-five (45) days to circulate the plan to the relevant

County departments and State agencies for written comments. At the end of the forty-five (45) day period, the site plan may be approved or returned to the applicant with a written report on why the site plan cannot be approved. If the Director of Planning takes no action by the end of the forty-five (45) day period, the site plan shall be deemed approved.

(4) Major site plans shall contain all the elements in Section 22-23-6 and Section 22-23-7 of this Chapter.

**Sec. 22-23-9. Site plan termination or extension.**

(A) An approved final site plan, hereinafter referred to as "final site plan," shall be valid for five (5) years from the date of approval. A site plan shall be deemed final once it has been reviewed and approved if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.

(B) (1) Upon application prior to expiration of a final site plan, the Planning Director may grant a one (1) year extension for any approved site plan. Additional extensions may be approved for extended periods as the Planning Director may, at the time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed development, the laws, ordinances and regulations in effect at the time of the request for an extension.

(2) If the Planning Director denies an extension requested as provided herein and the applicant contends that such denial was not properly based on the ordinance applicable thereto, the foregoing considerations for granting an extension, or was arbitrary or capricious, he may appeal to the board of supervisors provided that such appeal is filed with the clerk of the board within sixty (60) days of the written denial by the Planning Director.

(C) For so long as the final site plan remains valid in accordance with the provisions of this section, or in the case of a recorded plat for five (5) years after approval, no change or amendment to any ordinance, map, resolution, rule, regulation, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the applicant or his successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

(D) Application for minor modifications to final site plans made during the periods of validity of such plans established in accordance with this section shall not constitute a waiver of the provisions hereof nor shall the approval of minor modifications extend the period of validity of such plats or plans.

**Sec. 22-23-10. Amendments to the site plan.**

In some cases, it may become necessary for an approved site plan to be amended. For minor changes, that is, changes of a technical nature or having a limited effect on the site and adjoining sites, the Director of Planning may approve the amendments in accordance with the process established by this article. For major changes, that is, changes having a significant effect on the site and adjoining sites, or increasing or decreasing the amount of land covered by the site plan, the Director of Planning shall require a new site plan be drawn and submitted for review and approval in accordance with this article.

**Sec. 22-23-11. Compliance with approved site plan.**

(A) Inspections shall be made during the installation of off-site and on-site improvements by the Director of Planning, or other county or state staff, to insure compliance with the approved site plan.

(B) The owner or developer shall provide adequate supervision at the site during installation of improvements required by the site plan, and shall make one (1) set of approved plans available at the site as all times that work is being done.

(C) No final Certificate of Occupancy shall be issued until all site work is completed in compliance with the approved site plan.

(D) Prior to any final approval, or issuance of any temporary certificate of occupancy, a bond with surety, or other guaranty, approved by the Planning Director and county attorney in accordance with sections 15.2-2241 through 15.2-2246 of the Code of Virginia, in an amount sufficient to cover the estimated costs of such improvements to be bonded, the owner or developer shall submit an estimate of such costs which shall be reviewed by the agent. The agreement and bond shall provide for and be conditioned upon completion of all work within a time specified by the Planning Director. The completion of all other improvements required by or pursuant to this Section shall be certified and/or bonded as provided hereinabove.

(E) Prior to occupying the site, the applicant shall provide to the agent plans of the site, in the same detail as the plans approved subject to this chapter showing the site as fully developed. The agent may require such supplementation, revision or amendment to such plans

as may be necessary to reflect the true conditions of the site. In the event that the site as fully developed shall not be substantially as shown on the approved site plan, the applicant shall submit a revised plan for review by the Planning Director. No certificate of occupancy shall be issued for any use, building or structure subject to the provisions of this article unless and until all improvements required by the approved plan shall have been satisfactorily completed; provided, however, that the Planning Director may issue a temporary certificate of occupancy for any such use as to which there remain incomplete one or more items from the said plan, conditioned upon the timely and satisfactory completion of such items, so long as such incomplete items do not adversely affect the public health or safety and have been bonded for completion in accordance with Section 22-23-11(D) of this Chapter.

**Sec. 22-23-12. Certain approvals not required.**

Nothing herein contained shall be deemed to require the approval of any plan, or any feature thereof, which shall be determined, for specific, identifiable reasons, to be a departure from sound engineering practice or to constitute a danger to the public health, safety or general welfare.

***Article 24. Landscaping and Tree Protection.***

**Sec. 22-24-1. Landscape plan -- General provisions for landscaping.**

The purpose of this section is to provide guidelines for the landscaping and screening of development sites subject to site plan approval. These requirements are intended to ensure that site development is harmonious with the surrounding properties, to promote the public health, safety and welfare, in accordance with the guidelines in the Comprehensive Plan; to help to conserve energy by providing shade and wind breaks; to encourage recharge of ground water by providing pervious area; to improve and preserve the air quality and minimize noise, dust and glare; and to preserve the rural character of the county. (Ord. 8-1-12)

**Sec. 22-24-2. Landscape plan specifications.**

- (A) All landscape plans shall be on sheets not exceeding twenty-four inches (24") by thirty-six inches (36").
- (B) If the plan is prepared on more than one sheet, match lines shall clearly indicate where the several sheets join.

- (C) A certified Landscape Architect, arborist, horticulturist, land surveyor, or other person deemed qualified by the Zoning Administrator shall prepare the plan.
- (D) The plan shall be prepared at a scale of not less than 1"=40' for areas along streets and roads, and not less than 1"=20' for areas around buildings, parking lots, and landscape areas.

(Ord. 8-1-12)

**Sec. 22-24-3. Landscape plan contents.**

The Landscape plan shall include the following elements:

- (A) The existing and proposed contours at intervals of five feet (5") or less;
- (B) All property boundary lines;
- (C) The limits of grading and clearing;
- (D) The tree protection zone(s) as applicable and any and all information required for tree protection as indicated in Sections 22-24-8.1, -8.2, and -8.3 of this Article;
- (E) All proposed improvements;
- (F) The existing and proposed underground and overhead utilities, including heights and/or depths;
- (G) All rights of way and easements;
- (H) An adequate, clearly identified, exterior water source; and
- (I) All planting details, including:
  - (1) The botanical and common name, size, spacing, and location of all trees, shrubs, and ground cover, and the location and extent of planting beds in which they are to be planted, if any;
  - (2) All plants shall be labeled on the plan by direct call-out method or by symbols keyed to a plant list;

(3) A planting symbol shall be provided to illustrate the natural canopy/cover of trees and the extent of growth of shrubs at maturity;

(4) A plant list or matrix shall be provided showing the botanical name, common name, quantity, size, spacing, handling method, and general instruction, if any, specific to each plant;

(5) General details shall be provided illustrating the method of installation of plants, seeding, and sodding, including but not necessarily limited to size of plant pit, method of placement, backfill material, method of support, preparation of beds, mulch, etc;

(6) Special details shall be provided illustrating special conditions such as supplemental plant pit drainage, pruning for special effects, or other conditions requiring illustrated instructions;

(7) General notes shall be provided specifying the care and maintenance of plants for a period of three (3) years following planting and the replacement of any dead, dying, or diseased vegetation required to be installed by this chapter for the life of the project.

(Ord. 8-1-12; Ord. 12-16-15)

**Sec. 22-24-4. Minimum standards.**

(A) The following shall be the minimum size of plant materials at installation:

- (1) Large shade trees                      1.5” caliper
- (2) Medium shade trees                    1.25” caliper
- (3) Ornamental trees                        1.25” caliper
- (4) Evergreen trees                         5’ in height
- (5) Shrubs                                      18” in height
- (6) Ground cover                             1 year plants

(B) All required landscaping shall be planted according to the following standards:

(1) All trees to be planted shall meet the American Standard for nursery stock published by the American Nursery and Landscape Association.

(2) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nursery and Landscape Association and the Virginia Society of Landscape Designers, or the Road and Bridge Specifications of the Virginia Department of Transportation.

(3) All required landscaping shall be planted between September 15 and June 30, provided that the ground is not frozen.

(C) Wheel stops, curbing, or other barriers shall be provided to prevent damage to landscaping by vehicles.

(D) Where necessary, trees shall be welled or otherwise protected against change in grade. Such protection measures shall be sited to minimize disturbance within the drip line of trees designated for protection on the landscape plan.

(E) All pervious areas of the site shall be permanently protected from soil erosion with grass, ground cover, or mulch material.  
(Ord. 8-1-12; Ord. 12-16-15)

**Sec. 22-24-5. Requirements.**

(A) It is the specific intent of these requirements to promote landscape design and installation to mitigate the effects of new development on surrounding areas and specifically not to use plantings as a means of drawing attention to new development. The landscape plan should help protect and preserve Fluvanna County's rural character.

(B) The Landscape Plan shall utilize native and assimilated non-native species listed within the Fluvanna County Plant List. Applicants may add plants to this list with the prior approval of the Zoning Administrator, provided that the proposed species have a rated hardiness and growth habit appropriate for the intended location. A mixture of plant species should be used on each site.

(C) Street trees shall be required along existing or proposed public streets within or adjacent to any site that is subject to site plan approval and all major subdivisions with an average lot size of one (1) acre or less. The placement of street trees shall be in accordance with Virginia Department of Transportation (VDOT) standards and shall not be located within

any sight triangle. The required plantings shall be located either within the right-of-way itself or within a ten-foot (10') strip continuous to such right-of-way. Existing, healthy trees with a caliper of eight inches (8") or greater located within ten feet (10') of the right-of-way may be used to satisfy the planting requirement, provided the trees are protected in accordance with the standards contained in this Chapter. Appropriate provisions shall be made for the permanent maintenance and preservation of the required street trees, to the reasonable satisfaction of the county attorney. Such provisions may include a landscape preservation easement dedicated to the property owners' association or other entity approved by the county attorney. The street trees shall be planted at the following rate:

- (1) One (1) large shade tree shall be required for every fifty feet (50') of road frontage; or
- (2) One (1) medium shade tree shall be required for every forty feet (40') of road frontage.

(D) Minimum tree canopy coverage shall be provided for all new commercial, industrial, and multi-family residential development in accordance with the following requirements:

- (1) Tree canopy coverage shall include all areas of coverage by plant material exceeding ten feet (10') in height, and shall be measured ten (10) years maturity after planting.
- (2) Tree canopy coverage shall be calculated for new plantings using ten (10) year tree canopy coverage standards published by the Virginia Nursery and Landscape Association or other set of standards approved by the Zoning Administrator. When a coverage interval is cited in such standards, the smallest coverage figure for each interval shall be used.
- (3) All landscape plans shall include the preservation of existing trees, the planting and replacement of trees, or any combination thereof, to the extent that, at maturity of ten (10) years, a minimum tree canopy shall be provided as follows:
  - a) Ten percent (10%) tree canopy for a site developed with commercial, office, institutional, or industrial uses;
  - b) Fifteen percent (15%) tree canopy for a multi-family residential site developed at a gross density of more than ten (10) but less than twenty (20) dwelling units per acre; and

- c) Twenty percent (20%) tree canopy for a multi-family residential development developed at a gross density of ten (10) or fewer dwelling units per acre.
- (4) A bonus credit toward tree canopy requirements may be given for the preservation of existing wooded areas, clusters of trees, or mature trees (healthy trees with twelve inches (12”) or greater diameter at breast height) as follows:
- a) The credit provided for the preservation of existing trees, wooded areas, or clusters of trees shall be 1.50 multiplied by the area defined by the existing drip line of the tree, wooded area, or cluster of trees.
  - b) The credit provided per mature tree shall be 2.0 multiplied by the area defined by the boundaries of the existing drip line of the tree.
  - c) A certified landscape architect or arborist shall provide written verification that the trees for which credit will be awarded are in healthy condition; will likely survive for at least twenty (20) years following landscape plan approval; will not be severely impacted by construction activities on site; will not interfere with the growth of other viable landscaping; and will not compromise safety. Credit towards tree canopy requirements shall not be given for any tree deemed to be in poor to fair condition by the Zoning Administrator, nor for any plant designated as invasive on the list maintained by the Zoning Administrator.
  - d) In the event that one or more trees to be awarded bonus credit under this section is destroyed, significantly damaged during clearing or construction activities, or is willfully destroyed or removed, the person responsible for such destruction, injury, or removal shall replace each tree destroyed with two (2) large shade trees planted on-site.
- (5) For the purpose of calculating the total area of a site to determine tree canopy coverage requirements, the following areas shall be excluded:
- a) Properties reserved or dedicated for future street construction or other public improvements.

- b) Ponds and un-wooded wetlands.
  - c) Properties reserved or dedicated for school sites, playing fields and non-wooded recreation areas, and other facilities and areas of a similar nature.
  - d) Portions of a site containing existing structures that are not the subject of a pending application.
- (E) All sites subject to site plan approval and all major subdivisions shall reserve a riparian protection area in accordance with the following requirements:
- (1) The riparian protection area shall be at least fifty feet (50') wide along both sides of all intermittent streams, at least seventy-five feet (75') wide along both sides of all perennial streams, and at least one hundred feet (100') wide along both sides of the Hardware River, Rivanna River, and James River.
  - (2) Indigenous vegetation, including existing ground cover, shall be preserved to the maximum extent practicable, consistent with the use or development proposed. Dead, diseased, or dying vegetation may be pruned or removed as necessary, pursuant to sound horticultural practices. No logging or silvicultural activities may take place within the riparian protection area.
  - (3) No portion of any on-site sewerage system, drain field, reserve drain field, or building shall be placed within the riparian protection area. This statement shall be on all plats and site plans of affected lots.
  - (4) If otherwise authorized by the applicable regulations of this chapter, the following types of development shall be permitted within the riparian protection area, provided that the requirements of this section are met:
    - a) A building or structure which existed on the date of adoption of this article may continue at such location. However, nothing in this section authorizes the replacement, expansion, or enlargement of such building or structure.
    - b) On-site or regional stormwater management facilities and temporary erosion and sediment control measures, provided that:

1. To the extent practical, as determined by the Zoning Administrator, the location of such facilities shall be outside of the riparian protection area.
  2. No more land shall be disturbed as necessary to provide for the construction and maintenance of the facility, as determined by the Zoning Administrator.
  3. The facilities are designed to minimize impacts to the functional value of the riparian protection area and to protect water quality; and
  4. Facilities located within a floodplain adhere to the floodplain regulations of the County Code.
- c) Water-dependent facilities; water wells; passive recreation areas, such as pedestrian trails and bicycle paths; historic preservation; archaeological activities, provided that all applicable federal, state and local permits are obtained. All pedestrian trails and bicycle paths shall be constructed using permeable paving materials.
- d) Stream crossings of perennial and intermittent streams for roads, streets, or driveways, provided that the stream buffer disturbance shall be the minimum necessary for the lot(s) to be used and developed as permitted within the underlying zoning district. Stream crossings shall not disturb more than thirty (30) linear feet of stream for driveways and sixty (60) linear feet for roads or streets, provided that the Zoning Administrator may allow additional length of stream disturbance where fill slopes or special conditions necessitate additional length.

(F) Species identified on the Invasive Alien Plant Species of Virginia list published by the Virginia Department of Conservation and Recreation may not be used in any circumstance.

(G) In areas in view of public roads and rights-of-way, landscape plans should specify plants and their spacing so they may grow in their natural habitat, achieving mature size with minor pruning and shaping.

(1) Where landscaping is required, the property owner or developer shall provide performance guarantees as follows: No certificate of occupancy shall be issued until the landscaping is completed in accordance with the approved landscape plan. When the occupancy of a structure is desired prior to the completion of the required landscaping, a certificate of occupancy may be issued only if the owner or developer provides a performance bond or other form of security satisfactory to the Zoning Administrator in an amount equal to the costs of completing the required landscaping. All required landscaping shall be installed and approved by the end of the first planting season following issuance of a certificate of occupancy, or the security described above may be forfeited to Fluvanna County.

(2) A maintenance bond for the landscaping required by this Chapter shall be posted by the developer in favor of Fluvanna County. If the landscaping is installed prior to the issuance of a certificate of occupancy, then the maintenance bond shall be posted prior to the issuance of the certificate of occupancy. If the landscaping is bonded for installation, rather than installed prior to the issuance of a certificate of occupancy, then the maintenance bond shall be posted when the materials are planted and before the performance bond is released. The maintenance bond shall be in the amount of one-third (1/3) the value of the landscaping and shall be held for a period of one (1) year following the planting date. At the end of the one (1) year time period, the bond shall be released if all plantings are in healthy condition as determined by the Zoning Administrator. If the plantings installed in accordance with an approved landscape plan are not properly maintained by the owner, the security described above may be forfeited to Fluvanna County. In the alternative, the Zoning Administrator may permit the owner to extend the period of such bond for such reasonable time and upon such reasonable terms as he may determine to be best to protect the public interest.

(H) The landowner shall be responsible for the general maintenance and the timely repair and replacement of all landscaping required by this Chapter. All landscaping shall be maintained as follows:

- (1) Plantings shall be kept mulched to prevent weed growth and to retain soil moisture;
- (2) Plant material shall be pruned to maintain healthy and vigorous growth with all pruning performed in accordance with generally accepted maintenance standard practices;
- (3) All turf areas shall be kept mown, except for areas designated as a natural meadow on the landscape plan;
- (4) All plant and landscape material and landscaped areas shall be kept free of refuse and debris; and
- (5) The landowner shall maintain any plant material required by this Chapter and any plant material that dies shall be replaced in kind, or with a suitable substitute as approved by the Zoning Administrator. Preserved existing trees, that subsequently die, shall be replaced by new trees of a caliper and/or height as would be required by this Chapter.

(I) Any minor requirements above may be modified by the Zoning Administrator on a site-specific basis, where the Zoning Administrator finds that, as a result of conditions peculiar to the site, the objectives of the ordinance can be better achieved by other means. The Zoning Administrator may also approve minor spacing variations, which the Zoning Administrator determines to be immaterial to the objectives of this Chapter. The Zoning Administrator may allow for a modification of the riparian protection area requirements by providing alternative measures for riparian protection, by means of substitution of materials, design, or technique, which the Zoning Administrator determines to provide the same or greater degree of riparian protection as compared to such area requirements and is determined by the Zoning Administrator to be reasonably necessary to permit reasonable uses of the property which are otherwise permitted by this Chapter. The decision of the Zoning Administrator in this regard shall be appealable to the Board of Zoning Appeals. A request for a modification shall be submitted and evaluated as follows:

- (1) At a minimum, a request for any modification shall include the following information:

- a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
  - b) A description of the shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;
  - c) A detailed site plan that shows the locations of all existing and proposed structures and impervious cover and the limits of all existing and proposed land disturbance. If applicable, the exact area of the riparian protection area to be affected shall be accurately and clearly indicated;
  - d) Documentation of unusual hardship should the requirements be maintained;
  - e) At least one (1) alternative plan, which meets the requirements of this section, or an explanation of why such a site plan is not feasible;
  - f) A stormwater management plan, if applicable;
  - g) A calculation of the total area of intrusion into the riparian protection area, if applicable; and
  - h) Proposed alternative measures for an intrusion into the riparian protection area, if applicable, together with calculations, graphic depictions and textual materials sufficient to support the conclusion that such alternative measures are sufficient to support the determinations set forth hereinabove.
- (2) The following factors will be considered by the Zoning Administrator in determining whether to allow a modification:
- a) The shape, size, topography, slope, soils, vegetation, and other physical characteristics of the property;
  - b) The locations of all streams and waterways on the property, including along property boundaries;

- c) The long-term and construction water-quality impacts of the proposed modification;
- d) Whether issuance of the modification is at least as protective of natural resources and the environment, including local air and water quality; and
- e) Whether issuance of the modification will negatively impact surrounding properties or adjoining roadways.

(Ord. 8-1-12)

**Sec. 22-24-6. Parking lot landscaping.**

(A) All development subject to site plan approval shall include the following required landscaping for parking lots consisting of five (5) spaces or more.

(B) Minimum planting areas are to be provided as follows:

(1) One planting island containing not less than 200 square feet of planting area for every twenty (20) parking spaces in a row and at both ends of a parking bay, with a minimum width of ten feet (10') in order to protect the landscaping and allow for proper growth.

(2) A planting strip at least nine feet (9') in width between each adjacent area of parking of four (4) bays.

(3) A planting strip at least nine feet (9') in width shall be provided between access roadways and adjacent properties' parking areas and adjacent property of the same use.

(4) A planting area at least twenty-five feet (25') in width shall be provided between parking and adjacent properties of a different use and public streets and rights-of-way. The area shall be measured from the closest parking space to the adjacent property or right-of-way line.

(C) Planting islands shall be planted as follows:

(1) One (1) large shade tree and four (4) shrubs for every 200 square feet.

- (2) Large shade trees shall be arranged so that the canopy at maturity will cover thirty-five percent (35%) of the parking area placed mainly around the perimeter of the parking area and at the end of parking bays.
  - (3) Medium shade trees may be substituted for large shade trees at a ratio of two (2) to one (1), if appropriately spaced and meeting all other canopy criteria. Medium shade trees shall not exceed forty percent (40%) of the total number of shade trees.
- (D) Internal planting strips shall be planted as follows:
- (1) One (1) large shade tree and six (6) shrubs every forty (40) linear feet.
  - (2) Large shade trees shall be arranged so that the canopy at maturity will cover thirty-five percent (35%) of the parking area placed mainly around the perimeter of the parking area and at the end of parking bays.
  - (3) Medium shade trees may be substituted for large shade trees at a ratio of two (2) to one (1), if appropriately spaced and meeting all other canopy criteria. Medium shade trees shall not exceed forty percent (40%) of the total number of shade trees.
- (E) Parking lots consisting of five (5) spaces or more shall be screened from view of public roads, rights-of-way, and adjacent properties. One (1) of the following landscaping treatment options shall be utilized to meet the minimum screening requirements for parking lots:
- (1) Landscape Strip Option: One (1) tree and ten (10) shrubs shall be planted for each forty (40) linear feet, excluding driveway openings, within a planting strip that is ten feet (10') in width; or
  - (2) Berm Option: One (1) tree and five (5) shrubs shall be planted for each forty (40) linear feet, excluding driveway openings. The berm shall be at least thirty inches (30") higher than the finished grade of the parking lot and shall not have a slope steeper than 2:1. The berm shall be stabilized with groundcover or other vegetation; or
  - (3) Woodlands Preservation Option: Existing woody vegetation shall be preserved as a buffer strip with a minimum width of thirty-five feet (35'). Additional tree or shrub plantings may be required by the Zoning

Administrator. The woodlands preservation area shall be placed in a landscape easement, and the landscape plan shall demonstrate techniques to be used for removing underbrush, pruning, and protecting existing trees from any damage during site development; or

(4) Structural Option: A wall constructed of brick, stone, or architectural block, no shorter than three feet (3') and no taller than four feet (4'), shall be constructed along the entire width of the parking lot. One (1) tree and three (3) shrubs shall be planted for each forty (40) linear feet, excluding driveway openings.

(F) The placement of bioretention areas within required planting areas is encouraged, provided that the bioretention techniques utilized are approved as part of an erosion and sediment control plan, stormwater management plan, or similar document. Examples of bioretention techniques include, but are not limited to, rain gardens, swales, infiltration trenches, and tree box filters.

(G) When retaining existing trees in parking areas, enough ground around the tree should be left to allow for its survival or grass pavers should be used to allow air and moisture to reach the tree roots.

(Ord. 8-1-12)

**Sec. 22-24-7. Screening.**

(A) Screening shall be required in the following instances:

(1) Commercial and industrial uses shall be screened from view adjacent properties in residential and agricultural zoning districts, except for commercial and industrial uses allowed by right in said districts.

(2) Parking lots consisting of five (5) spaces or more shall be screened from view of public roads, rights-of-way, and adjacent properties.

(3) Objectionable features, including but not limited to the following, shall be screened from the view of public roads, rights-of-way, and adjacent properties:

- i. Loading areas
- ii. Refuse areas
- iii. Storage yards

- iv. Dry Detention ponds
- v. Maintenance areas

(4) If the required screening is consistent with an approved Master Plan subject to the requirements of the R-3 Residential zoning district.

(5) The Zoning Administrator may require the screening of any use, or portion thereof, upon determination that the use would otherwise have a direct negative visual impact on a property designated as historic by its inclusion within the Historic Preservation chapter of the Comprehensive Plan.

(B) When required, screening shall consist of new plantings, existing vegetation, an opaque masonry wall or wooden fence, or combination thereof, to the reasonable satisfaction of the Zoning Administrator. Unless otherwise specified within this Chapter, one of the following landscaping treatment options shall be utilized to meet the minimum screening requirements:

(1) Evergreen Option: Two (2) rows of evergreen trees shall be planted ten feet (10') on center and staggered within a planting strip that is twenty-five feet (25') wide; or

(2) Berm Option: Two (2) rows of evergreen shrubs shall be planted ten feet (10') on center and staggered. The berm shall be at least thirty inches (30") higher than the finished grade of the surrounding area and shall not have a slope steeper than 2:1. The berm shall be stabilized with groundcover or other vegetation; or

(3) Mixed Vegetation Option: One (1) large shade tree, one (1) medium shade tree, one (1) evergreen tree, and three (3) evergreen shrubs for each twenty (20) linear feet, within a planting strip that is twenty-five feet (25') wide; or

(4) Woodlands Preservation Option: Existing woody vegetation shall be preserved as a buffer strip with a minimum width of seventy-five feet (75'). Additional tree or shrub plantings may be required by the Zoning Administrator. The woodlands preservation area shall be placed in a landscape easement, and the landscape plan shall demonstrate techniques to be used for removing underbrush, pruning, and protecting existing trees from any damage during site development; or

(5) Structural Option: A wall or fence, no shorter than six feet (6') in height, shall be provided and one (1) evergreen tree or shrub shall be planted every ten feet (10') along the side of any such wall or fence facing a public street or use for which the screening shall benefit.

(C) Within commercial, industrial, and multi-family residential developments, dumpsters and other refuse areas visible from public roads, rights-of-way, adjacent properties, and parking areas shall be completely screened from view by a wall or fence constructed using architectural block, brick, stone, vinyl, wood or a similar material that is compatible with the architecture of the principal structure. The use of durable, low-maintenance materials is encouraged.

(D) Parking lots of five (5) spaces or more shall be screened in accordance with Section 22-24-6 of this Article.  
(Ord. 8-1-12)

**Sec. 22-24-8.1. Purpose of tree protection plans.**

The purpose of this section is to promote the general health, safety and welfare through the protection and preservation of existing tree stands, individual specimen trees, and understory plants during the land disturbance/site development process. Preservation of existing tree stands, individual specimen trees, and understory plants shall be a primary consideration in the planning for, and implementation of, land development activities. For tree protection, barriers are required to prevent physical damage to trees or understory plants, and to prevent soil disturbance and compaction within tree protection areas. The more intense the development of the site, the greater the need for the protection and preservation of existing trees and understory. (Ord. 8-1-12)

**Sec. 22-24-8.2. Activities requiring tree protection plans.**

Compliance with the tree protection program of this section is required on all site development plans involving land clearance of more than one-half of one acre (21,780 square feet of cleared land) in size, and all activities requiring a land disturbing permit except for the construction of a single or two family dwelling on an individual lot.

All plans prepared for compliance with this chapter shall clearly delineate areas of tree protection and provide construction details of tree protection barriers. Measures for tree protection shall be outlined in the general notes of the plan, including construction, inspection, and maintenance of barriers. The general notes shall also outline prohibited activities within the tree protection zones. The tree protection zone shall, to the extent possible, conform to the drip line of the trees being protected.  
(Ord. 8-1-12)

**Sec. 22-24-8.3. Tree protection plan contents.**

(A) All tree protection plans shall indicate tree protection zone(s), in accordance with the following guideline:

- (1) Existing stands of trees or individual specimen trees whose removal is not necessary for the development of the site or the construction of any facility.

(2) Preservation of existing trees to comply with the landscape plan requirements.

(B) All areas of tree protection shall be bounded by a tree protection barrier at the perimeter of the tree protection zone. Barriers shall completely surround the tree protection area, except where the area extends more than one hundred (100) yards beyond the construction zone or routes of access to the construction zone. The tree protection areas, beyond the one hundred (100) yards, shall be flagged every one hundred feet (100') with continuous ribbon with "Do Not Enter" signs stating prohibited activity. Barriers and flagging shall be installed prior to any land disturbing activity. Barriers shall be a minimum of five feet (5') in height, stationary, and constructed of rigid or semi-rigid materials that must be dismantled to be moved.

Barriers shall be of a color or flagged to be clearly visible by all people in the vicinity, particularly equipment and vehicle operators. Barriers shall be inspected and repaired on a routine basis and shall be completely removed prior to occupancy of the development. The purpose of the barrier shall be to prevent damage to trees or under story plants and to prevent soil disturbance and compaction within the zone.

(C) The following activities are prohibited within tree protection zones:

- (1) Operation of any vehicle or machinery, except as may be necessary for the installation of utility lines.
- (2) Parking of vehicles or equipment.
- (3) Storage of any materials or equipment.
- (4) Discharge of any substance that may be injurious to trees or understory plants.

(D) Wherever feasible, utilities shall be designed and routed to avoid tree protection zones. If it is necessary to route utilities through tree protection zones, the following shall apply:

- (1) Route utility trenches outside the drip line of trees or as far as possible from tree trunks.
- (2) In areas of multiple trees, where trenches must go between trees, preference should be given to stay away from larger specimen trees.

- (3) Equipment that is the lightest weight and makes the least possible impact shall be used to dig trenches and install utilities.
  - (4) Rubber-tired, rather than track equipment, shall be used whenever possible.
  - (5) Excavation materials are not to be placed against tree trunks and shall be placed as far away from trunks as possible.
  - (6) Where excavation materials are to be placed, indicator ribbons shall be placed on undisturbed areas prior to excavation, to facilitate restoring the area to the original grade.
  - (7) Areas where excavated materials have been placed shall be restored to the original grade with the least amount of disturbance possible.
- (E) Any damage done to trees within tree protection zones shall be immediately repaired.
  - (F) Any clearing within tree protection zones shall be done by hand.
  - (G) Where grade differences occur between the tree protection area and the finished grade of the adjacent areas, retaining walls and dry wells shall be used to prevent the need for grading in tree protection zones.  
(Ord. 8-1-12)

### ***Article 25. Outdoor Light Control.***<sup>29</sup>

#### **Sec. 22-25-1. Statement of intent.**

The purpose of this Section is to protect the public health, safety and welfare by regulating the placement, orientation, distribution, and fixture type and size of outdoor lighting. The intent of this section is to encourage lighting that provides safety, utility and security, as well as preventing glare on public roadways, and to prevent light trespass or spillover to adjoining properties.

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<sup>29</sup> Renamed by Editor from “Sec. 22-25. Outdoor Light Control Article”.

**Sec. 22-25-2. Conformance with applicable codes and ordinances.**

All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this article, and other applicable provisions of the Zoning Ordinance. Where there is conflict between the provisions of this article and applicable provisions of the Zoning Ordinance, the most restrictive shall govern.

**Sec. 22-25-3. Approved materials and methods of installation.**

The provisions of this article are not intended to prevent the use of any equipment, material or method of installation not specifically prescribed by this article provided the alternative has been approved by the Zoning Administrator. The Zoning Administrator may approve any such alternative provided that the proposed design provides the approximate equivalence to the specific requirements of this article.

**Sec. 22-25-4. General terms.**

(A) *Outdoor Light Fixtures* shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps or other devices, permanent or portable, used for illumination, direction or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights for:

- (1) Buildings and structures, including canopies and overhangs;
- (2) Parking lot lighting;
- (3) Landscape lighting;
- (4) Signs; and
- (5) Display and service areas.

(B) *Installed* shall mean the initial installation of outdoor light fixtures defined herein, following the effective date of this article, but shall not apply to those outdoor light fixtures installed prior to such date.

(C) *Shielded, fully* shall mean fixtures that are shielded in such a manner that light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted. This means that a fully shielded fixture is one used in such a way that it allows no

direct or internally reflected light to shine above the light fixture or beyond the property line. The terms 'source shield' and 'full cutoffs' shall mean fully shielded.

(D) *Footcandle* shall mean a quantitative unit of measure referring to the measurement of illumination incident at a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.

(E) *Full Cutoff Angle* shall mean the angle formed by a line drawn from the light source and a line perpendicular to the ground from the light source, beyond which no light is emitted. Refer to example graphics.

(F) *Initial Lumens* shall mean the lumens emitted from a lamp, as specified by the manufacturer of the lamp.

(G) *Lamp* shall mean the component of a luminaire that produces and directs light. A lamp is also commonly referred to as a bulb.

(H) *Lumen* shall mean a standard unit of measurement referring to the amount of light energy emitted by a light source, without regard to the effectiveness of its distribution.

(I) *Luminaire* shall mean a complete lighting unit consisting of a lamp or lamps together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. A luminaire is also commonly referred to as a fixture.

(J) *Outdoor Luminaire* shall mean a luminaire that is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign.

(K) *Photometric Plan* shall mean a point-by-point plan depicting the intensity and location of lighting on the property and spillover on to adjacent properties or rights of way. (Ord. 12-16-15)

#### **Sec. 22-25-5. Shielding.**

All outdoor light fixtures except those exempted, or as otherwise specified in Article 15: Sign Regulations of this Chapter, shall be fully shielded. A fully shielded fixture must be a full cutoff luminaire or decorative luminaire with full cutoff optics, and is defined as an outdoor lighting that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures. The light source visibility shall be fully shielded from the adjoining property. (Ord. 6-16-10)

**Sec. 22-25-6. General requirements for all zoning districts.**

(A) Public or Private Recreational Facilities: Lighting for the parking areas for these facilities shall meet the requirements identified in the following Applications section.

(B) Outdoor Illumination of Building, Landscaping and Signs. The unshielded outdoor illumination of any building or landscaping is prohibited. Lighting fixtures used to illuminate an outdoor sign shall either be mounted on the ground sign or mounted on the top of the sign, and shall comply with shielding requirements.

(C) All outdoor lighting fixtures shall be turned off after the close of business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

(D) Gasoline Station/Convenience Store Aprons and Canopies.

(1) The lighting fixture bulbs shall be recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling and light is restrained to no more than eighty-five (85) degrees from vertical.

(2) As an alternative to recessed ceiling lights, indirect lighting may be used where the light is directed upward and then reflected down from the underside of the canopy. In this case, light fixtures shall be shielded so that direct illumination is focused exclusively on the underside of the canopy and the canopy designed is such a way as to prevent light from being directly reflected beyond the property line.

(3) Lights shall not be mounted on the top or sides (fascia) of the canopy, and the sides of the canopy shall not be illuminated.

(4) The lighting for new facilities (pump islands and under canopies) shall have a minimum of 1.0 footcandle at grade, and the average horizontal illumination cannot exceed 10 footcandles at grade level, subject to a uniformity ratio (ratio of average to minimum illuminance) no greater than 4:1. The standards herein are based on the Illuminating Engineering Society of North America (IESNA) RP-33, Lighting for Exterior Environments.

(5) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.

(6) The lighting of roofs or portions thereof is prohibited.

(E) All Parking Lots, Loading and Display Areas. This lighting requirement applies to multi-family, educational, institutional, public, commercial business and retail, wholesale, and limited and general industrial use categories identified within the Zoning Ordinance.

(1) Lighting for all parking, display and loading areas shall not exceed an average horizontal illumination level of 2.5 footcandles. All lighting fixtures serving these areas shall be cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA);

(2) Maximum Mounting Height\*  
Residential: 15 feet  
Non-Residential: 20 feet

\* Height is measured from the ground surface to the bottom of the lighting fixture.

(F) Spillover light, vertical or horizontal, from parking area luminaires onto public roads and property in residential or agricultural zoning districts shall not exceed one-half (1/2) footcandle at the property line.

(G) The lighting of roofs or portions thereof is prohibited.  
(Ord. 12-16-15)

### **Sec. 22-25-7. Exemptions.**

(A) Nonconforming Fixtures. Outdoor light fixtures installed prior to the effective date of this article are exempt from the provisions of this article, provided, however, that no change in use, replacement, and structural alteration of outdoor light fixtures shall be made unless it thereafter conforms to the provisions of this Article.

(B) Lighting that is not subject to this Chapter by state or federal law.

(C) Roadway and airport lighting and security lighting controlled and activated by motion sensor devices for a duration of fifteen (15) minutes or less.

(D) Lighting of any flag as required by law

(E) Temporary circus, fair, carnival, or civic uses.

(F) Special Conditions. The Zoning Administrator may grant an exemption to the requirements only upon a written finding that there are conditions warranting the exemption and that there are no conforming fixtures that would suffice.

(G) Construction and Emergency Lighting. Lighting necessary for construction or emergencies is exempt from the provisions of this article provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(H) Lighting associated with agricultural uses and structures, such as a barn or paddock area.

(I) Single-family and duplex residential buildings.

**Sec. 22-25-8. Applications.**

(A) Any person submitting a site plan or applying for a building, electrical or sign permit to install outdoor lighting fixtures shall, as a part of said application, submit evidence that the proposed work will comply with this article.

(B) The lighting plan application shall include at least the following:

(1) A site plan drawn to scale showing building(s), landscaping, parking areas and proposed exterior lighting fixtures;

(2) Location of all post, canopy, supports and light fixtures, including the height of each fixture, for any building, structure, parking, display and loading areas;

(3) Specifications of the illuminating devices, lamps, supports, and other devices, including designation as Illuminating Engineering Society of North America (IESNA) "cut-off" fixtures. This description may include but is not limited to manufacturers catalog cuts, and drawings including sections where required;

(4) Locations of all pole-mounted and building-mounted fixtures and a numerical twenty-five foot (25') by twenty-five foot (25') grid of lighting levels, in footcandles, that the fixtures will produce on the ground (photometric report). The photometric report will indicate the minimum and maximum footcandle levels within the lighted area of the site and spillover on adjacent properties and right of ways. The minimum (lowest number) is usually at the outer edges of the illuminated area or between two fixtures. The average light level is determined by adding the footcandle value of all the points in the grid and dividing by the total number of points.

(5) The above required plans and descriptions shall be sufficiently complete to enable the Zoning Administrator to readily determine whether compliance with the requirements of this article will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

**Sec. 22-25-9. Issuance of permit for lighting on private property.**

Prior to issuance of a building, electrical, or sign permit, the Zoning Administrator shall determine that the submitted plans and details for said permit are in conformance with this article. The stamping of the plans and the signature of the Zoning Administrator or his designated representative and the date of the signature shall indicate that the plans are in conformance.

**Sec. 22-25-10. Amendment to permit for lighting on private property.**

Should the applicant desire to substitute outdoor light fixtures or lamps to be installed on private property after a permit has been issued, the applicant shall submit all changes to the Zoning Administrator for approval, with adequate information to assure compliance with this article.

**Sec. 22-25-11. Appeals.**

Except for street lighting within the right-of-way and for temporary exemptions, any applicant's appeal of the Zoning Administrator's decision shall be made to the Board of Zoning Appeals, and the procedures of the Zoning Ordinance shall apply.

**Sec. 22-25-12. Request for Temporary Exemptions.**

(A) Request. Any person may submit a written request on a form prepared by the Zoning Administrator for a temporary exemption to the requirements of this article. The Request for Temporary Exemption shall contain the following information:

- (1) Specific exemptions requested.
- (2) Type and use of exterior light involved.
- (3) Duration of time for requested exemption.
- (4) Type of lamp and total wattage of lamp or lamps.
- (5) Proposed location of exterior light.
- (6) Previous temporary exemptions, if any.
- (7) Physical size of exterior light and type of shielding provided.

The Zoning Administrator may request any additional information that would enable a reasonable evaluation of the Request for Temporary Exemption.

The fee for a temporary exemption shall be established as part of a fee schedule adopted by the board of Supervisors.

**Sec. 22-25-12.1. Appeal.**

The Zoning Administrator, within thirty (30) days from the date of the properly completed Request for Temporary Exemption, shall approve or reject in writing the Request. If rejected, the individual making the Request shall have the right of appeal to the Planning Commission.

***Article 26. Off-Street Parking and Loading Spaces.*****Sec. 22-26-1. Statement of intent.**

The intent of this Article is to provide vehicle parking space for a developed site that is adequate to serve the demand generated by the proposed use, while avoiding excessive

impervious area. This Article will serve to protect valuable natural, historic, and scenic resources within Fluvanna County; to provide safe and convenient internal and external movement of vehicles, bicycles, and pedestrians; to provide adequate fire and police protection and stormwater control; and otherwise to protect the health, safety, and welfare of the citizens of Fluvanna County. (Ord. 8-1-12)

**Sec. 22-26-2. Off-street parking and loading spaces required.**

(A) There shall be provided at the time of erection of any building or at the time any main building is enlarged, or at the time of a change in use of a building or site, off-street parking and loading spaces as set forth in this section. No person, firm, or corporation shall build and occupy any structure or initiate the new use of any land without providing the off-street parking and loading spaces as set forth in this Section. Parking requirements shall not automatically be considered sufficient for any other use of the property. When there is a change in use of the property, additional parking spaces may be required if necessary to meet the standards established by this Section.

(B) Off-street parking and loading spaces shall be maintained in a clean, litter-free, serviceable, and orderly condition, and shall continue as long as the main use of the site is continued. No owner or operator of any structure affected by this section shall discontinue, change, or dispense with the required parking and loading areas without prior approval by the Zoning Administrator.

(C) No non-residential off-street parking space or loading space shall be used for the sale, repair, dismantling or servicing of any vehicle, equipment, materials, or supplies, or obstructed in any fashion.

(D) When a use that is non-conforming as to the required off-street parking and loading space is enlarged, additional off-street parking and loading space shall be required only on the basis of the enlargement.

(E) No Certificate of Occupancy for a new or changed use shall be granted unless the requirements of this Section are met.  
(Ord. 8-1-12)

**Sec. 22-26-3. Location of off-street parking.**

(A) The off-street parking facilities required by this Section shall generally be located on the same lot or parcel of land that they are intended to serve.

(B) When consistent with the intent of this Article, the Zoning Administrator may approve off-street parking on property that is located within six hundred feet (600') of the development site. Before such approval is granted, a written agreement assuring the retention of property for parking use shall be properly drawn and executed by the parties, approved as to form by the county attorney, recorded with the county clerk, and filed with the Zoning Administrator.

(C) Nothing in this Section shall be construed to prevent the joint use of off-street parking between two (2) or more buildings or developments, or uses by two (2) or more owners or operators. In that case, the total number of parking spaces when combined or used together shall not be less than the sum of the requirements for the several individual uses computed separately, unless it can be demonstrated that by the nature of the several uses, the parking spaces will be in use at substantially different times of day. Before such approval is granted, a written agreement assuring the retention of property for parking use shall be properly drawn and executed by the parties, approved as to form by the county attorney, recorded with the county clerk, and filed with the Zoning Administrator.

(D) Where a parking lot is owned by Fluvanna County or another public body, and its spaces are open for use by the general public, said spaces may be used to meet the on-site parking requirement, provided that said parking lot is within six hundred feet (600') of the development site.

(E) With the approval of the Zoning Administrator, on-street parking spaces located within one hundred fifty feet (150') of the designated use may count towards the minimum off-street parking requirements. On-street parking spaces may be located on any private street or, with the approval of the Virginia Department of Transportation (VDOT), any public street. Each off-street parking space shall be on a paved area abutting the travelway.

(F) To the greatest extent possible, parking areas shall not be located between the adjacent public right-of-way and the principal structure(s) on the site.  
(Ord. 8-1-12)

**Sec. 22-26-4. Parking space standards.**

(A) Parking Dimensional Standards

(1) Parking spaces and adjacent aisles shall conform to the dimensions listed in Table 1:

Table 1: Minimum Parking Space and Aisle Dimensions
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Angle	Type	Width	Stall Depth	One-Way Aisle Width	Two-Way Aisle Width
0° (Parallel)	Standard	9 ft.	20.5 ft.	13 ft.	24 ft.
	Compact	7.5 ft.	18.5 ft.	12 ft.	24 ft.
30°	Standard	9 ft.	17 ft.	13 ft.	N/A
	Compact	8 ft.	14 ft.	12 ft.	N/A
45°	Standard	9 ft.	18 ft.	13 ft.	N/A
	Compact	8 ft.	16 ft.	12 ft.	N/A
60°	Standard	9 ft.	18 ft.	16 ft.	N/A
	Compact	8 ft.	16.5 ft.	15 ft.	N/A
90° (Perpendicular)	Standard	9 ft.	18 ft.	N/A	24 ft.
	Standard	10 ft.	18 ft.	N/A	20 ft.
	Compact	8 ft.	17 ft.	N/A	22 ft.

(2) The minimum stall depth requirements for perpendicular parking spaces may be reduced by up to two feet (2'), if the parking spaces are adjacent to planting strips or other landscaping features that allow for an unobstructed overhang equivalent to the reduction.

(3) Parking areas containing thirty (30) or more spaces may designate up to twenty percent (20%) of the minimum required parking spaces as compact car spaces. Such spaces shall meet the following requirements:

(a) All compact parking spaces shall conform to the dimensions listed in Table 1.

(b) Compact car parking spaces shall be located in one (1) or more continuous areas and shall not be intermixed with spaces designed for full-size vehicles.

(c) Compact car parking spaces shall be clearly designated by pavement markings and/or appropriate signage.

(4) Vehicular access roads, when not adjacent to parking spaces, shall meet the following requirements:

(a) The minimum travelway width for two-way access roads shall be twenty-four feet (24').

(b) One-way access roads are permitted, provided that the circulation pattern is contained within the site or sites shown on the site plan and public roadways are not incorporated as part of the circulation pattern. The minimum travelway for one-way access roads shall be twelve feet (12').

(B) Handicapped Parking

(1) Handicapped parking spaces shall have a minimum width of eight feet (8'), with an adjacent five foot (5') access aisle to be provided on one side of the handicapped space.

(2) Handicapped parking spaces shall have a minimum length of eighteen feet (18').

(3) In any parking lot of more than five (5) spaces, there shall be at least two (2) designated and properly signed as a handicapped space.

(4) In parking lots having more than five (5) spaces, at least one (1) per twenty-five (25) spaces shall be handicapped spaces in addition to the two (2) handicapped spaces already provided in 22-26-4(B)3.

(5) Handicapped parking spaces shall be situated so as to provide direct, unobstructed access to buildings by the shortest practical routing.

(C) Screening

(1) Parking lots consisting of five (5) or more spaces shall be screened from view of public roads, rights-of-way, and adjacent property, as specified in Article 24:<sup>30</sup> Landscaping and Tree Protection, of this ordinance.

(D) Landscaping

(1) Parking lots consisting of five (5) or more spaces are required to be landscaped, as specified in Article 24:<sup>31</sup> Landscaping and Tree Protection of this ordinance.

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<sup>30</sup> *Editor's Note* – Conformed to numbering convention of this code by editor. Appears as “Article 22-24” in the original.

(E) Lighting

(1) Parking lots consisting of five (5) or more spaces are required to have outdoor lighting meeting county requirements, as specified in Article 25: Outdoor Light Control<sup>32</sup> of this ordinance.

(F) Design Objectives

(1) Parking areas and vehicular circulation areas shall be designed to achieve the following objectives:

- (a) to minimize on-site and off-site traffic hazards in order to provide safe and convenient access to the traveling public and to pedestrians,
- (b) to reduce or prevent congestion on public streets,
- (c) to facilitate unimpeded flow of on-site traffic in circulation patterns readily recognizable and predictable to motorists, bicyclists, and pedestrians,
- (d) to facilitate the provision of emergency services,
- (e) to minimize the negative impacts of stormwater runoff on local water quality, and
- (f) to minimize the disturbance of existing vegetation.

(G) Signage

(1) Parking lots of five (5) or more vehicles are required to have signage, as specified in Article 15:<sup>33</sup> Sign Regulations, of this ordinance.

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<sup>31</sup> *Editor's Note* – Conformed to numbering convention of this code by editor. Appears as “Article 22-24” in the original.

<sup>32</sup> *Editor's Note* – Conformed to numbering and title convention of this code by editor. Appears as “Article 22-25 Outdoor Lighting Control” in the original.

(H) Interconnectivity

(1) When possible, parking facilities shall be designed to connect with other parking facilities on adjacent parcels, eliminating the need to use abutting streets for cross-movements.

(2) Pedestrian facilities required by this section shall connect with existing sidewalks within or adjacent to the site, if topography and other environmental conditions allow.

(I) Intersections

(1) Intersections of vehicular access aisles and public streets shall have an approach angle not exceeding four percent (4%) for a distance of not less than forty feet (40') measured from the edge of the travelway of the public road intersected.

(2) Entrances to parking areas from public or private roadways shall be designed and constructed in accordance with Virginia Department of Transportation (VDOT) standards.

(3) The centerline of any access point shall be set back from the street line of any intersecting street at least fifty feet (50') or one-half the lot frontage, whichever is greater, except that no required setback shall exceed two-hundred feet (200').

(4) The centerlines of any separate access points shall be spaced at least seventy-five feet (75') apart.

(J) Grades

(1) Grades of access aisles not abutting parking spaces shall not exceed ten percent (10%).

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<sup>33</sup> *Editor's Note*— Conformed to numbering convention of this code by editor. Appears as “Article 22-15” in the original.

(2) Grades of parking spaces, loading spaces, and access aisles abutting parking or loading spaces shall not exceed seven percent (7%) and cross slope grades shall not exceed four percent (4%).

(K) Drainage

(1) All off-street parking and loading facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.

(2) The use of low-impact development (LID) techniques to control stormwater runoff generated by parking areas is encouraged. Examples of LID techniques include, but are not limited to, the use of permeable paving materials, rain gardens, bioswales, infiltration trenches, and tree box filters designed to capture stormwater and facilitate on-site infiltration.

(L) Pedestrian Facilities

(1) Sidewalks, pedestrian crosswalks, and other pedestrian facilities shall be provided within all parking facilities for five (5) or more vehicles.

(2) Sidewalks shall be located and aligned to directly and continuously connect points of pedestrian origin and destination, and shall not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access. Connecting walkways shall link building entrances with existing sidewalks along adjacent streets and with existing or proposed sidewalks on adjacent parcels.

(3) Sidewalks shall comply with the most recent Virginia Department of Transportation (VDOT) specifications.

(4) Sidewalks and other pedestrian facilities shall be separated from off-street parking, on-street parking, and loading and service areas by curbing or other protective devices.

(5) Where sidewalks associated with a parking area cross a public or private roadway, a crosswalk shall be clearly marked in accordance with Virginia Department of Transportation (VDOT) standards. The use of remedial treatments, such as raised pedestrian crossings, forecourts and landings, special paving, signs, lights, and bollards, at pedestrian crossings is encouraged.

(6) Sidewalks may be paved using hard-surfaced pervious paving materials, such as porous asphalt, porous concrete, or block pavers, as a method of stormwater management, provided that the use of such materials does not compromise the safety of pedestrians.

(M) Stacking Lanes

(1) Spaces for stacking of vehicles waiting for access to drive-through windows, automatic teller machines (ATMs), fuel pumps, car washes, and similar uses shall be required.

(2) Stacking lanes shall be designed so as not to impede on-site or off-site traffic movements, or movements into and out of parking spaces.

(3) Stacking lanes shall be separated from other interior drives or aisles by a raised or painted median, and shall be marked so as to be easily identified from a vehicle.

(4) No stacking lane shall be placed between any point of access and parking spaces.

(5) All stacking spaces shall be at least ten feet (10') wide and eighteen feet (18') long.

(6) Spaces in stacking lanes are required as follows:

(a) convenience store, filling stations: three (3) spaces per drive-in window and one (1) space per fuel pump;

(b) financial institutions with drive-in windows, including ATMs accessible from a vehicle: four (4) spaces per first window or ATM and two (2) spaces per each additional window or ATM;

(c) drive-in restaurants: eight (8) spaces for the first window and two (2) spaces for each additional window;

(d) Carwashes, automatic or drive-through: three (3) spaces per bay;

- (e) All other uses with drive-through windows: three (3) spaces per window.

(Ord. 8-1-12; Ord. 12-16-15)

**Sec. 22-26-5. Construction standards.**

(A) All access aisles, parking, and loading facilities for five (5) or more vehicles shall be surfaced in accordance with intensity of usage and such improvement shall not be less than six (6) inches of Virginia Department of Transportation #21 or #21A aggregate base together with prime and double seal or equivalent. The use of hard-surfaced pervious paving materials, such as porous asphalt, porous concrete, or block pavers, is permitted as a method of stormwater management.

(1) The foregoing notwithstanding, the required improvement may be reduced to three inches (3") of gravel in the following cases: (1) for parking for places of worship and other assembly uses where evidence is presented to the Zoning Administrator that these spaces will not be used regularly on a daily basis or more than three (3) times a week; (2) for areas of display or storage of vehicles, mobile homes, machinery or other inventory requiring motor vehicle access for placement; provided, in no case, shall grassed or unimproved areas be devoted to inventory storage; or (3) single or two family dwelling units and uses adjacent or within that unit such as a small home industry, bed and breakfast, home occupation, etc.

(2) Grass pavers may be used, with the approval of the zoning administrator, where it is demonstrated that the vegetation will survive the amount of expected vehicular traffic.

(3) All guardrails in parking and loading facilities shall meet VDOT specifications.

(4) All parking and loading facilities shall be marked by painted lines, curbs, wheelstops, bumper blocks, or similar means to indicate individual spaces.

(Ord. 8-1-12)

**Sec. 22-26-6. Off-street loading spaces.**

(A) All off-street loading spaces shall be provided on the same lot with the use to which they are appurtenant.

(B) All off-street loading spaces shall have a minimum width of twelve feet (12'), a minimum clearance height of 14 ½ feet, and a depth sufficient to accommodate the largest delivery truck serving the establishment, but in no case less than twenty-five feet (25').

(C) Off-street loading spaces shall be provided in addition to and exclusive of parking spaces on the basis of:

- (1) One (1) space for each eight thousand (8,000) square feet of retail space gross feasible area;
- (2) One (1) space for each eight thousand (8,000) square feet of office space;
- (3) One (1) space for each ten thousand (10,000) square feet of industrial area.

(Ord. 8-1-12)

**Sec. 22-26-7. Interpretations of off-street parking and loading requirements.**

(A) The off-street parking and loading requirements are in addition to space for the storage of trucks or other vehicles used in connection with any use.

(B) The off-street parking and loading requirements do not limit special requirements that may be imposed in the case of planned unit developments, conditional uses, or special exceptions.

(C) Where fractional spaces result, the parking spaces and loading spaces required shall be construed to be the next highest whole number.

(D) No inoperable vehicle shall be parked or stored on a lot in any zoning district unless the vehicle is within a fully enclosed building or structure, or are otherwise shielded or screened from view from all public roads and adjoining properties.

(Ord. 8-1-12)

**Sec. 22-26-8. Off-street parking requirements.**

(A) The off-street parking requirements for various uses are stated on Table 2.

(B) The off-street parking requirements for a use not specifically listed in Table 2<sup>34</sup> shall be determined by the Zoning Administrator based on the characteristics of the proposed uses, the number of residents or visitors, the minimum requirements for similar uses, and any other relevant characteristics. In making the determination, the Zoning Administrator may consider the recommendations of relevant parking studies as well as traffic generation figures, including information provided by the Institute of Traffic Engineers, peak parking demands, and other information.

(C) The number of parking spaces in a parking area may not exceed the number of spaces required by this section by more than forty percent (40%) unless approved by the Planning Commission. To mitigate the environmental and visual impacts of additional impervious cover on the surrounding community, at least one (1) of the following features shall be incorporated into the design upon approval of the excess parking:

(1) Additional spaces approved by the Planning Commission will be surfaced using pervious paving material, including, but not limited to, porous asphalt, porous concrete, or block pavers; or

(2) For every two (2) additional spaces approved by the Planning Commission, one (1) tree and three (3) shrubs will be planted on-site, in addition to the requirements specified in Article 24, Landscaping and Tree Protection,<sup>35</sup> of this ordinance.

(D) A reduction in the number of required parking spaces may, at the written request of the applicant, be granted with the approval of the Zoning Administrator as follows:

(1) A reduction in the number of required parking spaces may be granted in any one (1) of the following instances:

(a) For projects that include fifty (50) or more parking spaces on-site and are located within a designated growth area, the minimum number of parking spaces may be reduced by up to five percent (5%) if the project is located within three-hundred feet (300') of a transit stop and is connected to the transit stop by a sidewalk.

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<sup>34</sup> *Editor's Note* – “Table 1” in original; clerical error corrected by editor.

<sup>35</sup> *Editor's Note* – Conformed to numbering and title convention of this code by editor. Appears as “Article 22-24: Tree Protection” in the original.

(b) For projects that include fifty (50) or more parking spaces on-site and are located within a designated growth area, the minimum number of required parking spaces may be reduced by one parking space for every one (1) bicycle space provided on a permanently-constructed bicycle rack, provided that the minimum parking required is not reduced by more than five percent (5%).

(c) The minimum number of required parking spaces may be reduced by up to ten percent (10%), provided that one (1) tree and three (3) shrubs are planted for every two (2) spaces reduced, in addition to the requirements set forth in Article 24, Landscaping and Tree Protection,<sup>36</sup> of this ordinance.

(d) The Zoning Administrator may allow the number of required spaces to be reduced up to ten percent (10%) for projects within a designated growth area that meet new urban/neo-traditional planning principles and further the goals set forth in the Comprehensive Plan. Factors that may be considered when allowing a reduction include the density of the surrounding community; the range of land uses located within convenient walking distance; accessibility to mass transit; and the provision of facilities for bicyclists.

(e) The Zoning Administrator may allow the number of required spaces to be reduced up to twenty-five percent (25%), provided that a professionally-prepared parking study or similar documentation indicates that a reduction in the minimum parking requirements for a specific building or use would provide adequate parking facilities on-site.

(2) A site may not receive credit for more than one (1) strategy listed above. The possible reductions in the number of required parking spaces are not cumulative.

(3) When a reduction in the number of required parking spaces is permitted, the Zoning Administrator may, at his discretion, require the

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<sup>36</sup> *Editor's Note* – Conformed to numbering and title convention of this code by editor. Appears as “Article 22-24: Tree Protection” in the original.

applicant to reserve space on-site that would accommodate the construction of additional parking in the future. The parking reserve area shall be designated on the site plan, and may not be converted to any other use without amendment of the site plan and the approval of the Zoning Administrator. The parking reserve area shall be sited to allow adequate pedestrian, bicycle, and automobile access, and shall be sized to accommodate a number of parking spaces equal to the amount of the parking reduction awarded. The intent of the parking reserve is to allow expansion of the parking area should the use or parking needs change.

(E) The provisions of this article for the application of individual parking standards for Planned Unit Developments located within the Zion Crossroads Urban Development Area may be modified at the discretion of the Planning Commission, provided that the Applicant submits a parking impact study that fully justifies the modification of the standards based on the mix of uses, the phasing of development, and other factors, including relationship of parking location to individual land uses within the project.

**TABLE 2. OFF STREET PARKING REQUIREMENTS**

USE	PARKING REQUIREMENTS
<b>COMMERCIAL</b>	
Animal Hospital, Veterinary Clinic, Animal Shelter	1 per 300 square feet
Automobile Repair Service Establishments	3 spaces plus 2 spaces for each service bay
Beauty and Barber Shops	2 spaces plus 2 spaces for every barber or beautician chair
Financial Institutions	1 per 250 square feet
Funeral Homes, Churches, other public assembly areas	1 per 4 fixed seats or 75 square feet of assembly area, whichever is greater
Furniture, Carpet, or Appliance Store	1 space per 500 square feet of retail sales area
Gas Stations	1.5 spaces per pump plus 2 spaces for each service bay
Greenhouse; nursery	1 per 250 square feet within retail sales area up to 15,000 gross square feet; 1 per 400 square feet thereafter Plus one per 1,000 gross square feet located in open storage/growing areas
Laundry	1 per 2 washing machines
Restaurant	1 per 100 gross square feet, minimum of 10
Retail Stores	1 per 250 square feet of up to 15,000 gross square

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	feet; 1 per 400 square feet thereafter plus any required stacking lanes
Sale of Motor Vehicles, Mobile Homes, Travel Trailers	1 per 2000 square feet of display area
Shopping Center Gross Leasable Square Feet	
1 to 15,000	4 spaces per 1000 feet
15,000 to 50,000	3.5 spaces per 1000 feet
Greater than 50,000	3 spaces per 1000 feet
<b>LODGING</b>	
Country Inns, Boarding & Touring House, Bed & Breakfast	1 per unit
Hotels, Motels	1 per unit plus compliance with the requirements for each particular additional use located on premise.
<b>RECREATION</b>	
Assembly Hall, Dance Hall, Skating Rink	1 per 100 square feet
Indoor Recreation Facilities, Arcades	1 per 200 square feet
Campground	1 per campsite
Golf Course, Driving Range, Miniature Golf	2 per hole
Unspecified Recreational Use	1 per 125 square feet of usable recreation area
Stadiums, Arenas, Theaters	1 per 4 seats
<b>RESIDENTIAL</b>	
Dwellings, single family, two family, mobile homes	2 per unit
Dwellings, multi-family, efficiency/studio	1 per unit
Dwellings, multi-family, one bedroom	1.25 per unit
Dwellings, multi-family, two bedroom	1.5 per unit
Dwellings, multi-family, three or more bedrooms	2 per unit
Assisted Living Facility, Nursing Home	1 space per 3 residents plus 1 space per employee on largest shift
Group Home	0.5 spaces per bed at licensed capacity
<b>OFFICE</b>	
Office	1 space per 300 square feet of up to 15,000 square feet, 5 minimum; 1 space per 350 sq. ft. thereafter

<b>INDUSTRIAL</b>	
Manufacturing	1 per 2 employees on largest shift plus 1 space per company vehicle
Unspecified Industrial Uses	1 per 2 employees on largest shift plus 1 per 250 square feet open to the public
<b>INSTITUTIONAL</b>	
Day Care, Nursery School, Elementary School	1 per 9 pupils
Middle School	1 per 8 pupils
High School	1 per 3 pupils
Library, Museum, Art Gallery, Community Center	1 per 300 square feet
Professional School	1 space per 2 students at maximum capacity plus 1 space per classroom
Post Office	1 per 250 square feet, minimum of 5
<b>UNSPECIFIED</b>	
	Sufficient parking for average number of employees and visitors

(Ord. 8-1-12)

**Article 27. Regulation of Telecommunications Facilities.**

**Sec. 22-27-1. Statement of intent.**

The purpose of this article is to establish general guidelines for the siting of telecommunications antenna support facilities (TASFs) used for wireless telecommunications and broadcast facilities including the support facility, antenna(s), ground equipment, and accessory facilities related to telecommunications infrastructure.

The purpose and intent of this article is to promote the health, safety, and general welfare of the public, including but not limited to, such instances as:

- Potential injury to people around an antenna support facility and their appurtenant compounds;
- Potential damage to property;
- Potential injury and damage to low-flying public and private aircraft; and

- Potential negative economic impacts on the heritage and scenic tourist industry.

Further, the goals of this article are to:

(1) Minimize the impacts of telecommunication antenna support facilities (TASFs) on surrounding land uses by establishing standards for location, structural integrity, and compatibility;

(2) Avoid potential injury to persons and properties from telecommunication antenna support facility (TASF) failure and ice hazards through structural standards and setback requirements;

(3) Preserve the scenic and visual character of the geographic area by encouraging the location, design and architectural treatment of TASFs to avoid the disruption of the natural and built environment, and to insure harmony and compatibility with surrounding land use patterns;

(4) Facilitate the provision of telecommunication services to residents, businesses, and visitors;

(5) Provide a uniform and comprehensive framework for evaluating proposals for TASFs;

(6) Encourage builders and tenants of TASFs and antennas to locate them, to the extent possible, in areas where the visual impact on the community is minimal;

(7) Encourage the location and colocation of telecommunication equipment on existing TASFs thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional TASFs;

(8) Accommodate the growing need and demand for telecommunication services;

(9) Encourage coordination between suppliers and providers of telecommunication services;

(10) Establish predictable and balanced codes governing the construction and location of TASFs, within the confines of permissible local regulations;

(11) Establish review procedures to ensure that applications for TASFs are reviewed and acted upon within a reasonable period of time;

(12) Respond to the policies embodied in the Telecommunications Act of 1996, if applicable, in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services;

(13) Encourage the use of public lands, buildings, and emergency services facilities as locations for telecommunications infrastructure demonstrating where possible concealed technologies and revenue generating methodologies; and

(14) Consideration of and compatibility with the goals and objectives of the County's Comprehensive Plan.  
(Ord. 9-21-11)

**Sec. 22-27-2. Existing telecommunications antenna support facilities.**

Telecommunications antenna support facilities (TASFs) existing or permitted prior to the adoption of this Article shall be subject to the provisions of Article 16: Nonconforming Uses of this ordinance. (Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-3. Exempt telecommunications antenna support facilities.**

The following items are exempt from the provisions of this Article; notwithstanding any other provisions:

(1) Satellite earth stations that are one (1) meter or less in diameter in all residential zoning districts and two (2) meters or less in all other zoning districts; and

(2) A government-owned TASF:

(A) upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the county designee; except that such facility must comply with all federal and state requirements; and

(B) erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide telecommunications for public health and safety;

(3) A temporary, commercial antenna support facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the county and approved by the county; except that such facility must comply with all federal and state requirements. The telecommunications antenna support facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency; and

(4) A temporary, commercial antenna support facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to administrative zoning approval by the county, except that such facility must comply with all federal and state requirements. Said telecommunications antenna support facility will be exempt from the provisions of this division up to one (1) week after the duration of the special event.

(Ord. 9-21-11)

**Sec. 22-27-4. Applicability.**

This Article shall apply to the development activities including installation, construction, or modification of all TASFs including but not limited to:

- (1) Antenna support facilities used for amateur radio station antennas;
- (2) Existing TASFs;
- (3) Proposed TASFs (concealed and non-concealed);
- (4) Public antenna support facilities;
- (5) Replacement of existing TASFs;
- (6) Mitigation of TASFs;
- (7) Colocation on an existing TASF;
- (8) Attached antenna (concealed and non-concealed);
- (9) Broadcast facilities; and
- (10) Wireless broadband facilities.

(Ord. 9-21-11)

**Sec. 22-27-5. Abandonment and/or discontinued use.**

In the case of any TASF which was erected pursuant to the provisions of this Article, notice shall be provided to the Department of Planning and Community Development when the use of a telecommunications antenna support facility is discontinued. If the use of the telecommunications antenna support facility has been discontinued for a continuous period of two (2) years, then the TASF owner/operator or the property owner shall remove the telecommunications antenna support facility, but not including the base (foundation), within ninety (90) days of removal notification by the county.

An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The county may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good cause. If the TASF and all attachments thereto are not removed within this time, the county may give notice that it will contract for removal within thirty (30) days following written notice to the owner. Thereafter, the county may cause removal of the TASF with costs being borne by the owner.

Upon removal of the TASF, antenna, and equipment compound, the development area shall be returned to the extent possible to its natural state, with topography and vegetation consistent with the natural surroundings or consistent with the current uses of the surrounding or adjacent land at the time of removal.

(Ord. 9-21-11)

**Sec. 22-27-6. Definitions.**

For purposes of this Article 27, the following terms shall be defined as follows:

*Abandoned:* Any antenna support facility without any mounted transmitting and/or receiving antennas in continued use.

*Alternative structure:* A facility that is not primarily constructed for the purpose of supporting antennas but on which one or more antennas may be mounted. Alternative facilities include, but are not limited to, buildings, water tanks, light stanchions, pole signs, billboards, church steeples and electric power transmission antenna support facilities.

*Amateur radio tower:* Any antenna support facility used for amateur radio transmissions consistent with the "Complete FCC U.S. Amateur Part 97 Rules and Regulations" for amateur radio facilities.

*Ancillary structure:* For the purposes of this Article, any form of development associated with a telecommunications facility, including but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

*Anti-climbing device:* A piece or pieces of equipment, which are either attached to an antenna support facility, or which are freestanding and are designed to prevent people from climbing the facility. These devices may include but are not limited to fine mesh wrap around facility legs, “squirrel-cones,” or other approved devices, but excluding the use of barbed or razor wire.

*Antenna:* Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television telecommunications. Types of antenna include, but are not limited to: omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas. (In most AM broadcast station situations the antenna support facility(s) is/are the antennas(s)).

*Antenna array:* A group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support facility for the sole purpose of transmitting or receiving electromagnetic waves.

*Antenna element:* Any independent single unit which individually or collectively with other elements comprise a transmit/receive antenna.

*Antenna support facility:* A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support facilities do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty feet (20’). Types of support facilities include but are not limited to the following: guyed, lattice, monopole, concealed flag pole, slick stick, faux tree, faux fire tower, light stanchion facilities.

*Antenna support facility base:* The foundation, usually concrete, on which the antenna support facility and other support equipment are situated. For measurement calculations, the antenna support facility base is that point on the foundation reached by dropping a perpendicular line from the geometric center of the antenna support facility.

*Antenna support facility height:* The vertical distance measured from the grade line to the highest point of the antenna support facility, including any antenna, lighting, lightning protection or other equipment affixed thereto.

*Antenna support facility site:* The land area that contains, or will contain, a proposed antenna support facility, support facility and other related buildings and improvements.

*ASR:* The Antenna Structure Registration Number as required by the FAA and FCC.

*Attached antenna:* A facility which is not primarily constructed for the purpose of holding antenna(s) but on which one or more antenna(s) may be mounted. Examples include but are not limited to water tanks, rooftops, light poles and utility distribution poles.

*Base station:* The electronic equipment utilized by the telecommunication provider(s) for the transmission and reception of radio signals.

*Breakpoint technology:* The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent (5%) more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole. For example, on a 100-foot tall monopole with a breakpoint at eighty feet (80'), the minimum setback distance would be twenty-two feet (22') (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) or the minimum side or rear yard setback requirements for that zoning district, whichever is greater.

*Broadcast facilities:* Antenna support facilities, antennas, and/or antenna arrays for FM/TV/HDTV broadcasting transmission facilities, and antenna support facility(s) utilized as antennas for an AM broadcast station that are licensed by the Federal Communications Commission.

*Colocation:* The practice of installing and operating multiple wireless service providers, and/or radio common carrier licensees on the same antenna support facility or attached telecommunication facility using different and separate antenna, feed lines and radio frequency generating equipment.

*Combined antenna:* An antenna or an antenna array designed and utilized to provide services for more than one wireless provider, or a single wireless provider utilizing more than one frequency band or spectrum, for the same or similar type of services.

*Concealed:* An antenna support facility; ancillary facility; or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two (2) types of concealed facilities: 1) antenna attachments, and 2) freestanding. Examples of a concealed attached facility include, but are not limited to the following: painted antenna and feed lines to match the color of a building or facility, faux windows, dormers or other architectural features that blend with an existing or proposed building or facility. Freestanding concealed antenna support facilities usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell antenna support facility, clock antenna support facility, light standard, flagpole with or without a flag, or tree.

*Development area:* The area occupied by a telecommunications antenna support facility including areas inside or under the following: an antenna-support facility's framework, equipment cabinets, ancillary facilities and access ways.

*Equipment cabinet:* Any facility above the base flood elevation including: cabinets, shelters, pedestals, and other similar facilities. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

*Equipment compound:* The fenced area surrounding the ground-based communication facility including the areas inside or under the following: an antenna support facility's framework and ancillary facilities such as equipment necessary to operate the antenna on the antenna support facility that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar facilities.

*FAA:* The Federal Aviation Administration.

*Facility:* Anything constructed or erected, the use of which required permanent location on the ground, or attachment to something having a permanent location on the ground, including advertising signs.

*FCC:* The Federal Communications Commission.

*Feed lines:* Cables used as the interconnecting media between the transmission and/or receiving base station and the antenna.

*Flush mounted:* Any antenna or antenna array attached directly to the face of the support facility or building such that no portion of the antenna extends above the height of the support facility or building. Where a maximum flush-mounting distance is given, that distance

shall be measured from the outside edge of the support facility or building to the inside edge of the antenna.

*Guyed antenna support facility:* A style of antenna support facility consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

*Geographic search ring:* An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

*Handoff candidate:* A wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first “tier” surrounding the initial wireless facility.

*Intermodulation distortion:* The preventable and avoidable results of the mixture of two certain and specific radio frequencies (3rd Order); or more certain or specific radio frequencies (5th Order), that creates at least one other unwanted, undesirable, and interfering radio frequency (3rd Order), or multiple other unwanted, undesirable, and interfering radio frequency signals (5th Order).

*Lattice antenna support facility:* A tapered style of telecommunication antenna support facility that consists of vertical and horizontal supports with multiple legs, crisscross-bracing and metal crossed diagonal strips or rods to support antennas.

*Least visually obtrusive profile:* The design of a telecommunication antenna support facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

*Mitigation:* A modification of an existing telecommunication antenna support facility to increase the height or to improve its integrity, by replacing or removing one or several facilities located in proximity to a proposed new antenna support facility in order to encourage compliance with this Article or improve aesthetics or functionality of the overall wireless network.

*Monopole antenna support facility:* A style of free-standing telecommunication antenna support facility consisting of a single shaft usually composed of two (2) or more hollow sections that are in turn attached to a foundation. This type of antenna support facility

is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

*Non-concealed:* A telecommunication antenna support facility that is readily identifiable as such and can be either freestanding or attached.

*Personal wireless service:* Commercial mobile services, licensed or unlicensed wireless services, and common carrier wireless exchange access services, as defined in the *Telecommunications Act of 1996*.

*Public safety telecommunications facility:* All telecommunications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the county and operating within a frequency range of, including but not limited to, 150 MHz, 450 MHz, 700 MHz, 800 MHz, 1,000 MHz, VHF, UHF, and any future spectrum allocations at the direction of the FCC.

*Radio frequency emissions:* Any electromagnetic radiation or other telecommunications signal emitted from an antenna or antenna-related equipment on the ground, antenna support facility, building, or other vertical projection.

*Replacement antenna support facility:* The removal of an existing telecommunication antenna support facility for purposes of erecting a new telecommunication antenna support facility for the purposes of improving structural integrity.

*Satellite earth station:* A single or group of parabolic (or dish) antennas are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless telecommunications signals with satellites.

*Telecommunication Antenna Support Facility* (hereinafter "TASF"): Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other telecommunications, and usually consisting of an antenna support facility (see definition), feed lines, base station(s), and antenna(s) and antenna array(s). The following are included in the telecommunication antenna support facility: new, mitigated, replacement, and/or existing concealed and non-concealed antenna support facilities, public antenna support facilities, colocations, antenna attachments, broadcast, and wireless broadband facilities.

*Wireless broadband facility:* An unstaffed location for the wireless transmission and/or reception of broadband data services exclusively, usually consisting of an antenna

support facility, an antenna or group of antennas, transmission cables, and equipment cabinets.

(Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-7. Siting hierarchy.**

Siting of a new antenna array or new TASF shall be in accordance with the preferred siting hierarchy in the order outlined below. All siting options are preferred to be located on publicly-owned property, as identified in the county's Telecommunications Master Plan, as a first option. The location of antenna array or other facilities on non-publicly-owned property is acceptable as a secondary option within each category.

- (1) Concealed attached antenna;
- (2) Colocation; antenna modification; combined antenna(s) on existing TASF;
- (3) Colocation or new TASF in utility right-of-way;
- (4) Non-concealed attached antenna;
- (5) Replacement of existing TASF;
- (6) Mitigation of existing TASF;
- (7) Concealed freestanding TASF;
- (8) Non-concealed freestanding TASF:
  - (a) Monopole
  - (b) Lattice
  - (c) Guyed

The order of ranking preference, highest to lowest, shall be from (1) to (8)(c). Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in the development standards in this Article including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed TASF.

(Ord. 9-21-11)

**Sec. 22-27-8. Siting preference table.**

New antennas and TASFs shall be allowed per the Siting Preference Table. The column on the left identifies the County’s zoning district classifications. The columns across the top lists the different TASFs listed in the siting hierarchy.

<b>Siting Preference Table</b>							
<b>Zoning Districts</b>	<b>Permitted Telecommunications Facilities &amp; Level of Development Standards</b>						
	Amateur Radio Facility & Comparable Antenna Element Replacement	Concealed Attached; Antenna Colocation, Antenna Modification; Noncomparable Antenna Element Replacement, Combining; and Non-concealed Attached Antenna	Replacement Antenna Support Facility	Mitigation of Existing Antenna Support Facility	Concealed Freestanding Antenna support facility	Non-Concealed Freestanding Antenna support facility	Broadcast Facility
A-1	B	B	B	S	B	S	S
R-1	B	B	B	S	B	S	Not allowed
R-2	B	B	B	S	S*	Not allowed	Not allowed
R-3	B	B	B	S	S*	Not allowed	Not allowed
R-4	B	B	B	S	S*	Not allowed	Not allowed
B-1	B	B	B	S	B	S	Not allowed
B-C	B	B	B	S	B	S	Not allowed
I-1	B	B	B	S	B	S	S
I-2	B	B	B	S	B	S	S
MHP	B	B	B	S	B	Not allowed	Not allowed
PUD	B	B	B	S	B	S	S

B: By Right – Administrative

S: Special Use Permit – Public Hearing Process

S\* Any mitigation of an existing SUP requires an amendment through the SUP process

(Ord. 9-21-11)

**Sec. 22-27-9. Development standards.**

(Ord. 9-21-11)

**Sec. 22-27-9.1. Special provisions related to amateur radio antennas.**

An amateur radio antenna may be deemed to be an accessory structure to any permitted use, provided that the same shall conform to the definition of accessory structure. The maximum height regulations shall not apply to any such antenna; provided that such antenna shall be the minimum height which will reasonably achieve its intended purpose as permitted by the Federal Communications Commission. There shall be no restriction of the number of support structures for such antenna. Reasonable and customary engineering practices shall be followed in the erection of such antennas. Any person erecting any such antenna shall provide to the zoning administrator a statement from a licensed professional engineer certifying that such erection conforms to reasonable and customary engineering practices. The zoning administrator shall require that each such antenna be so located as to protect adjacent properties and uses in consideration of its design. The zoning administrator may require reasonable screening of each such antenna from adjacent properties.

(Ord. 6-15-05)

Additionally the applicant shall provide a valid FCC amateur operator's license. (Ord. 9-21-11)

**Sec. 22-27-9.2. Antenna element replacement.**

For any replacement of a comparable existing antenna element (size, weight and frequency) on an antenna support facility, prior to making such replacement, the applicant shall submit and provide the following:

(1) A written statement setting forth the reasons for the replacement;

(2) A stamped or sealed certification from a registered professional engineer that the replacement antenna(s) (i) have a lower wind and weight profile; (ii) the number of antenna elements will not increase, (iii) there is no significant change in frequency utilization; and (iv) there is no requirement for a new structural analysis; and

(3) There shall be no increase in the size or number of existing feed lines utilized for the existing antenna and/or antenna array.

(Ord. 9-21-11)

**Sec. 22-27-9.3. Concealed attached antenna.**

Concealed attached antenna shall be subject to the following:

- (1) The top of the attached antenna shall not be more than twenty feet (20') above the existing or proposed building or facility; and
- (2) When an attached antenna is to be located on a nonconforming building or facility, then the existing permitted nonconforming setback shall prevail; and
- (3) Feed lines, antennas and hardware shall be designed to architecturally match the façade, roof, wall, or facility on which they are affixed so that they blend with the existing structural design, color, and texture; and
- (4) Equipment cabinets shall be located within the existing building or behind an opaque enclosure matching the architectural designs and colors of the principal building or facility; and
- (5) New equipment cabinets are subject to the underlying zoning setbacks.  
(Ord. 9-21-11)

**Sec. 22-27-9.4. Non-concealed antenna attachments.**

Non-concealed attachments shall only be allowed on electrical transmission support facilities and as light stanchions subject to approval by the Department of Planning and Community Development and the utility company and subject to the following:

- (1) The top of the attached antenna shall not be more than twenty feet (20') above the existing or proposed building or facility; and
- (2) New equipment cabinets are subject to the underlying zoning setbacks.  
(Ord. 9-21-11)

**Sec. 22-27-9.5. Colocation, colocation modifications, antenna element replacements of different size, weight or frequency utilization, or combining antenna.**

- (1) A collocated or combined antenna or antenna array shall not exceed the maximum height prescribed in the Special Use Permit (if applicable) or increase the height of an existing facility by more than twenty feet (20') and shall not affect any antenna support facility lighting;

(2) New antenna mounts shall be flush-mounted onto existing facilities, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area;

(3) The new equipment cabinet shall be subject to the setbacks of the underlying zoning district. If the colocation or combined antenna is located on a nonconforming building or facility, then the existing permitted nonconforming setback(s) shall prevail; and

(4) Equipment cabinets shall be located within the existing equipment compound. If the existing equipment compound is not sized adequately to accommodate the new proposed ground equipment, then a revised site plan of the original TASF site shall be submitted addressing the overall ground space for said TASF.

(Ord. 9-21-11)

**Sec. 22-27-9.6. Replacement antenna support facility.**

(1) Height: The height of a replacement antenna support facility shall equal the height of the facility being replaced. If the replacement TASF exceeds this threshold then it will be reclassified as a mitigation facility.

(2) Setbacks: A new TASF approved for replacement of an existing TASF shall not be required to meet new setback standards so long as the new TASF and its equipment compound are no closer to any property lines or dwelling units as the TASF and equipment compound being mitigated.

(3) Breakpoint technology: A newly replaced monopole antenna support facility shall use breakpoint technology in the design of the replacement facility; and

(4) Buffers: At the time of replacement, the antenna support facility equipment compound shall be brought into compliance with any applicable buffer requirements.<sup>37</sup>

(Ord. 9-21-11)

**Sec. 22-27-9.7. Mitigation antenna support facility.**

Mitigation shall accomplish a minimum of one (1) of the following: 1) reduce the number of TASFs; or 2) reduce the number of nonconforming TASFs; or 3) replace an existing TASF with a new TASF to improve network functionality resulting in compliance with this Article. Mitigation is subject to the following:

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<sup>37</sup> Editor's Note – “; and” has been deleted as a clerical error.

(1) Height: TASF approved for mitigation shall not exceed one hundred and twenty (120%) percent of the height of the tallest TASF that is being mitigated. (For example a 100' existing TASF could be rebuilt at 120'). Mitigated SUPS require a SUP amendment;

(2) Setbacks: A new TASF approved for mitigation of an existing TASF shall not be required to meet new setback standards so long as the new TASF and its equipment compound are no closer to any property lines or dwelling units as the TASF and equipment compound being mitigated. (For example, if a new TASF is replacing an old one, the new one is allowed to have the same setbacks as the TASF being removed, even if the old one had nonconforming setbacks.) The intent is to encourage the mitigation process, not penalize the TASF owner for the change out of the old facility;

(3) Breakpoint technology: A newly mitigated monopole antenna support facility shall use breakpoint technology in the design of the replacement facility. Certification by a registered professional engineer licensed by the Commonwealth of Virginia of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(4) Buffers: At the time of mitigation, the TASF equipment compound shall be brought into compliance with any applicable buffer requirements;

(5) Visibility: Mitigated TASFs shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zoned lots; and

(6) If the mitigation includes the removal of an existing TASF, then that facility, excluding the antenna support facility foundation, shall be removed within ninety (90) days of the construction of the new TASF.

(Ord. 9-21-11)

**Sec. 22-27-9.8. New telecommunication antenna support facility.**

All new TASFs shall meet the following requirements:

(1) No new TASF shall be permitted unless the applicant demonstrates that no existing TASF can accommodate the applicant's proposed use; or that use of such existing TASF would prohibit personal wireless services in the geographic search area to be served by the proposed TASF.

(2) Setbacks: New freestanding TASFs and equipment compounds shall be subject to the setbacks described below:

(a) If the TASF has been constructed using breakpoint design technology (see Section 22-27-6. Definitions.), the minimum setback distance shall be equal to 110 percent of the distance from the top of the facility to the breakpoint level of the facility, or the minimum side and rear yard requirements, whichever is greater. Certification by a registered professional engineer licensed by the State of Virginia of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(b) Concealed TASFs in residential districts not constructed using breakpoint design technology; the minimum setback distance shall be equal to the height of the proposed TASF from all existing structures.

(c) All other non-broadcast TASFs not constructed using breakpoint design technology; the minimum setback distance shall be equal to the height of the proposed TASF from all property lines.

(3) Equipment Compound: The fenced-in compounds shall not be used for the storage of any excess equipment or hazardous materials. No outdoor storage yards shall be allowed in a TASF equipment compound, and the compound shall not be used as habitable space.

(4) Equipment cabinets: Cabinets shall not be visible from pedestrian views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on the ground within the fenced-in and screened equipment compound.

(5) Fencing: All equipment compounds shall be enclosed with an opaque fence. Alternative equivalent screening may be approved through the site plan approval process described in "Buffers" below.

(6) Buffers shall be provided as described in Article 24: Landscaping and Tree Protection of this ordinance.

(7) Signage: Commercial messages shall not be displayed on any antenna support facility. Noncommercial signage shall be subject to the following:

(a) The only signage that is permitted upon a TASF, equipment cabinets, or fence shall be informational, and for the purpose of identifying the TASF (by the FCC ASR registration number), as well as the party responsible for the operation and maintenance of the facility; i.e. the address and telephone number, security or safety signs, and property manager signs (if applicable).

(b) Identification signage shall be provided at all TASFs.

(c) If more than two hundred twenty (220) volts are necessary for the operation of the facility and is utilized within the equipment compound or on the TASF, signs located every twenty feet (20') and attached to the fence or wall shall display in large, bold, high contrast letters (minimum height of each letter four inches (4")) the following: "HIGH VOLTAGE - DANGER."

(8) Lighting: Lighting on TASF shall not exceed the Federal Aviation Administration (FAA) minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding property, consistent with FAA requirements.

(9) Balloon Test:

(a) The applicant shall arrange to raise a balloon of a color or material that provides maximum visibility and no less than three feet (3') in diameter, at the maximum height of the proposed facility and within fifty (50) horizontal feet of the center of the proposed TASF.

(b) The applicant shall inform in writing the zoning administrator, abutting property owners, elected board of supervisor, and appointed planning commissioners of the district of the date and times of the test at least fourteen (14) days in advance.

(c) The applicant shall request in writing permission from the abutting property owners to access their property during the balloon test to take pictures of the balloon and to evaluate the visual impact of the proposed tower on their property.

(d) The date, time and location of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven (7) but no more than fourteen (14) days in advance of the test date. The advertisement shall also

include an alternate inclement weather date for the balloon test.

(e) Signage similar to rezoning signage shall be posted on the property to identify the location on the property where the balloon is to be launched. This signage shall be posted by the applicant a minimum of seventy-two (72) hours prior to the balloon test. If unsuitable weather conditions prevail on the date of the balloon test then cancellation of the test shall be clearly noted on the signage.

(f) The balloon shall be flown for at least four (4) consecutive hours during daylight hours on the date chosen.

(g) The applicant shall record the weather during the balloon test. If the wind during the balloon test is above twenty miles per hour (20 mph) then the balloon test shall be postponed and moved to the alternate inclement weather date provided in the advertisement.

(10) All TASFs up to 120 feet in height shall be engineered and constructed to accommodate no less than three (3) antenna arrays. All TASFs between 121 feet and 150 feet in height shall be engineered and constructed to accommodate no less than five (5) antenna arrays. All TASFs taller than 151 feet in height shall be engineered and constructed to accommodate no fewer than six (6) antenna arrays.

(11) Grading shall be minimized and limited only to the area necessary for the new TASF and equipment compound, along with any necessary access easements or rights-of-way.

(12) Parking. One parking space is required for each TASF development area. The space shall be provided within the leased area, or equipment compound or the development area as defined on the site plan.

(13) Emergency Generators shall be allowed at each TASF site.

(14) Sounds. No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted. The sound level for emergency generators shall not exceed 70 db at the property limits and testing shall only be between 9 AM to 4 PM Monday through Friday.  
(Ord. 9-21-11)

**Sec. 22-27-9.8.A. Additional development standards for concealed telecommunications antenna support facility.**

All new concealed antenna support facilities shall meet the following requirements:

(1) In residential districts, new concealed TASFs shall only be permitted on lots whose principal use is not single-family residential including but not limited to: schools; places of worship; and fire stations, parks, and other public property.

(2) Height:

(a) Where permitted in residential districts the maximum height shall be 140 feet.

(b) In all other districts the maximum height shall be limited to 199 feet.

(3) Visibility: New concealed TASFs shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties. The applicant shall provide simulated photographic evidence of the proposed TASF and antenna appearance from any and all residential areas within 1,500-foot and vantage points approved by the zoning administrator or designee including the facility types the applicant has considered and the impact on adjacent properties including:

(a) Overall height;

(b) Configuration;

(c) Physical location;

(d) Mass and scale;

(e) Materials and color;

(f) Illumination;

(g) Architectural design; and

(h) New concealed freestanding TASFs shall be designed to match adjacent facilities and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.

(Ord. 9-21-11)

**Sec. 22-27-9.8.B. Additional development standards for non-concealed telecommunications antenna support facility.**

(1) Height.

It is intended that all new non-broadcasting TASFs, other than amateur radio towers, be 199 feet or less in height. However, should there be a demonstrated need for a TASF in excess of 199 feet, under no circumstance shall any non-broadcast or non-emergency service facility exceed 250 feet in height. All new non-broadcast facilities shall be subject to the following additional requirements:

(a) Propagation maps and corresponding data including but not limited to topographic and demographic variables for the intended service area shall be provided for review illustrating with detail that the service area and intercoupling hand-off will be sufficiently compromised to require an additional TASF for network deployment, which would not otherwise be required.

(b) The TASF shall be designed to allow for a future reduction of elevation to no more than 199 feet, or the replacement of the TASF with a monopole type facility at such time as the wireless network has developed to the point that such a reduction in height can be justified.

(2) In the Agricultural, General, A-1 district, new non-broadcast facilities shall be setback a minimum 500 feet from any single-family dwelling unit, either on the same zone lot or from all adjacent lots of record.

(3) Freestanding non-concealed antenna support facilities shall be limited to monopole type antenna support facilities, unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

(Ord. 9-21-11)

**Sec. 22-27-9.8.C. Additional development standards for broadcast antenna support facility.**

(1) Height for broadcast facilities shall be evaluated on a case by case basis; the determination of height contained in the applicant's FCC Form 351/352 Construction Permit or application for Construction Permit and an FAA Determination of No Hazard (FAA Form 7460/2) shall be considered prima facie evidence of the antenna support facility height required for such broadcast facilities.

(2) New broadcast facilities and anchors shall be setback a minimum of 500 feet from any single-family dwelling unit located on the same parcel or lot; and the antenna support structure (but not the anchors for a guyed structure) shall be setback a minimum of one foot (1') for every one foot (1') of antenna support facility height from all adjacent lots of record.

(3) Except for AM broadcast facilities, cabinets shall not be visible from pedestrian views.

(4) All broadcast antenna support facilities, AM antenna support facilities, and guy anchors shall each be surrounded with an anti-climbing fence compliant with applicable FCC regulations.

(Ord. 9-21-11)

**Sec. 22-27-9.9. Wireless broadband facility.**

(1) A wireless broadband facility may be colocated in accordance with the provisions of Sections 22-27-9.5 and 22-27-10.2 of this Article, as applicable; and

(2) A wireless broadband facility proposed for a new physical site shall comply with the provisions of Section 22-27-8. hereinabove.

(Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-10. Submittal requirements for all TASFs.**

(1) Completion of the "Telecommunications Facility Application";

(2) Application fee;

(3) Two (2) sets of site plans (drawn to scale) addressing all development standards specific to the proposed installation.

(4) Compliance with siting hierarchy (Section 22-27-7 of this Article): A report and supporting technical data demonstrating that all antenna attachments and colocations including all potentially useable utility distribution antenna support facilities and other elevated facilities within the proposed service area, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons existing facilities such as utility distribution and other elevated facilities are not acceptable alternatives to a new freestanding antenna support facility. The report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing TASF could accommodate the applicant's proposed facility shall consist of any of the following:

- (a) No existing TASF located within the geographic area meet the applicant's engineering requirements, and why; and
- (b) Existing TASFs are not of sufficient height to meet the applicant's engineering requirements, and cannot be increased in height; and
- (c) Existing TASFs do not have sufficient structural integrity to support the applicant's proposed telecommunications facilities and related equipment, and the existing facility cannot be sufficiently improved; and
- (d) Other limiting factors that render existing TASFs unsuitable.

(Ord. 9-21-11)

**Sec. 22-27-10.1. Additional submittal requirements for antenna element replacement.**

For any replacement of an existing antenna element on a TASF of comparable size, weight and frequency use, the applicant must, prior to making such modifications, submit the following:

(1) A written statement setting forth the reasons for the modification.

(2) A description of the proposed modifications to the antenna, including any proposed modifications to antenna element design, type and number including manufacturer's model number of the existing and proposed antenna elements; as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.

(Ord. 9-21-11)

**Sec. 22-27-10.2. Additional submittal requirements for attached antenna (concealed and non-concealed); colocations; colocation modifications; antenna replacements of different size, weight or frequency, and antenna combining.**

Additional requirements for applications for attached antenna, both concealed and non-concealed; colocations; colocation modifications; antenna replacements of a different size, weight or frequency; and antenna combining shall include all of the following:

(1) A written statement setting forth the reasons for the request.

(2) A description of the proposed request, including any proposed modifications to antenna element design, type and number including manufacturer's model number of the

existing and proposed antenna elements; as well as changes in the number and/or size of any feed lines, from the base of the equipment cabinet to such antenna elements.

(3) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).

(4) A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards relating to interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards relating to human exposure to RF energy.

(5) A stamped or sealed structural analysis of the existing facility prepared by a registered professional engineer licensed by the State of Virginia indicating that the existing TASF as well as all existing and proposed appurtenances meets Virginia Building Code requirements (including wind and ice loading) for the antenna support facility.  
(Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-10.3. Additional submittal requirements for all freestanding telecommunication and broadcast antenna support facilities.**

Additional requirements for applications for freestanding telecommunications and broadcast antenna support facilities shall include all of the following:

(1) One (1) original and two (2) copies of a survey of the property completed by a registered professional engineer, licensed in the State of Virginia showing all existing uses, facilities, and improvements.

(2) Site development plan regulations as set forth in Article 23 of this ordinance.

(3) Proof that a property and/or antenna support facility owner's agent has appropriate authorization to act upon the owner's behalf (if applicable). A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards regarding interference to other radio services. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed

facility, the replacement antenna complies with FCC standards regarding human exposure to RF energy.

(4) A stamped or sealed structural analysis of the proposed antenna support facility prepared by a registered professional engineer licensed by the State of Virginia indicating the proposed and future loading capacity of the antenna support facility is compliant with EIA/TIA-222-G (as amended).

(5) A written statement by a registered professional engineer licensed by the State of Virginia specifying the design structural failure modes of the proposed facility, if applicable.

(6) A pre-application conference will be required for any new broadcast facility.

(7) Title report or American Land Title Association (A.L.T.A.) survey showing all easements on the subject property, together with a full legal description of the property.

(8) Prior to issuance of a building permit, proof of FAA compliance with Subpart C of the Federal Aviation Regulations, Part 77, and "Objects Affecting Navigable Airspace," if applicable.  
(Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-10.3.A. Additional submittal requirements for non-broadcast TASFs.**

Additional requirements for applications for non-broadcast TASF's shall include all of the following:

(1) Technical data included in the report shall include certification by a registered professional engineer licensed in the State of Virginia or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed TASF, and accompanying maps and calculations demonstrating the need for the proposed TASF.

(2) A map showing the geographic search ring.

(3) The applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed TASF and equipment on all adjacent residential zoning districts.

(4) Materials detailing the locations of existing TASFs to which the proposed TASF will be a handoff candidate; including latitude, longitude, and power levels of the proposed and existing antenna is required.

(5) A radio frequency propagation plot indicating the coverage of existing TASFs, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed facility's coverage or capacity potential cannot be achieved by any higher ranked alternative such as a concealed facility, attached facility, replacement facility, colocation, or new TASF. NOTE: These documents are required to justify a facility and to determine if the proposed location is the only or best one in the designated geographic area of the proposed facility.

(6) A stamped or sealed certification from a registered radio frequency engineer demonstrating compliance with Section 22-27-7: Siting hierarchy of this Article. If a lower ranking alternative is proposed the certification must address why higher ranked options are not technically feasible, practical or justified given the location of the proposed telecommunications facility.

(Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-10.3.B. Additional submittal requirement for broadcast antenna support facilities.**

For applications for broadcast antenna support facilities, the technical data included in the report shall include the purpose of the proposed facility as described in the FCC Construction Permit Application. (Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-11. Approval processes.**

(Ord. 9-21-11)

**Sec. 22-27-11.1. "By right" application.**

The review of any and all "by right" applications shall be as follows:

(1) The Zoning Administrator or designee shall review the request, application, and submitted documents for compliance with all requirements of this Article. The county may, at its discretion, obtain additional technical assistance to review and assess the technical merits of the documents.

(2) If the Zoning Administrator or designee determines the application and documentation meets all of the requirements of this Article, the county shall approve the application package and the applicant may proceed to request a building permit.

(3) If the Zoning Administrator or designee determines the application and/or documentation fails to meet all the requirements of the Article, then the county shall provide written notification to the applicant as to the materials which need to be amended or supplied for review. The applicant shall provide to the county any requested materials for review. This process shall continue until the county has approved the application package, at which time the applicant may proceed to request a building permit.

(4) If the Zoning Administrator or designee determines the application and documentation fails to meet the intent of this Article, the county may deny the request in writing.

(5) Appeals from a decision made by the Zoning Administrator shall be to the Board of Zoning Appeals.  
(Ord. 9-21-11; Ord. 12-16-15)

**Sec. 22-27-11.2. Special use permit application.**

The approval of a special use permit shall be governed by the processes described in Section 22-17-4 of this Chapter. (Ord. 9-21-11)

**Sec. 22-27-12. Interference with public safety communications.**

In order to facilitate the regulation, placement, and construction of antenna, and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array or applicant for a colocation shall agree in a written statement to the following:

(1) Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations.

(2) Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

(3) In the case of an application for colocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the county's public safety telecommunications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.

(4) Whenever the county has encountered radio frequency interference with its public safety telecommunications equipment, and it believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:

(a) The county shall provide notification to all wireless service providers operating in the county of possible interference with the public safety telecommunications equipment, and upon such notifications, the owners shall use their best efforts to cooperate and coordinate with the county and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.

(b) If any equipment owner fails to cooperate with the county in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the county public safety telecommunications equipment, the owner who failed to cooperate and/or the owner of the equipment which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the county for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the county to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within twenty-four (24) hours of county's notification.

(Ord. 9-21-11)

**Sec. 22-27-13. Publicly-owned property.**

(1) Pursuant to applicable law, the county may contract with a third party to administer publicly-owned sites for purposes of developing the sites as part of a master telecommunications plan, consistent with the terms of this Article. Except as specifically

provided herein, the terms of this Article, and the requirements established thereby, shall be applicable to all TASFs to be developed or collocated on county-owned sites.

(2) If an applicant requests a permit to develop a site on county-owned property, the permit granted hereunder shall not become effective until the applicant and the county have executed a written agreement setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted, and no permit granted under this section shall convey any right, privilege, permit, or franchise to occupy or use the publicly-owned sites of the county for delivery of telecommunications services or any other purpose except as provided in such agreement. (Ord. 9-21-11)

**Sec. 22-27-14. Fees for supplemental review.**

Where the county deems it appropriate because of the complexity of the methodology or analysis required to review an application for a wireless communication facility, the county may require the applicant to pay for a technical review by a third party expert, selected by the county, the costs of which \$4,000.00 shall be borne by the applicant, and be in addition to other applicable fees. Site plan review for antenna element replacements only may be reduced to \$1,800.00 provided the applicant meets all the requirements for an antenna element replacement. If however, during the antenna element replacement site review it is determined the request does not meet the definition of an antenna element replacement, then review of the application will cease until the correct fee and correct plans are submitted. Further, if additional information is needed to evaluate the applicant's request, the applicant, shall make such additional information available as the county might reasonably request. (Ord. 9-21-11)

**Sec. 22-27-15. Height, setback and other dimensional regulations.**

Except as otherwise expressly provided in this ordinance with respect to public safety services facilities or with respect to the provisions of any existing special use permit, the provisions of this Article shall control as the maximum permitted height, minimum setback and any other dimensional requirements for any TASF. (Ord. 9-21-11)