

PRESENT: Greg Benton, Livingston District  
Kevin W. Marshall, Berkeley District  
David Ross, Courtland District  
Gary F. Skinner, Lee Hill District  
Paul D. Trampe, Salem District  
Chris Yakabowski, Battlefield District

ABSENT: Timothy J. McLaughlin, Chancellor District

STAFF PRESENT: Mark B. Taylor, County Administrator  
Mark Cole, Deputy County Administrator  
Karl Holsten, County Attorney  
Aimee R. Mann, Deputy Clerk

---

Mr. Benton called the meeting to order at 4:30 p.m. Mr. Benton led the Pledge of Allegiance and Mr. Skinner gave the invocation.

### **APPROVAL OF AGENDA**

On a motion by Mr. Marshall and passed 6 to 0 with Mr. McLaughlin absent, the Board approved the agenda with the addition of the following items:

- Appointment of Edmond E. Saneaka to the Transportation Committee
- Appointment of Hamza Atief to the Minority Affairs Committee
- Reappointment of Kathryn Dennis to the Social Services Advisory Board

### **VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

### **PUBLIC PRESENTATIONS**

The following individual spoke with concerns regarding changes to the retiree health insurance coverage: T.C. Waddy.

The following individuals spoke with concerns regarding the proposed solar farm: Russ Mueller, Sean Fogarty, Kevin McCarthy, Michael O'Bier and David Hammond.

## **APPROVAL OF THE CONSENT AGENDA**

The County Administrator read the synopsis as a brief preview of these agenda items for the public.

The following item was pulled for separate consideration:

- Authorization for Public Hearing for 2018 Erosion Large Project Fee Schedule

On a motion by Mr. Skinner and passed 6 to 0 with Mr. McLaughlin absent, the Board approved the amended Consent Agenda as follows:

1. Appointment of Julie Belcher to the Minority Affairs Committee;
2. Acceptance of Grant Award and Budget Amendment for the FY19 Highway Safety Grant Program Selective Enforcement for Alcohol Impaired Driving as follows:

### **VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

## **RESOLUTION NO. 2018-109**

### **Approving Grant Award Agreement, Designation of Authorized Agents in the Execution and Administration of the Grant Award and Acceptance and Appropriation of FY19 Funds**

**WHEREAS**, Spotsylvania County has applied for and received approval for a federal pass through grant from the Virginia Department of Motor Vehicles in the amount of \$73,650 to be utilized by the Sheriff's Office for training, supplies, and selective enforcement of alcohol related traffic violations; and

**WHEREAS**, the County is required to provide a local in-kind contribution of \$36,825; and

**WHEREAS**, the Sheriff's Office will provide the in-kind match through the use of fuel and maintenance costs for enforcement vehicles; and

**WHEREAS**, the County and Sheriff's Office will administer the grant in accordance with the terms as set forth in the grant award agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Spotsylvania County Board of Supervisors, that the grant award agreement between Spotsylvania County and the Virginia Department of Motor Vehicles is approved; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following individuals are hereby designated as authorized agents any of whom may act in the execution and administration of the grant award agreement: Mark B. Taylor, County Administrator; Mark Cole, Deputy County Administrator; Edward Petrovitch, Deputy County Administrator; and Annette B. D'Alessandro, Grants Manager; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the grant in the amount of \$73,650 is accepted and that the General Fund budget is hereby amended to reflect the increase in funds associated with the grant award; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following appropriations be, and the same hereby are, made for the fiscal year beginning July 1, 2018, for expenditures in the amount of \$73,650 to be utilized only for training, supplies, and selective enforcement of alcohol related traffic violations, to be expended only by order of the Board of Supervisors as follows:

**GENERAL FUND: \$73,650**

3. Acceptance and Appropriation of a Grant Award for the FY19 Highway Safety Grant Program Selective Enforcement for Speed Violations as follows:

**VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-110**

**Approving Grant Award Agreement, Designation of Authorized Agents in the Execution and Administration of the Grant Award and Acceptance and Appropriation of FY19 Funds**

**WHEREAS**, Spotsylvania County has applied for and received approval for a federal pass through grant from the Virginia Department of Motor Vehicles in the amount of \$52,990 to be utilized by the Sheriff's Office for training, equipment, and selective enforcement of speed related traffic violations; and

**WHEREAS**, the County is required to provide a local in-kind contribution of \$26,495; and

**WHEREAS**, the Sheriff's Office will provide the in-kind match through the use of fuel and maintenance costs for enforcement vehicles; and

**WHEREAS**, the County and Sheriff's Office will administer the grant in accordance with the terms as set forth in the grant award agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Spotsylvania County Board of Supervisors, that the grant award agreement between Spotsylvania County and the Virginia Department of Motor Vehicles is approved; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following individuals are hereby designated as authorized agents any of whom may act in the execution and administration of the grant award agreement: Mark B. Taylor, County Administrator; Mark Cole, Deputy County Administrator; Edward Petrovitch, Deputy County Administrator; and Annette B. D'Alessandro, Grants Manager; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the grant in the amount of \$52,990 is accepted and that the General Fund budget is hereby amended to reflect the increase in funds associated with the grant award; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following appropriations be, and the same hereby are, made for the fiscal year beginning July 1, 2018, for expenditures in the amount of \$52,990 to be utilized only for equipment, training and selective enforcement of speed related traffic violations, to be expended only by order of the Board of Supervisors as follows:

**GENERAL FUND: \$ 52,990**

4. Acceptance and Appropriation of the FY 2019 Virginia Dam Safety, Flood Prevention and Protection Assistance Grant Fund for Motts Run Dam Break Inundation Zone Analysis, Mapping, and Digitization as follows:

**VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-111**

**Approving Grant Award Agreement, Designation of Authorized Agents in the  
Execution and Administration of the Grant Award and Acceptance and  
Appropriation of FY19 Funds**

**WHEREAS**, Spotsylvania County has applied for and received approval for a state grant from the Virginia Department of Conservation and Recreation in the amount of \$22,875 to be utilized by Utilities for professional services for the Motts Run Dam Break Inundation Zone Analysis, Mapping, and Digitization; and

**WHEREAS**, the County is required to provide a local match contribution of \$11,438; and

**WHEREAS**, the City of Fredericksburg has also agreed to provide a local match contribution of \$11,438; and

**WHEREAS**, the County and Utilities will administer the grant in accordance with the terms as set forth in the grant award agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the Spotsylvania County Board of Supervisors, that the grant award agreement between Spotsylvania County and the Virginia Department of Conservation and Recreation is approved; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following individuals are hereby designated as authorized agents any of whom may act in the execution and administration of the grant award agreement: Mark B. Taylor, County Administrator; Mark Cole, Deputy County Administrator; Edward Petrovitch, Deputy County Administrator; and Annette B. D'Alessandro, Grants Manager; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the grant in the amount of \$22,875 is accepted as well as the local match contribution of \$11,438 from the City of Fredericksburg and that the Utilities Fund budget is hereby amended to reflect the increase in funds associated with the grant award and local match funds from the City of Fredericksburg; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following appropriations be, and the same hereby are, made for the fiscal year beginning July 1, 2018, for expenditures in the amount of \$34,313 to be utilized only for the Motts Run Dam Break Inundation Zone Analysis, Mapping, and Digitization to be expended only by order of the Board of Supervisors as follows:

**UTILITIES FUND: 34,313**

5. Approval to Change the Full-Time Equivalency (FTE) for the Parks & Recreation Support Clerk;
6. Approval of Contract Modification for Renewal to Mary Washington Healthcare Physicians for Medical Services;
7. Approval of Contract Modification #3 to Superion, LLC for Implementation of the ONESolution HR & Financial Management System;
8. Approval of Purchase Order Contract to CAS Severn, Inc. for Computer Hardware for New Public Safety System;
9. Authorization for County Administrator to Execute Class Action Opt-In Notice Form for Class Action Suit Related to Federal Payments in Lieu of Taxes;
10. Budget Adjustment and Appropriation of the FY2019 Virginia Circuit Court Records Preservation Program Grant Award as follows:

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-112**

**WHEREAS**, the Spotsylvania County Clerk of the Circuit Court has received approval for a state grant from the Library of Virginia in the amount of \$10,013 to be utilized by the Clerk of the Circuit Court for conservation treatment of Common Law Rule Docket and Judgments 1812-1814, 1814-1873; Judgment Order Book 1768-1770; Order Book 1849-1858; and Index to Wills and Fiduciary Accounts, Etc. 1722-1836; and

**WHEREAS**, the Spotsylvania County Clerk of the Circuit Court is not required to provide a local match for the grant award; and

**WHEREAS**, the Spotsylvania County Clerk of the Circuit Court has approved and signed the grant award agreement; and

**WHEREAS**, the Clerk of the Circuit Court and to the extent required, the County will administer the grant in accordance with the terms as set forth in the grant award agreement; and

**WHEREAS**, the County is acting as fiscal agent for the Spotsylvania County Clerk of the Circuit Court for the purposes of processing the funding of this grant.

**NOW, THEREFORE, BE IT RESOLVED** by the Spotsylvania County Board of Supervisors that since the grant award agreement in the amount of \$10,013 has been accepted by the Clerk of the Circuit Court that the General Fund budget is hereby amended to reflect the increase in funds associated with the grant award; and

**BE IT FURTHER RESOLVED** by the Spotsylvania County Board of Supervisors that the following appropriations be, and the same hereby are, made for the fiscal year beginning July 1, 2018, for expenditures in the amount of \$10,013 to be utilized by the Spotsylvania County Clerk of the Circuit Court only for conservation treatment of Common Law Rule Docket and Judgments 1812-1814, 1814-1873; Judgment Order Book 1768-1770; Order Book 1849-1858; and Index to Wills and Fiduciary Accounts, Etc. 1722-1836 to be expended only by order of the Board of Supervisors as follows:

**GENERAL FUND: \$10,013**

11. Grant Application Request for the FY19 Fall Rescue Assistance Fund for the Department of Fire, Rescue, and Emergency Management as follows:

**VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-113**

**A RESOLUTION REQUESTING AUTHORIZED AGENTS FOR THE RESCUE SQUAD ASSISTANCE FUND ONLINE GRANTS SYSTEM**

WHEREAS, the Virginia Office of Emergency Medical Services, Rescue Squad Assistance Fund was adopted with the intent of providing the requisite training for emergency medical service personnel and purchasing equipment needed by such rescue squads and organizations; and

WHEREAS, the Virginia Office of Emergency Medical Services has instituted an on-line grant application and management system known as E-Gift (EMS-Grant Information Funding Tool); and

WHEREAS, the E-Gift system requires individuals to be designated as Authorized Agents to act on the County's behalf in creating and modifying grant applications and awards provided through the Rescue Squad Assistance Fund.

NOW THEREFORE BE IT RESOLVED by the Board of Supervisors of Spotsylvania County, that

Mark B. Taylor, County Administrator, OR

Edward Petrovitch, Deputy County Administrator, OR

Mark Cole, Deputy County Administrator, OR

Mary Sorrell, Finance Director, OR

Annette D'Alessandro, Grants Manager

are hereby authorized to execute for and on behalf of Spotsylvania County Government, a public entity established under the laws of the State of Virginia, any actions necessary for the purpose of obtaining additional state financial assistance provided by the Virginia Department of Health, Office of Emergency Medical Services, through the Rescue Squad Assistance Fund.

12. Grant Application Request for the FY19 Fall Rescue Assistance Fund for the Sheriff's Office as follows:

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-114**

**A RESOLUTION REQUESTING AUTHORIZED AGENTS FOR THE RESCUE SQUAD ASSISTANCE FUND ONLINE GRANTS SYSTEM**

WHEREAS, the Virginia Office of Emergency Medical Services, Rescue Squad Assistance Fund was adopted with the intent of providing the requisite training for emergency medical service personnel and purchasing equipment needed by such rescue squads and organizations: and

WHEREAS, the Virginia Office of Emergency Medical Services has instituted an on-line grant application and management system known as E-Gift (EMS-Grant Information Funding Tool); and

WHEREAS, the E-Gift system requires individuals to be designated as Authorized Agents to act on the County's behalf in creating and modifying grant applications and awards provided through the Rescue Squad Assistance Fund.

NOW THEREFORE BE IT RESOLVED by the Board of Supervisors of Spotsylvania County, that

Mark B. Taylor, County Administrator, OR



Edward Petrovitch, Deputy County Administrator, OR

Mark Cole, Deputy County Administrator, OR

Mary Sorrell, Finance Director, OR

Annette D'Alessandro, Grants Manager

are hereby authorized to execute for and on behalf of Spotsylvania County Government, a public entity established under the laws of the State of Virginia, any actions necessary for the purpose of obtaining additional state financial assistance provided by the Virginia Department of Health, Office of Emergency Medical Services, through the Rescue Squad Assistance Fund.

13. Resolution Authorizing Use of Fuel Tax Revenue for FY2018 and FY2019 Transportation Purposes as follows:

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-115**

**A RESOLUTION AUTHORIZING USE OF \$3,123,270 OF FUEL TAX FUNDS FOR  
VARIOUS FY 2018 & FY 2019 TRANSPORTATION PURPOSES**

**WHEREAS**, Spotsylvania County ("County") is a member of the Potomac and Rappahannock Transportation District ("District"), a transportation district created pursuant to the Transportation District Act of 1964 (Code of Virginia, §33.2-1900, et seq.) which participates in the operation of a rail commuter mass transportation system (Code of Virginia, §58.1-2295); and

**WHEREAS**, the Potomac and Rappahannock Transportation Commission ("PRTC") is the governing body of the District; and

**WHEREAS**, the Commonwealth of Virginia levies a 2.1 percent sales tax on the price charged by a distributor for fuels sold to a retail dealer for retail sale in the District (§58.1-2295); and

**WHEREAS**, all taxes paid to the State Tax Commissioner, after subtraction of the direct costs of administration by the Tax Department, are deposited in a special fund held by the District (Code of Virginia §58.1-2299.20); and

**WHEREAS**, at the request of the member jurisdiction, revenue available from the fuels tax in excess of the required payments to VRE and PRTC may be expended for any transportation purpose (Code of Virginia, §58.1-2299.20); and

**WHEREAS**, the County planned as part of its FY 2018 and FY 2019 budgets to fund various transportation-related activities including transportation-related staff positions and operating costs, FRED transit operations, and debt service from previously issued transportation bonds; and

**WHEREAS**, the County desires to use a portion of the revenue from its fuel tax account for these purposes;

**NOW, THEREFORE, BE IT RESOLVED** that the Spotsylvania County Board of Supervisors does hereby request PRTC to budget and appropriate the following amounts for reimbursement to Spotsylvania for a portion of its actual FY 2018 and budgeted FY 2019 transportation expenditures:

Transportation-related positions	\$210,265.00
Transportation operating costs	\$15,022.00
FRED bus service	\$300,879.00
Debt service on previous transportation bond issues	<u>\$2,597,104.00</u>
Total	\$3,123,270.00

**BE IT FURTHER RESOLVED** that the County Administrator is hereby authorized and directed to submit to PRTC requests for reimbursement of expenses incurred by the County in connection with the expenditures identified above.

14. Recommended Revisions to Finance Committee Bylaws;
15. Approval of IDX Impressions, LLC Commonwealth Opportunity Fund (COF) Performance Agreement and Associated Budget Adjustment and Appropriation as follows:

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-116**

**BE IT RESOLVED** by the Board of Supervisors of the County of Spotsylvania, Virginia, that the following appropriations be, and the same hereby are, made for the fiscal year beginning July 1, 2018, from the funds and for the functions or purposes indicated.

To provide funding for economic development incentive grants to be expended only by order of the Board of Supervisors as follows:

**CAPITAL PROJECTS FUND:** (\$75,000)

**ECONOMIC DEVELOPMENT OPPORTUNITIES FUND:** \$150,000

16. Appointment of Edmond E. Saneaka to the Transportation Committee;
17. Appointment of Hamza Atief to the Minority Affairs Committee;
18. Reappointment of Kathryn Dennis to the Social Services Advisory Board.

**Authorization for Public Hearing for 2018 Erosion Large Project Fee Schedule**

On a motion by Mr. Marshall, seconded by Mr. Trampe and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the resolution as follows:

**VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-117**

**A RESOLUTION DIRECTING STAFF TO ADVERTISE AMENDMENTS TO THE  
EROSION AND SEDIMENT CONTROL ORDINANCE RELATED TO EXCEPTIONALLY-  
LARGE-SCALE LAND DISTURBANCE AREA INSPECTIONS**

WHEREAS, the Board of Supervisors of Spotsylvania County (hereinafter the “Board”) desires to consider an Erosion and Sediment Control Ordinance amendment related to exceptionally- large-scale land disturbance area inspection; and

WHEREAS, pursuant to Chapter 8, Erosion and Sediment Control, of the Code of the County of Spotsylvania Sec. 8-18, Virginia Erosion and Sediment Control Handbook adopted, and specifically, Chapter 8-37 “Fees for land disturbance inspection shall be authorized by the Board of Supervisors from time to time to off-set departmental program administration cost and

shall be designated in the Unified Fee Schedule”; as authorized by Virginia Administrative Code, 9 VAC 25-840-30 (D); and 62.1-44.15:54(J) of the Code of Virginia; and

WHEREAS, the Board acknowledges that the current fee schedule does not address exceptionally- large-scale inspections, and

WHEREAS, the proposed new fees to be added to the Unified Fee Schedule, Erosion Fees, are to be calculated by land disturbance acreage, pursuant to the local Virginia Erosion and Sediment Control Program; and

WHEREAS, based upon public necessity, safety, convenience, the general welfare, good zoning practices, and compliance with the Virginia Code, the Spotsylvania County Board of Supervisors desires to initiate changes to the Spotsylvania County Ordinances, Sec 8-37.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby direct staff to advertise for public hearings the draft amendment to the Spotsylvania County Erosion and Sediment Control Ordinance to adopt fees for exceptionally-large-scale inspections.

## **BOARD OF SUPERVISORS REPORTS**

Mr. Skinner spoke about the Department of Social Services and its responsiveness regarding the Buckley case.

Mr. Ross made a motion to restrict Mr. Skinner from speaking about the Buckley case in his Board report. Mr. Trampe stated he did not believe in silencing other Board members. Mr. Ross withdrew his motion.

Mr. Marshall encouraged citizens to prepare for the potential incoming storm and to prepare for Fire and EMS delays.

Mr. Trampe reminded staff in positions of authority, including the Board and Constitutional Officers, that employee information needed to be kept confidential.

On a motion by Mr. Yakabouski and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the commendation as follows:

### **VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

In honor of 9/11, Mr. Ross recognized the individuals who lost their lives at the Pentagon and Pennsylvania Flight 93. He spoke about the signing of the constitution and how it guards our freedoms. He also made a public apology to the Buckley family.

Mr. Benton requested an update on the animal shelter. He directed staff to communicate with the State Park Superintendent regarding the back up on Lawyers Road on weekends and ways to expedite possible associated funding through the state. He also encouraged citizens to prepare for the incoming storm and to look out for their neighbors. Additionally, he recognized Firefighter Megan Baltzell for competing and placing 4<sup>th</sup> on Team USA in the women's baseball World Cup. Mr. Benton also directed the County Administrator to get copies of all the emails Mr. Skinner referenced and deliver them to Mr. Ross tomorrow. Mr. Marshall requested that they be delivered to all the Board members.

### **PRESENTATIONS/REPORTS BY STAFF**

#### **HR Policy Revisions - Chapter 10 – Retiree Healthcare Benefits**

Mr. Marshall read the following statement:

I hereby disclose I have an interest in the consideration of changes to the retiree healthcare benefits as an employee of the County. My disclosure is on file with the clerk and is available to the public for review. Mark/Aimee, please record this disclosure in the minutes of this meeting as required by law.

Staff reviewed the proposed health reimbursement plan for Medicare-eligible only retirees.

Mr. Marshall made a motion to make the \$625 Health Reserve Account (HRA) optional for all current employees and retirees and mandatory for all employees hired after January 1, 2019. Mr. Skinner made a friendly amendment to make the HRA mandatory for all employees hired after September 25, 2019. Mr. Marshall accepted the friendly amendment and the motion passed 5 to 1 with Dr. Trampe opposed and Mr. McLaughlin absent.

#### **VOTE:**

Ayes:	5	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner and Mr. Yakabouski
Nays:	1	Dr. Trampe
Absent:	1	Mr. McLaughlin
Abstain:	0	

## **PUBLIC PRESENTATIONS**

The following citizens spoke on behalf of the Buckley family regarding the removal of Juan Antonio from their care: Jen Wollschlager and Joseph Harley.

The following citizen spoke about a traffic light timing change needed at Harrison Road and Levealls Road: Dawn Shelley.

## **PUBLIC HEARINGS**

### **Amendments and Additions to County Code Chapter 4, Animals and Fowl, Article IV, Dog Licenses, Lifetime Provisions**

Mr. Pritchett presented.

Mr. Benton declared the public hearing opened and when no one indicated an intention to speak, closed the public hearing.

Mr. Yakabouski stated he would like legislation to completely eliminate dog licenses.

On a motion by Mr. Benton and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the ordinance as follows:

#### **VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

#### **AN ORDINANCE No. 4-32**

To amend Chapter 4, Animals and Fowls, Article VI, Dog Licenses, Sections 4-41, 4-42, 4-43, 4-44, 4-45, 4-48, 4-49, 4-50, and to add Section 4-52, to allow the County to offer and regulate lifetime dog licenses, as well as change “license tax” to “license fee” throughout Article VI, Dog Licenses.

**PUBLIC HEARING: September 11, 2018**

**WHEREAS**, staff has reviewed the code amendments and recommends approval as stated in the executive summary dated September 11, 2018; and

**WHEREAS**, the Spotsylvania Board of Supervisors held a public hearing, duly advertised in a local newspaper for a period of two weeks, on August 24th and August 31st, 2018, and interested citizens were offered an opportunity to be heard; and

**WHEREAS**, the general welfare is served by approval of the code amendments.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:**

§ 1. That Chapter 4, Article IV, Sections 4-41, 4-42, 4-43, 4-44, 4-45, 4-48, 4-49 and 4-50 be and are hereby **amended and re-ordained** as follows:

Sec. 4-41. - Application; applicant must be county resident.

- (a) Any person shall obtain an annual or lifetime dog license by making oral or written application to the treasurer, accompanied by the amount of the applicable license fee and the dog's rabies vaccination certificate indicating that the vaccination meets the requirements of this article as applicable. The treasurer shall only have the authority to license dogs of owners or custodians who reside within the boundary limits of the county and may require information to establish the location of the residence of any applicant.
- (b) It shall be unlawful for any person to make a false statement in order to secure a dog license to which he or she is not entitled. Violation of this section shall constitute a Class 3 misdemeanor.
- (c) Nothing in this article shall preclude compliance with all provisions of the zoning chapter of this Code.

(Code 1980, §§ 4-29, 4-30; Ord. No. 4-2, 6-1-93; Ord. No. 4-31, § 1, 10-10-17; Ord. No. 4-32, 9-11-18)

**State Law reference**— Similar provisions, Code of Virginia, §§ 3.2-6527.

Sec. 4-42. - Fees imposed.

- (a) A license fee is hereby imposed on dogs required to be licensed under this article. The amount of the license fee shall be established by resolution adopted by the board of supervisors.
- (b) An annual license shall be available to be purchased individually for all dog owners subject to the number of dogs that may be owned as set forth in this chapter. An annual license shall also be available for purchase as a multi-dog license for those county residents who satisfy the requirements of this chapter, specifically those set forth in section 4-51 and subject to the number of dogs, which may be owned as set forth in this chapter. The multi-dog license may be available as ten (10), twenty (20), or fifty (50) dog licenses as established by resolution adopted by the board of supervisors. However, a person or persons regardless of whether the dogs are kept on one or more tax map parcels may purchase only one multi-dog license.

- (c) A license, valid for the licensed dog's lifetime provided said dog's rabies vaccination or inoculation is kept current pursuant to section 4-61, shall be available for purchase by all dog owners subject to the number of dogs that may be owned as set forth in this chapter.
- (d) There shall be no refund of any license fee paid pursuant to this article, regardless of any status change, including the death, relocation or future expired vaccination status of the licensed dog.
- (e) No license fee shall be imposed under this section on any dog that is trained and serves as a guide dog for a blind person or that is trained and serves as a hearing dog for a deaf or hearing-impaired person; or that is a search and rescue dog; or that is trained and serves as a service dog for a mobility-impaired person. As used herein, the term "hearing dog" means a dog trained to alert its owner, by touch, to sounds of danger and sounds to which the owner should respond; and "service dog" means a dog trained to accompany its owner for the purpose of carrying items, retrieving objects, pulling a wheelchair or other such activities or service or support.
- (f) All money collected by the treasurer pursuant to this section shall be deposited into the general fund of the county.

(Code 1980, § 4-25; Ord. of 9-13-88(1); Ord. No. 4-2, 6-1-93; Ord. No. 4-5, 9-27-94; Ord. No. 4-6, 10-11-94; Ord. No. 4-23, 8-9-05; Ord. No. 4-31, § 1, 10-10-17; Ord. No 4-32, 9-11-18)

**State Law reference**— Duty of county to impose dog license fee, limit on the amount thereof and provisions similar to subsection (b) above, Code of Virginia, § 3.2-6528. County authorized to allow lifetime dog licenses, Code of Virginia, § 3.2-6530(B).

Sec. 4-43. - When license fee is due and payable.

- (a) The annual license fee imposed on dogs by section 4-42(b) shall be due and payable as follows:
  - (1) On or before the first day of January and not later than the 31st day of January of each year, the owner of any dog four (4) months old or older, other than those dogs with valid county-issued lifetime licenses, shall pay such fee.
  - (2) If a dog shall become four (4) months of age or if a dog over four (4) months of age unlicensed by this county shall come into the possession of any person between the first day of January and the 31st day of October of any year, the license fee for the current calendar year shall be paid by the owner forthwith.
  - (3) If a dog shall become four (4) months of age or if a dog over four (4) months of age unlicensed by this county shall come into the possession of any person between the first day of November and the 31st day of December of any year, the license fee for the succeeding calendar year shall be paid forthwith by the owner and such license shall protect the dog from the date of payment of the license fee to the end of the succeeding calendar year. (b) The lifetime license fee imposed on dogs pursuant to Section 4-42(c) is due and payable at the time of application.



(Code 1980, §§ 4-25, 4-26; Ord. of 9-13-88(1); Ord. No. 4-2, 6-1-93; Ord. No. 4-31, § 1, 10-10-17; Ord. No. 4-32, 9-11-18)

**State Law reference**— Similar provisions, Code of Virginia, § 3.2-6530. County authorized to allow lifetime dog licenses, Code of Virginia, § 3.2-6530(B).

Sec. 4-44. - Failure to pay annual license fee when due.

It shall be unlawful for the owner of any dog to fail to pay the annual license fee imposed by this article before February 1 for the year in which it is due. Payment of the license fee subsequent to a summons to appear before a court for failure to do so within the time required by this article shall not operate to relieve such owner from the penalties provided for such failure.

(Code 1980, §§ 4-27, 4-28; Ord. No. 4-2, 6-1-93; Ord. No. 4-26, 10-13-09; Ord. No. 4-32, 9-11-18)

**State Law reference**— Similar provisions, Code of Virginia, §§ 3.2-6536, 3.2-6587.

Sec. 4-45. - Issuance, composition and contents of licenses.

- (a) Upon receipt of a proper application and the prescribed license fee, the treasurer shall issue the requested dog license; provided, that no such license shall be issued for any dog, unless there is presented to the treasurer a current certificate of vaccination or inoculation issued for the dog pursuant to section 4-61. If said application is for an annual license, said certificate of vaccination or inoculation shall be valid for the entire license year. When the license is issued, such certificate shall be marked and returned to the dog's owner. It shall be unlawful for any person to present a certificate for a dog other than that for which it was issued.
- (b) Each annual dog license shall consist of a license fee receipt and a metal tag. Such receipt shall have recorded thereon the amount of the fee paid, the name and address of the owner or custodian of the dog, the date of payment, the year for which the license is issued, the serial number of the tag and whether the license is for an intact male, intact female, spayed female or neutered male dog or for a kennel. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the county, the year for which issued, and a serial number.
- (c) Each lifetime dog license shall consist of a license fee receipt and a metal tag. Such receipt shall have recorded thereon the amount of the fee paid, the name and address of the owner or custodian of the dog, the date of payment, that the license is issued for the dog's lifetime, the serial number of the tag and whether the license is for an intact male, intact female, spayed female or neutered male dog. The metal tag issued hereunder shall be stamped or otherwise permanently marked to show the name of the county, along with the term "Lifetime license", and a serial number.

(Code 1980, §§ 4-29, 4-33; Ord. No. 4-2, 6-1-93; Ord. No. 4-31, § 1, 10-10-17; Ord No. 4-32, 9-11-18)

**State Law reference**— Similar provisions, Code of Virginia, §§ 3.2-6526, 3.2-6527, 3.2-6529. County authorized to allow lifetime dog licenses, Code of Virginia, § 3.2-6530(B).

Sec. 4-48. - Duplicate tags.

If a dog license tag shall become lost, destroyed or stolen, the owner shall at once apply to the treasurer for a duplicate license tag. Upon presenting the original license receipt and an affidavit that the original license tag has been lost, destroyed or stolen, the treasurer shall issue a duplicate license tag, which the owner shall immediately affix to the collar of the dog. The treasurer shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag shall be established by resolution adopted by the board of supervisors.

(Code 1980, § 4-32; Ord. of 8-28-84(3); Ord. No. 4-2, 6-1-93; Ord. No. 4-6, 10-11-94; Ord. No. 4-31, § 1, 10-10-17; Ord. No. 4-32, 9-11-18)

**State Law reference**— Similar provisions, Code of Virginia, § 3.2-6532.

Sec. 4-49. - Concealing or harboring unlicensed dog.

It shall be unlawful for any person to conceal or harbor any dog upon which the license fee imposed by this article has not been paid or which is otherwise unlicensed.

(Code 1980, § 4-20; Ord. No. 4-2, 6-1-93; Ord. No. 4-31, § 1, 10-10-17; Ord No. 4-32, 9-11-18)

**State Law reference**— Similar provisions, Code of Virginia, § 3.2-6587.

Sec. 4-50. - Revocation of kennel license.

If a holder of a multi-dog license is convicted for a violation of section 4-21 of this chapter, the multi-dog license issued under this article may be revoked if it appears to the trial court that such section was violated by reason of the carelessness or negligence of the operation. Upon such revocation, the holder of a multi-dog license shall be required to pay an individual license fee on each dog.

(Ord. No. 4-2, 6-1-93; Ord. No. 4-23, 8-9-05; Ord No. 4-32, 9-11-18)

§ 2. That Chapter 4, Article IV, Section 4-52, be and is hereby **adopted and ordained** as follows:

Sec. 4-52. – Invalidation of lifetime license for failure to keep rabies vaccination or inoculation current; dog deemed unlicensed until rabies vaccination or inoculation brought current.

(a) The lifetime dog license shall be valid only as long as the licensed dog's owner resides in the county and said dog's rabies vaccination is kept current.

(b) Should a dog's rabies vaccination or inoculation expire, any lifetime dog license issued for that dog shall become invalid concurrently on the same date the dog's rabies vaccination or inoculation expired, and said license shall not be valid again as a lifetime dog license under this article until said dog's rabies vaccination or inoculation is again current. A dog shall be deemed to be unlicensed for any time during which its lifetime dog license is deemed to be invalid pursuant to this section.

**State Law reference**— County authorized to allow lifetime dog licenses, which shall be valid only if the licensed dog's rabies vaccination is kept current Code of Virginia, § 3.2-6530(B).

(Ord No. 4-32, 9-11-18)

Secs. 4-53—4-60. - Reserved.

§ 3. This ordinance shall be in force and effect upon adoption.

On a motion by Mr. Benton and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the resolution as follows:

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-118**

Resolution of the Spotsylvania County Board of Supervisors to Amend the Animal Control Fee Schedule for Chapter 4, Animals and Fowl, Article IV, Dog Licenses

WHEREAS, the Code of the County of Spotsylvania, Virginia, contains provisions in Chapter 4, Animals and Fowl, Article IV, Dog Licenses, which provide that fees for services provided by Animal Control shall be set by resolution of the Board of Supervisors; and

WHEREAS, by Resolution on October 13, 2009, the Board of Supervisors adopted a fee schedule for Chapter 4, Animals and Fowl; and

WHEREAS, Chapter 4, Animals and Fowl, Article IV, Dog Licenses, has been amended to include the option to purchase a lifetime dog license; and

WHEREAS, on September 11, 2018, the Board of Supervisors held a public hearing regarding the proposed dog license fees to be charged by Animal Control.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Spotsylvania County, Virginia, that the Board hereby adopts the amended fee schedule for dog licenses, as set forth below:

**DOG TAGS/LICENSE FEES:**

1 Year – Altered	\$5.00
1 Year – Not Altered	\$10.00
10 Multi-Dog License	\$25.00
20 Multi-Dog License	\$32.50
50 Multi-Dog License	\$50.00
Lifetime Dog License	\$20.00
Duplicate Dog License	\$1.00

**Budgeting of 2018 Bond Sale Proceeds**

Ms. Jewell presented.

Mr. Benton declared the public hearing opened and when no one indicated an intention to speak, closed the public hearing.

On a motion by Mr. Skinner and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the resolution as follows:

**VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-119**

**BE IT RESOLVED** by the Board of Supervisors of the County of Spotsylvania, Virginia, that the following appropriation be, and the same hereby are, made for the fiscal year beginning July 1, 2018, from the funds and for the functions or purposes indicated.

For the projects, debt service and cost of issuance adjustments associated with the 2018 sale of General Obligation (GO) bonds to be expended only by order of the Board of Supervisors as follows:

**TRANSPORTATION FUND:** (\$413,411)

**CAPITAL PROJECTS FUND: \$6,642,058**  
**SCHOOL CAPITAL PROJECTS FUND: \$259,102**

**Jackson Village and Alexander's Crossing Special Service District**

Ms. Parrish presented.

Mr. Benton declared the public hearing opened.

The following citizens spoke in opposition or with concerns: David Dobson, Charlie Payne and Adam Morman.

Mr. Benton closed the public hearing.

Mr. Yakabouski made a motion to deny. Mr. Ross made a substitute motion to table until the next meeting. The substitute motion passed 6 to 0 with Mr. McLaughlin absent.

**VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**CA18-0002 Zoning Ordinance Amendment - Rezonings**

Ms. Parrish presented.

Mr. Benton declared the public hearing opened and when no one indicated an intention to speak, closed the public hearing.

On a motion by Mr. Marshall and passed 5 to 1 with Mr. Ross opposed and Mr. McLaughlin absent, the Board adopted the resolution as follows:

**VOTE:**

Ayes:	5	Mr. Benton, Mr. Marshall, Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	1	Mr. Ross
Absent:	1	Mr. McLaughlin
Abstain:	0	

AN ORDINANCE No. 23-176

CA18-0002: Development Review Procedures

To amend County Code (“Code Amendment”) Chapter 23, Zoning, Article 4, Development Review Procedures, as part of an ongoing effort to review and update the Spotsylvania County Zoning ordinance. The proposed amendment includes: Section 23-4.6. Zoning Map Amendments (Rezoning).

PUBLIC HEARING:

WHEREAS, staff has reviewed the Code Amendment and recommends approval as stated in the Executive Summary dated September 11, 2018; and

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on this item on July 18, 2018, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, the Spotsylvania County Planning Commission recommended approval of the Code Amendment with a vote of 4-0; and

WHEREAS, the Spotsylvania County Board of Supervisors held a public hearing on September 11, 2018, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, good zoning practice and general welfare are served by approval of the Code Amendment.

NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 23, Article 4, Division 6, be and is hereby **amended** and reordained as follows:

DIVISION 6. - ZONING MAP AMENDMENTS (REZONINGS)<sup>[5]</sup>

Footnotes:

--- (5) ---

**Editor's note**— Ord. No. 23-162, adopted June 14, 2016, amended Division 6 in its entirety to read as herein set out. Formerly, Division 6, §§ 23-4.61—23-4.6.12, pertained to similar subject matter, and derived from Ord. No. 23-66, adopted October 24, 1995; Ord. No. 23-73, adopted August 12, 1997; Ord. No. 23-87, adopted September 26, 2000; Ord. No. 23-134, adopted October 13, 2009, and Ord. No. 23-143, adopted September 13, 2011.

**State Law reference**— Zoning amendments generally, Code of Virginia, § 15.2-2284.

Sec. 23-4.6.1. - Purpose and applicability.

In accordance with Code of Virginia, § 15.2-2284, as amended, the zoning map shall be drawn and applied and may be amended with reasonable consideration for the existing use and character of property, the Comprehensive Plan, the suitability of property for various uses, the availability of or plans for construction of necessary public utilities, the trends of growth and development in the area, the current and future requirements of the community as to land use for various purposes as determined by population and economic studies and other studies, the transportation requirements of the community, the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public facilities and services, the conservation of natural resources, the preservation of flood plains, the preservation of agricultural and forestal land, the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the locality. The purpose of this Division is to provide standards and procedures applicable to zoning map amendments.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.2. - Initiation of amendments; application requirements for amendments; determination of completeness.

- (a) Amendments to the zoning map can be initiated by resolution or motion by the Planning Commission or Board of Supervisors. Any resolution or motion by the Planning Commission or Board of Supervisors shall state the public purpose for the amendment of the zoning map prescribed by this Division. Upon adoption of any such resolution or motion for an amendment to the zoning map, such amendment shall be prepared and a public hearing scheduled to consider the amendment in accordance with the requirements of Division 2 of this Article.
- (b) Amendments to the zoning map can be initiated by the property owner. An application for an amendment to the zoning map may be filed by the owner of the lot or parcel which is the subject of the rezoning, by the contract purchaser with the owner's written consent, or by any person acting under a valid power of attorney from the owner.
- (c) Before filing the application, the applicant shall schedule a pre-application meeting with the Planning Department to discuss the proposed amendment and to become more familiar with the applicable requirements and approval procedures of the County.
- (d) An application for approval of a zoning map amendment shall be filed with the County on a form to be provided by the Planning Department and shall contain or be accompanied by such information and plans as required on the form or as determined necessary by the Director of Planning at the pre-application meeting. The Director of Planning may waive or modify any of the submission requirements due to the scope and nature of the proposed development. The application shall be accompanied by a generalized development plan (GDP) and a GDP narrative describing the proposal as specified on the application form. The GDP shall include the following information unless the minimum submission requirements have been waived or modified by the Director of Planning due to the scope and nature of the proposed development:
  - (1) GDP Title Sheet(s) to include:

- a. A title block denoting the type of application, name of project, tax map reference, voting district, and street address;
  - b. An approval block located along the right side of the title sheet and each subsequent sheet of the generalized development plan;
  - c. The name, address, and phone number of the owner and applicant;
  - d. The name, address, phone number, signature, and registration number of the GDP preparer, and the preparation date of the GDP;
  - e. Vicinity map, 1" = 2,000', a north arrow scale, and scale graphic;
  - f. GDP index;
  - g. A site data summary table (with computations) providing at minimum:
    - 1. Tax map reference;
    - 2. Project area size including total and disturbed acreage;
    - 3. Existing and proposed zoning designation(s);
    - 4. A table with computations showing existing by-right unit potential, proposed unit yield by residential unit type, and densities and/or gross and net floor areas of nonresidential structures, where applicable;
    - 5. Identification of any overlay districts within project limits;
    - 6. Existing use and types of proposed uses;
    - 7. Building height, number of floors, and setbacks of all existing and proposed buildings, structures and other improvements;
    - 8. A table with computations showing trip generation with land use code reference;
    - 9. Acknowledgement of any known historic building, archaeological features, or historic districts;
    - 10. Acknowledgement of any known places of burial;
    - 11. Acknowledgement of any floodplains, resource protection areas, wetlands, steep slopes, dam break inundation zones, onsite;
    - 12. Parking, including tabulation of required parking and spaces proposed.
  - h. A table with computations estimating the lot coverage ratio and impervious surface ratio.
- (2) The identification of and distance to all major intersections within one-half mile of the proposed development;
  - (3) The boundary of the entire parcel with courses and distances;
  - (4) Any existing or proposed parcel lines, easements or right-of-way within the subject parcel(s);



- (5) The present zoning and principal use of the subject parcel and all contiguous properties;
- (6) Graphic depiction of the boundaries of any overlay zoning districts described in Article 6 of this chapter;
- (7) Graphic depiction of the general locations, approximate dimensions, height, number of floors and setbacks of all existing and proposed buildings, structures, accessory structures (including outdoor lighting, fences, bike racks, walls or hedges, trash receptacles), signs, landscaping and buffers, stormwater management facilities, and other improvements;
- (8) Graphic depiction of the boundaries of any water bodies, USGS perennial streams, floodplain, resource protection areas, watershed, wetlands, dam break inundation areas, and steep slopes;
- (9) A generalized landscape plan showing existing vegetation, proposed clearing limits and indicating the location, and types of vegetation to be installed under the landscaping and bufferyard requirements of Article 5, Division 5, of this chapter, and the general location and material descriptions of any other proposed screens, bufferyards, or landscaping;
- (10) The location and dimensions of existing and proposed parking and loading areas and any other impervious surfaces, such as driveways, streets (and names), sidewalks, bicycle or multi-use trails, and playing surfaces;
- (11) The location and description of all points of access including all proposed interparcel connections;
- (12) The estimated daily vehicular trips generated by the proposed development on each road segment shown on the plan;
- (13) The location and dimensions of existing water and sewer mains serving the site of the proposed development, points of connection to public water and sewer and/or location of wells and septic systems and reserve drainfields;
- (14) Topographic contour lines at two foot intervals for the existing site;
- (15) The location and dimensions of on-site and off-site facilities for the retention or detention of stormwater;
- (16) The size, location, and boundaries of any common open spaces, recreation areas, and recreation facilities, including a tabulation of usable open space in accordance with the open space definition in Section 23-2.1.4., Definitions;
- (17) For large-scale, phased developments, identification of the location and timing of each phase of the development;
- (18) Graphic depiction of any known historic building, archaeological features, or historic districts;
- (19) Graphic depiction of any known places of burial and easements for cemetery access in accordance with the Code of Virginia, § 57-27.1, as amended;

- (20) A description of the methods proposed to control erosion, sedimentation, and stormwater runoff; and
  - (21) A description of the persons to be responsible for future maintenance of all roads, easements, parks, playgrounds, stormwater and drainage facilities, and other common areas.
  - (22) Signature and seal of the licensed architect, engineer, landscape architect, or surveyor certifying the plan.
- (e) Determination of completeness. Within ten (10) working days after receiving an application for a map amendment, the County shall determine whether the application is complete. If the County determines that the application is not complete, it shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.3. - Proffers of conditions.

- (a) The owner of property which is the subject of a rezoning request may proffer that, in the event the property is rezoned to a requested zoning district, the use and development of the property will be subject to specified reasonable conditions, in addition to the regulations provided by this chapter for the zoning district; provided, however, all such conditions are in conformity with the Spotsylvania County Comprehensive Plan and requirements of the Code of Virginia.
- (b) The submission and acceptance of proffered conditions shall be in accordance with the following procedures:
  - (1) If an applicant for a change of zoning desires to proffer conditions, then either the proffers or a statement of intent to submit proffers shall accompany the rezoning application. All proposed proffers shall be submitted in writing in a format acceptable to the planning Director of Planning. Proffers shall be clear and succinct and shall be separated into independently enumerated paragraphs, each of which addresses no more than one (1) aspect of the development and use of the property. Any proffered generalized development plans, architectural elevations, and other graphic representations or sample materials shall accompany the proffer statement and shall be clearly identified and incorporated by reference in the text of the proffers.
  - (2) Any modified or revised proposed proffers shall be accompanied by comparative drafts highlighting the changes made in such modification or revision.
  - (3) Any proffers shall be approved as to form by the County attorney. Proffered conditions presented to the Planning Commission or Board of Supervisors must be signed by the record owner of the subject property, or an agent with power of attorney authorized to sign the proffered conditions, and notarized. The Planning Commission hearing on a rezoning application shall not be scheduled without these signatures on the proffer statement.

- (4) Additional amendments to the proffered conditions shall be submitted not less than fourteen (14) days prior to the scheduled Planning Commission public hearing unless the public hearing is postponed.
- (5) If the applicant wishes to amend proffered conditions once the public hearing has begun the Planning Commission shall continue consideration of the rezoning to a future meeting and the amended proffers, shall be submitted not less than fourteen (14) days prior to that meeting date.
- (6) After the Planning Commission public hearing, the applicant may submit additional proffers or modifications to address issues identified in the staff report considered or discussed by the Planning Commission at the public hearing.
- (7) The Board of Supervisors public hearing shall be scheduled once the proffered conditions are approved to form. Additional amendments to the proffered conditions shall be submitted not less than fourteen (14) days prior to the scheduled Board of Supervisors public hearing unless the public hearing is postponed.
- (8) If the applicant wishes to amend proffered conditions once the public hearing has begun the Board of Supervisors shall continue consideration of the rezoning to a future meeting and the amended proffers shall be submitted not less than fourteen (14) days prior to that meeting date.
- (9) In the event that the Board of Supervisors determines that the property should be rezoned to a requested zoning district, it may make such rezoning subject to some or all of the conditions proffered by the applicant.
- (10) Proffered conditions shall become a part of the zoning regulations applicable to the property in question and shall be noted on the zoning map. No development activity on the subject property shall be approved by any County official in the absence of conformance with the proffered conditions including proffers defining the specific uses and the physical layout depicted by the plans, profiles, elevations and other demonstrative materials presented by the applicant. For the purpose of this Section, "conformance" shall be interpreted to provide a reasonable margin for adjustments in the physical layout of the development due to final engineering data, provided that the adjustment does not increase the density of the proposed development or reduce any provision intended to mitigate the impact of the development on adjacent properties or the community.
- (11) Once proffered and accepted as a part of an amendment to the zoning ordinance, conditions shall continue in effect until subsequent amendment changes the zoning on the property covered by such conditions; such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.
- (12) Applications for the amendment or deletion of proffered conditions previously accepted by the Board of Supervisors shall be considered through the same process as any other request for a zoning map amendment.

- (13) Within thirty (30) days after Board of Supervisors approval of proffered conditions as part of an amendment to the zoning map, the applicant shall cause a notice of conditional zoning to be recorded among the land records of the circuit court of the County, in a form approved by the County attorney, indicating that such proffered conditions shall run with the rezoned property and shall remain in effect until the Board of Supervisors amends the zoning on the property or otherwise modifies the conditions.
  - (14) The provisions of this Section shall be administered and interpreted in accordance with Virginia Code, § 15.2-2303.
  - (c) Proffered dedications of land for public facilities must be pursuant to a project identified within the Capital Improvement Plan (CIP) or substantially in accord with the Comprehensive Plan in accordance with Virginia Code, §15.2-2232. Proffered conditions that include land dedication, but not including right of way along existing roadways, shall be accompanied by the following:
    - (1) Topographical and boundary survey of the property to be proffered, including identification of resource protection areas (RPAs) and jurisdictional wetlands, known hazards, and preliminary geotechnical information;
    - (2) Phase I environmental site assessment;
    - (3) Phase I archaeological survey and report;
    - (4) Endangered species survey and report; and
    - (5) An appraisal report prepared by a Certified General Appraiser licensed by the Virginia Real Estate Appraiser Board accompanied by an affidavit from the appraiser certifying its compliance with the Uniform Standards of Professional Appraisal Practice, as amended, and meeting the following standards:
      - a. The appraised market value of the property shall be valued coincident with the date of the appraisal report;
      - b. The appraisal of the property shall be done as-is and free of hypothetical conditions;
      - c. The appraisal shall not exceed the value for the highest and best use that is consistent with the existing zoning requirements and shall be for a use for which the property is adaptable and needed or likely to be needed in the reasonably near future, that considers factors including but not limited to, known hazards, slopes, resource protection areas, jurisdictional wetlands, floodplains, and soil conditions of the property and for which existing roads serving the property are sufficient to support the highest and best use proposed for the property.
- (Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.4. - Staff review and report.

- (a) Once an application for a map amendment is determined to be complete, County staff shall review the application for compliance with the requirements of this chapter.
- (b) The Director of Planning of planning shall transmit the application and other information to any state, County or other government agencies for review and comment as appropriate.
- (c) After the application is determined to be complete and all agency comments have been received, County staff shall provide the comments in writing to the applicant so that they may make revisions.

- (d) County staff shall schedule the application for a public hearing before the Planning Commission and submit a written staff report to the Planning Commission on the proposed map amendment.

If an application for a map amendment is filed in conjunction with an application for approval of a Special Use Permit, the County shall coordinate the review of the proposed map amendment with the review of the application for the Special Use Permit.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.5. - Public hearing and recommendation by Planning Commission.

The Planning Commission shall conduct a public hearing, after giving notice in accordance with Section 23-4.2.1 of this Chapter, and shall submit a written report and recommendation on the proposed map amendment to the Board of Supervisors no later than sixty (60) days from the date of conclusion of the public hearing.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.6. - Public hearing and decision by the Board of Supervisors.

- (a) Upon receipt of the report and recommendation of the Planning Commission and staff, the Board of Supervisors shall conduct a public hearing, after giving notice as provided in Division 2 of this Article.
- (b) After conducting a public hearing, the Board of Supervisors shall make a decision upon the proposed amendment within a reasonable time not to exceed twelve (12) months from the date that the application is determined to be complete, unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his application. The Board of Supervisors may:
  - (1) Approve the zoning map amendment, with or without proffers;
  - (2) Deny the zoning map amendment;
  - (3) Refer the application back to the Planning Commission for further study and review;
  - (4) Continue the public hearing and/or vote to a future meeting; or
  - (5) Rezone the property to a district that permits uses that are more intense than permitted in the preexisting district but less intense than the applicant's proposed district.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.7. - Withdrawal of application.

Amendments initiated by a property owner may be withdrawn upon the submittal of a signed written request by the property owner to the Director of Planning of planning. Such request must be received prior to the close of the public hearing by the Board of Supervisors. Upon such withdrawal, processing of the application shall cease.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.8. - Indexing, administration, enforcement, and appeal of proffered conditions.

- (a) Proffers to be indicated on zoning map; proffered conditions index. The zoning map shall show, by an appropriate symbol on the map, the existence of proffered conditions which

were attached to the zoning district when the map was amended. The County shall keep and make available for public inspection a proffered conditions index. The index shall provide ready access to the proffered conditions in a particular district.

- (b) Administration and enforcement of proffered conditions. The Zoning Administrator shall be vested with all necessary authority, on behalf of the Board of Supervisors, to administer and enforce proffered conditions, including:
  - (1) Ordering in writing compliance with such proffered conditions;
  - (2) Bringing of legal action to insure compliance;
  - (3) Requiring a guarantee or contract, or both, as allowed by Virginia Code, § 15.2-2299, for construction of physical improvements required by proffered conditions, including but not limited to letters of credit securing funds necessary to complete proffered improvements; and/or
  - (4) Denial of the issuance of any required site plan approval, building, or occupancy permits.
- (c) Petition for review of enforcement decision. Any person who is aggrieved by a decision of the Zoning Administrator in the enforcement of proffered conditions pursuant to this Section may petition the governing body for the review of the enforcement decision pursuant to § 15.2-2301 of the Code of Virginia. Such appeal shall be filed within thirty (30) days from the date of the decision appealed by filing a petition for review of decision with the Zoning Administrator and the clerk of the Board of Supervisors. Such petition shall specify the grounds on which the applicant is aggrieved and the basis for the appeal.
- (d) Any party who is aggrieved by a decision of the governing body on appeal taken pursuant to this Section may petition the circuit court for review of the decision. The provisions of SubSection F of the Virginia Code, § 15.2.2285 shall apply to such petitions mutatis mutandis.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

**Sec. 23-4.6.9. - Duration of conditions.**

Once conditions have been proffered and accepted as part of an amendment to the zoning map, 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 substantial revisions to this Chapter.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

Sec. 23-4.6.10. - Amendments and variations of proffered conditions.

Once the Board of Supervisors has approved proffered conditions pursuant to this Division, no material amendment or material variation of such conditions may be made until public hearings have been held before the Board of Supervisors and the Planning Commission pursuant to Division 2 of this chapter and notice of such hearings has been given pursuant to Division 2 of this chapter.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18) Sec. 23-4.6.11. - Waiting period for subsequent applications.

Where an application for an amendment to the zoning map is disapproved by the Board of Supervisors, the board may not reconsider substantially the same application for a period of one (1) year following the date of the denial of the application by the Board of Supervisors.

(Ord. No. 23-162, 6-14-16; Ord. No. 23-176, 9-11-18)

### **CA18-0003 Zoning Ordinance Amendment – Site Plans**

Ms. Parrish presented.

Mr. Benton declared the public hearing opened and when no one indicated an intention to speak, closed the public hearing.

On a motion by Mr. Skinner and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the resolution as follows:

#### **VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

#### **AN ORDINANCE No. 23-177**

#### **CA18-0003: Development Review Procedures**

To amend County Code (“Code Amendment”) Chapter 23, Zoning, Article 2, Definitions and Rules of Construction, and Article 4, Development Review Procedures, as part of an ongoing effort to review and update the Spotsylvania County Zoning ordinance. The proposed amendment includes: Section 23-2.1.4. Definitions, and Section 23-4.11. Site Plan Review.

PUBLIC HEARING:

WHEREAS, staff has reviewed the Code Amendment and recommends approval as stated in the Executive Summary dated September 11, 2018; and

WHEREAS, the Spotsylvania County Planning Commission held a public hearing on this item on \_\_\_\_, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, the Spotsylvania County Planning Commission recommended approval of the Code Amendment with a vote of 5-0; and

WHEREAS, the Spotsylvania County Board of Supervisors held a public hearing on September 11, 2018, which was duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

WHEREAS, good zoning practice and general welfare are served by approval of the Code Amendment.

NOW, THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF SPOTSYLVANIA HEREBY ORDAINS:

§ 1. That Chapter 23, Article 2, and Chapter 23, Article 4, Division 11, be and is hereby **amended** and reordained as follows:

ARTICLE 2. – DEFINITIONS AND RULES OF CONSTRUCTION

Sec. 23-2.1.4. – Definitions.

The following definitions shall be used in the interpretation and administration of this chapter. The definitions of various terms as presented herein do not necessarily represent the same definitions as may be found for the same terms in other chapters of the Code.

*Abandonment* means any component of a wireless telecommunication facility (e.g., antenna support structure, antenna, transmission cable, equipment shelter, etc.) is deemed abandoned when not utilized for the provision of wireless service for a period of twelve (12) consecutive months.

*Abattoir* means a type of agricultural processing facility, established as a commercial slaughterhouse.

*Above ground level (AGL)* means the distance measured from ground level at the base of a structure to the highest point of an object on the structure.

*Accessory use* means any use which:

1. Is subordinate to and serves a principal use;



2. Is subordinate in purpose, area and extent to the principal use served;
3. Contributes primarily to the comfort and convenience of the occupants, business enterprise or industrial use served; and
4. Is generally located within the building housing the principal use served, except as qualified by the provisions of section 23-5.3.2.

*Accessory structure* means any structure which:

1. Is subordinate to, customarily found in association with, and serves a principal use;
2. Is subordinate in purpose, area or extent to the principal building served;
3. Contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal building served; and
4. Is located on the same lot as the principal building, except (1) any building that is customarily incidental to any agricultural use shall be deemed to be an accessory structure, whether or not it is situated on the same lot with the principal building; (2) except a mass drainfield serving multiple lots shall not be required to be on the lot it is serving.

*Adult book stores* shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, other printed matter, and other media including, but not limited to films, video tapes, video cassettes or video disks, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" (as defined below) or "specified anatomical areas" (as defined below) or an establishment with a segment or section devoted to the sale or display of such material. For purposes of this subsection, substantial or significant portion shall mean at least twenty-five (25) percent or more of stock in trade.

*Adult booth* means a separate enclosure inside an adult oriented business accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth or other booth used to view "adult merchandise." The term "adult booth" does not include a foyer through which any person can enter the establishment or a restroom.

*Adult day care center.* As defined in the Code of Virginia § 63.2-100, Definitions.

*Adult theater* shall mean an enclosed building or outdoor facility used for presenting live performances or recorded material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein, and including any so-called "peep show" or individual motion picture machines or similar viewing devices.

*Adult entertainment* shall mean dancing, modeling, live exhibition or performance, or other live entertainment if the entertainment is characterized by an emphasis on specified sexual activities or specified anatomical areas or is intended for the sexual stimulation or titillation of patrons; or the showing of films, motion pictures, videotapes, slides, photographs, CD-ROMs, DVD-ROMs streaming video, or other media, or other visual representations that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Adult merchandise* shall mean magazines, books, other periodicals, and other printed matter, videotapes, films, motion pictures, photographs, slides, CD-ROMs, DVD-ROMs, virtual reality devices, or other similar media that are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs; or, lingerie or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices.

*Adult model studio* shall mean a commercial establishment, including a lingerie store or novelty store in which a person performs, or simulates specified sexual activities, exposes specified anatomical areas, or engages in other performances intended for the sexual stimulation or titillation of patrons.

*Adult motel* shall mean a motel, hotel, or similar commercial establishment that: provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and advertises the availability of this sexually-oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to newspapers, magazines, pamphlets, or leaflets, radio or television, internet web pages; or offers a sleeping room for rent for a time period of less than ten (10) hours; or allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

*Adult nightclub* shall mean a restaurant, bar, club, or similar establishment that regularly features adult entertainment.

*Adult oriented business* shall mean any adult book store, adult theater, massage parlor/health club adult video store, adult model studio, adult motel, adult nightclub, adult store, business providing adult entertainment, or any other establishment that regularly exploits an interest in matter relating to specified sexual activities or specified anatomical areas or regularly features live entertainment intended for the sexual stimulation or titillation of patrons.

*Adult store* shall mean establishment dealing in adult merchandise as a principal portion of its business.

*Agreement in lieu of plan* means an agreement with the county signed by the property owner and contractor, if applicable, setting forth the minimum standards for construction of:

- (i) A single-family detached dwelling, or
- (ii) An accessory structure, where the land disturbance is less than two thousand five hundred (2,500) square feet; and includes an attached plan, commonly referred to as a "plot plan," which is a drawing showing the location of proposed and existing structures on the lot and the setback of the structures from the property lines.

*Agricultural and forestal district* means a district created by local ordinance under the authority of Chapter 43 of the Code of Virginia, 1950, as amended, the Agricultural and Forestal Districts Act.

*Agricultural processing facility* means higher intensity commercial agricultural operations for the processing of food, forestry products, organic fiber or fur for purposes of packaging and distribution for wholesale and/or retail sale.

*Agriculture* means the use of a tract of land not less than five (5) acres for the raising of poultry and livestock; (2) pasturage; (3) dairying. Agricultural activities not including poultry and livestock includes the use of a tract of land not less than two (2) acres in size for agricultural purposes outdoors, within an agricultural structure or within a greenhouse/plant nursery, including, but not limited to: (a) the tilling of the soil; (b) the cultivation of crops or plants and trees of any kind; (c) horticulture; (d) floriculture; (e) *agroforestry* ; (f) *aquaculture* ; (g) *forestry* ; (h) *hydroponic cultivation* ; (i) *agritourism* ; (j) *farm winery* ; (k) *farm brewery* ; (l) *farm cidery* ; (m) *farm distillery* ; (n) *farm juicery* ; (o) *farm cannery* .

The term "agriculture" shall not include the following uses: the maintenance and operation of a: (a) *garden center* ; (b) *agricultural processing facility* ; (c) the feeding of garbage to animals. However, the definition of agriculture shall not be deemed to preclude: (a) retail and/or wholesale sales of agriculture products primarily (more than fifty-one (51) percent) sourced onsite.

*Agritourism* means any activity carried out on a farm that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

*Agroforestry* means growing of both trees and agricultural/horticultural crops on the same piece of land. Operations are designed to provide tree and other crop products and at the same time protect, conserve, diversify and sustain vital economic, environmental, human and natural resources. Agroforestry differs from traditional forestry and agriculture by its focus on the interactions among components rather than just on the individual components themselves.

*Airport, public or private* means a place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

*Alternative support structure* means any structure not designated for the primary purpose of supporting one (1) or more antennae but may be modified for such purpose, including, but not limited to, water towers and silos.

*Amusement arcade* means any location, premises, building, parcel, plot or lot where more than seven (7) amusement machines (devices) are placed for use for entertainment purposes.

*ANSI Collapse Zone* means American National Standards Institute established area within which an antenna support structure must be engineered to fall if damaged or overloaded.

*Animal shelter* , as differentiated from a *kennel* as defined herein, means any place so designed to provide for the temporary indoor accommodations and/or housing for sale and/or adoption of five (5) or more common household pets which are stray or not wanted by their owner(s) until appropriate disposition of such pets can be effectuated. The use includes facilities similar to the Society for the Prevention of Cruelty to Animals (SPCA).

*Antenna* means any exterior electronic device used for the transmission or reception of radio frequency signals designed for telephonic, radio, satellite or television communications.

*Antenna support structure* means any structure designed for the primary purpose of supporting one (1) or more antennae including but not limited to self-supporting lattice towers, guyed towers and monopoles.

*Anti-climbing device* means a minimum six-foot high chain link fence shall surround the antennae support structure and appurtenances. The fence fabric shall have maximum one and one-quarter (1¼) inch openings or be provided with enclosing slats attached at the top and bottom restricting openings to one and one-quarter (1¼) inch or less. The fence fabric shall be minimum 11-gauge hot dipped galvanized. The fence fabric shall be installed so that at no point is the fabric or any portion of the fence enclosure more than four (4) inches above grade. The fence shall enclose the tower structure and appurtenances such that the vertical and horizontal distances from the top of the fence to the enclosed elements is not less than four (4) feet. All gates and access openings shall be equipped with locking arrangements to restrict unauthorized access.

*Antique shop* means a retail sales establishment of collectables, or aged materials that are at least fifty (50) years old.

*Applicant* means any means any person submitting any application required or permitted pursuant to any of the provisions of this Chapter, including its successors and assigns.

*Aquaculture* means the farming of freshwater and/or saltwater aquatic organisms such as fish, crustaceans, mollusks and aquatic plants under controlled conditions.

*Architectural feature* means a distinguishing or defining element of a structure, which contributes to the appearance and character of the structure or assists in defining the style of architecture. Windows, shutters, doors, chimneys, porches, roofs, columns, and decorative details are examples of architectural features.

*Art and craft studio* means the workshop of an artist, sculptor, photographer, craftsperson, furniture maker, glass blower, potter or cabinet maker primarily used for on-site production of unique custom goods by hand manufacturing involving the use of hand tools and small-scale equipment, which may include an accessory gallery. The primary use of art and craft studios is the retail sale of the custom goods as produced on-site, as evidenced through allocation of customer floor area or gross sales receipts of the business. The studio may include an onsite owner occupied residential dwelling.

*Assisted living facility* means a residential facility for the elderly that provides living areas, meals, personal services, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation. Services may be provided on a fee for service basis or as part of monthly rents.

*Auction establishment* means a place where objects of art, furniture, antiques and collectibles, and other goods are offered for sale to persons within a competitive bidding process. The term shall not include a *livestock exchange*.

*Automobile graveyard* means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind incapable of being operated are placed, located or found.

*Balloon test* means a technique utilizing a balloon to demonstrate the height above ground level of a proposed antenna support structure.

*Banner sign* means any sign of lightweight fabric or similar material. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Basement* means a portion of a building partly underground, but having less than one-half (½) its clear height below the grade plane.

*Bed and breakfast I* means a stand-alone owner occupied dwelling, of sufficient capacity in terms of sewage treatment and parking needs in which up to five (5) guest rooms with private or shared bathroom facilities are available as lodging for persons, either individually or as families or groups, for specific periods of time not to exceed thirty (30) days, with one or more meals offered to lodging patrons and their guests (but not the general public).

*Bed and breakfast II* means a stand-alone dwelling and/or collection of other accessory buildings on the same lot that is occupied by the owner operators, of sufficient capacity in terms of sewage treatment and parking needs in which more than five (5), up to twenty (20) guests rooms total with private or shared bathroom facilities are available as lodging for persons onsite, either individually or as families or groups, for specific periods of time not to exceed thirty (30) days, with one or more meals offered to lodging patrons and their guests (but not the general public).

*Billiards/pool hall* means an indoor establishment whose principal use is pool/billiard tables available for play and/or tournament.

*Biosolids* means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution consistent with state law and regulations. For purposes of this article, biosolids does not include prepackaged biosolids sold commercially that are not otherwise regulated by Virginia Code § 5-585.10 et seq. Land application of biosolids is not permitted in the primary settlement area as defined in the Spotsylvania County Comprehensive Plan.

*Brewery, winery, cidery, distillery* means a type of industrial establishment where the primary use is the production of alcoholic beverages including beer, wine, cider, or other spirits on site for retail or wholesale sale in accordance with any manufacturing or wholesale license requirements by all applicable regulations. Beer production capacity may exceed fifteen thousand (15,000) barrels per year, distilled spirits, wine, or alcoholic cider may exceed twenty thousand (20,000) gallons per year. Permitted accessory uses may include accessory uses such as onsite restaurant, brewpub, retail sales, office, tasting rooms and uses as otherwise permitted in the zoning district.

*Building* means any structure used or intended for supporting or sheltering any use or occupancy.

*Building, accessory.* See *Accessory use*.

*Building group* means a group of two (2) or more main buildings and any uses accessory thereto, occupying a lot in one (1) ownership and having any yard in common.

*Building height.* See *Height, building*.

*Building, principal* means a building in which is conducted the primary use of the lot on which it is situated.

*Building materials yard* means any facility that is designated to provide building materials either new, raw or reclaimed to contractors and/or homeowners.

*Bulk regulations* means regulations controlling the size of structures and the relationship of structures and uses to each other and to open areas and lot lines. Bulk regulations include provisions controlling (a) maximum building height, (b) maximum floor area ratio, (c) minimum yard requirement and (d) minimum angle of bulk plane.

*Bus station/depot/terminal* means a transportation system distribution facility used for the loading and unloading of passengers and/or passenger luggage for transport from buses and temporary parking of buses, incidental to the primary use. For the purpose of this chapter, a bus stop shall not be deemed a bus station/depot/terminal.

*Business service and supply service establishment* means any establishment containing no more than five thousand (5,000) square feet of net floor area wherein the primary occupation is the provision of services or supplies principally to the business, commercial, industrial or institutional community, but not including retail sales to the general public except as a secondary and subordinate ancillary activity. This term shall also include establishments such as catering and printing establishments which serve the general public. Business service and supply service establishments shall not involve the use of more than three (3) vehicles other than passenger cars.

*Camp or recreation ground* means an area or premises operated as a commercial enterprise, generally providing space for seasonal accommodations for transient occupancy or use by tourists occupying camping trailers, self-propelled campers, tents and/or lodges. With such accommodations are normally to be found facilities for picnicking, boating, fishing, swimming, outdoor games and other sports and activities, but not including miniature golf courses, golf ranges or any mechanical amusement device. A camp ground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall not be construed to mean a *manufactured home park* as defined herein.

*Car wash* means a structure, or portion thereof, containing facilities for washing motor vehicles by hand or by using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical device.

*Carport* means a roofed structure providing space for parking of motor vehicles and enclosed on not more than three (3) sides.

*Cemetery* means property used for the burial or internment of the deceased.

*Chicken coop* includes any fully enclosed and covered hen house, and associated run space providing a predator resistant shelter that is thoroughly ventilated, provides adequate sun and shade and all season protection from the elements, designed to be easily accessed and cleaned where poultry and/or chicken lives.

*Chicken tractor* means a movable fully enclosed structure commonly used for pastured chickens who graze on fresh grass daily. The tractor is moved every day or week as needed for the chickens to have fresh grass underneath them. Chicken tractors can be used as permanent or temporary housing for chickens; and are considered a type of chicken coop.

*Child care center* means any facility licensed and operated in accordance with the provisions of section 63.1-195 of the Code of Virginia, 1950, as amended, for the purpose of providing care, protection, and guidance to a group of children separated from their parents or guardians during a part of the day only.

*Church.* See *Place of worship*.

*Civic, social or fraternal facility* means a building or meeting facility which is restricted to members and guests of members of a non-profit association or corporation, including accessory uses, such as temporary rental of the facility to nonmembers, recreational facilities, banquet facilities but not including the sale of goods or services to the general public on the premises on a regular basis.

*Civic and sports arena* means a large open or enclosed facility used for sports games and major events either partly or completely surrounded by tiers of seating for spectators.

*Cluster subdivision/development.* See *Subdivision, cluster*.

*Co-location* means the shared use of an antenna support structure by two (2) or more wireless service providers or other entities operating antennae.

*College or university* means an educational institution, including medical schools, authorized to award higher education, certification, associate, baccalaureate, masters or doctorate degrees.

*Community center* means a facility in which events, meetings and ceremonies, services are conducted by organizations including but not limited to civic clubs, businesses and individuals, for their own use or for rent. Such facilities may be publicly or privately owned and operated and include on-site kitchens or provide for catered meals. A hotel which includes meeting facilities is not considered a community center.

*Contractor's offices and shops* means establishments for the installation and servicing of such items as air conditioners, electrical equipment, flooring, heating, painting, plumbing, roofing, tiling and ventilating and establishments for the planting and maintenance of gardens, grounds and yards such as landscape contractors and lawn maintenance services.

*Contributing building, structure, or landscape* means a building, structure, or landscape which has historic or cultural significance by reason of type, period, design, style, workmanship, form, materials, architectural details, or historic association to a significant event, or person, or has or may yield information important to prehistory or history.

*Convenience store* means any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, fresh fruits and vegetables, sandwiches and other freshly prepared foods, such as salads, for off-site consumption and containing less than seven thousand five hundred (7,500) square feet of gross floor area. The definition of convenience store shall not include fuel dispensing facilities unless such facilities are permitted or approved through special use permit consistent with zoning district provisions.

*Convent, monastery, seminary and nunnery* means an establishment of a religious order for the housing and/or education of male or female members.

*Conventional subdivision.* See *Subdivision, conventional*.

*Correctional facility* means a public or privately operated use providing housing and care for individuals legally confined, designed to isolate those individuals from a surrounding community.

*Country club* means a recreational facility, restricted to members and their guests, which generally includes a clubhouse, dining, eating and/or drinking establishment, and recreational facilities including but not limited to golf course(s), tennis courts, and swimming pools.

*Crematory or crematorium* means a facility containing a furnace for cremation of deceased human bodies.

*Cultural center, museum or similar facilities* means establishments that document the social, environmental, or religious structures and intellectual and artistic manifestations that characterize a society including museums, art galleries, botanical and zoological gardens of a natural, historic, educational, or cultural interest.

*Dam* means a manmade structure across a watercourse used to retain water.

*Dam break inundation zone*, as defined by the Code of Virginia, § 10.1-604 means the area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam. The dam break inundation zone shall be shown on the dam break inundation zone map filed with the state department of conservation and recreation and the county.

*Deck line* means the intersection of two (2) roof surfaces of a mansard roof forming the highest horizontal line of the steeper roof slope.

*Design standards* means the County Design Standards Manual, adopted concurrently with this chapter, as the same may be amended from time to time, and incorporated by reference in this chapter.

*Diameter at breast height* means the diameter of a tree measured outside the bark at a point four and one-half (4.5) feet above ground.

*Direct line of sight* means the ability to directly view an area without the benefit or assistance of a mirror, video camera or similar aid.

*Domestic laying hens* include any varietal of egg laying chicken, either fertile or barren.

*Dormitory, fraternity, sorority houses, or other residence halls* means a building used as group living quarters for a student body as an accessory use to a college, university, boarding school, or similar institutional use. Such units may utilize shared bathrooms for unrelated residents, do not have individual kitchen units and are not designed for cooking.

*Drive-in theater* means an open lot devoted primarily to the showing of motion pictures or theatrical productions to patrons seated in automobiles.

*Driveway* means that space or area of a lot that is specifically designated and reserved for the movement of motor vehicles within the lot or from the lot to a public street.

*Dustless surface* means a surface adequately covered in accordance with good practice with a minimum of either two (2) applications of bituminous surface treatment, concrete, bituminous concrete or suitable material approved by the director.



*Dwelling* means a building or portion thereof, but not a *mobile home*, designed or used for residential occupancy. The term "dwelling" shall not be construed to mean a motel, rooming house, hospital, or other accommodation used for more or less transient occupancy.

*Dwelling, manufactured home* means a structure subject to federal regulation, which is transportable in one (1) or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on-site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

For the purpose of this chapter, a manufactured home shall not be deemed a single-family detached dwelling.

*Dwelling, modular unit* means a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location on a permanent foundation. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this chapter, a modular unit shall be deemed a *single-family dwelling* and shall not be deemed a *manufactured home*.

*Dwelling, multiple-family* means a residential building containing three (3) or more separate dwelling units located on a single lot or parcel of ground. A multiple-family dwelling, commonly known as an apartment house, generally has a common outside entrance(s) for all the dwelling units, and the units are generally designed to occupy a single floor one above another. For the purpose of this chapter, a multiple-family dwelling shall not be construed to mean a *single-family attached dwelling* as defined herein.

*Dwelling, single-family* means a residential building for one (1) family containing only one (1) dwelling unit.

*Dwelling, single-family attached* means a group of two (2) or more closely placed, interrelated single-family dwelling units for one (1) family which are generally joined to one another by a common party wall, a common floor-ceiling or garage and/or, with the specific approval of the director in each case, connecting permanent and architecturally unified structures such as breezeways, carports, or walls, which structures continue the design, pattern and/or materials of the facade from one dwelling unit to another, whether or not such a group is located on a single parcel or on adjoining individual lots. Connecting structures and outdoor living space may be so designed as to provide access between front and rear yards. Each unit shall have its own outside entrance. The total length of any one (1) group of units shall not exceed one hundred eighty (180) feet. The total number of units in any one (1) group of units shall not exceed nine (9). Architectural facades or treatment of materials in a townhouse development shall be varied from one (1) group of units to another; and no more than three (3) abutting units in a row shall have the same front and rear setbacks with a minimum setback offset being one (1) foot. For the purpose of this chapter, dwellings such as semidetached, garden court, patio house, zero lot line, "piggyback" town house, "back to back" town house and town house shall be deemed single-family attached dwellings.

*Dwelling, single-family, detached* means a single dwelling unit for one (1) family, which is entirely surrounded by open space or yards on the same lot.

*Dwelling, two-family* means a building designed for or intended to be occupied by not over two (2) families living independently of each other. This includes both duplexes, one (1) dwelling unit above another, and semi-attached, two (2) dwelling units having a common vertical party wall.

*Dwelling unit* means one (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of section of this chapter.

*Eating establishment* means any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in a state ready for consumption within the establishment.

An eating establishment may provide a carry-out service, provided that such carry-out service is clearly not the principal business of such establishment. Entertainment which is provided for the enjoyment of the patrons shall be considered accessory to an eating establishment, to include dancing by patrons, provided the space made available for such dancing shall not be more than one-eighth ( 1/8 ) of that part of the floor area available for dining. Provisions for dancing made available under this definition shall be subject to the licensing requirements of chapter 11 of the County Code.

*Eating establishment, carry-out/fast food* means any establishment whose principal business is the sale of foods, frozen desserts or beverages in ready-to-consume individual servings primarily for off-premises consumption including all eating establishments providing drive through service.

*Electrical engineer* means an individual or firm licensed by the Commonwealth of Virginia to practice electrical engineering.

*Employees of adult oriented businesses* shall mean an individual working or performing services for any adult business, including any independent contractor who provides services on behalf of any adult business to the patrons of such business, whether or not the individual receives any remuneration, gratuity, or tips of any kind, or pays the permittee or manager for the right to perform or entertain in the adult business.

*Entity* means any natural person, firm, partnership, association, corporation, company or other legal entity, private or public, whether for profit or not for profit.

*Equestrian event facility* means a type of indoor and/or outdoor facility used for the for the display of equestrian skills and the hosting of events including but not limited to, show jumping, dressage, rodeos, and similar equestrian disciplines. Equestrian event facility may also include uses associated with an equestrian facility and accessory uses such as a clubhouse, dining, snack bar. Such facilities may be open to the public, may be lighted, and may be developed in conjunction with a public stable or developed separately.

*Equestrian facility* means a facility used for any of the following: (1) equestrian education and/or instruction, (2) boarding, (3) horseback riding and rentals, (4) tack sales as an accessory use occupying no more than two thousand five hundred (2,500) square feet of gross floor area, in conjunction with any of the foregoing activities.

*Existing facility* means any existing or proposed wireless telecommunication facility for which valid county permits has been issued.

*Exterior wall* means any exposed non-interior wall of a building including the principal facade.

*Family* means a group of people living together as a single housekeeping unit consisting of:

- (1) One (1) or more persons related by blood or marriage together with any number of natural, foster, step or adopted children, domestic servants, nurses, or therapists, and no more than two (2) roomers or boarders; or
- (2) No more than three (3) unrelated persons, provided that the foregoing limitation on the number of unrelated persons in a housekeeping unit shall be increased to no more than eight (8) persons, where such persons have a handicap within the meaning of section 3602 of the Fair Housing Act (42 USC 3601, et seq., as amended) and may also include one (1) resident counselor, supervisor or other staff; or
- (3) Any group identified in section 15.2-2291 of the Code of Virginia, or like groups licensed by the Virginia Department of Social Services which otherwise meet the criteria of the Code of Virginia, § 15.2-2291.

*Farm Brewery* is an establishment licensed as a limited brewery under Virginia Code 4.1-208(2) which may include accessory uses including, but not limited to, an onsite eating establishment and offices. Usual and customary activities such as production and storage, wholesale or retail sales, tasting rooms and events at such licensed farm breweries shall not be regulated herein except as set forth in Virginia Code 15.2-2288.3:1.

*Farm Cannery* means an establishment (i) located on a farm in the Commonwealth owned or leased by such cannery or its owner and (ii) agricultural products for the canning operation are grown on the farm, devoted to the production and storage for retail or wholesale sale in accordance with any manufacturing or wholesale license requirements by the Code of Virginia and any other applicable law. Such establishments may include accessory uses such as onsite eating establishment, retail sales, office, tasting rooms.

*Farm Cidery* means an establishment (i) located on a farm in the Commonwealth owned or leased by such cidery or its owner and (ii) agricultural products, including cultivating fruit used by such cidery in the manufacture of its cider, either alcoholic or non-alcoholic, devoted to the production and storage of cider for retail or wholesale sale in accordance with any manufacturing or wholesale license requirements by the Code of Virginia and any other applicable law. Such establishments may include accessory uses such as onsite eating establishment, retail sales, office, tasting rooms.

*Farm Distillery* means an establishment (i) located on a farm in the Commonwealth owned or leased by such distillery or its owner and (ii) agricultural products, including cultivating grains used by such distillery in the manufacture of its distilled spirits, devoted to the production and storage of spirits for retail or wholesale sale in accordance with any manufacturing or wholesale license requirements by the Code of Virginia and any other applicable law. Such establishments may include accessory uses such as onsite eating establishment, retail sales, office, tasting rooms.

*Farm Juicery* means an establishment (i) located on a farm in the Commonwealth owned or leased by such juicery or its owner and (ii) agricultural products, including cultivating fruits and vegetables used by such juicery in the manufacture of juices, devoted to the production and storage of juice for retail or wholesale sale in accordance with any manufacturing or wholesale license requirements by the Code of Virginia and any other applicable law. Such establishments may include accessory uses such as onsite eating establishment, retail sales, office, tasting rooms.

*Farm Winery* is an establishment licensed as a farm winery under Virginia Code 4.1-207(5) which may include accessory uses including, but not limited to, an onsite eating establishment and offices. Usual and customary activities such as production and storage, wholesale or retail sales, tasting rooms and events at such licensed farm breweries shall not be regulated herein except as set forth in Virginia Code 15.2-2288.3. Farm winery to also include the production of fruit wine or honey mead.

*Federal Aviation Administration (FAA)* means an agency of the federal government that regulates all activities affecting air navigation.

*Federal Communications Commission (FCC)* means an agency of the federal government that regulates all intrastate, interstate and international wire, wireless, satellite and cable communications.

*Feed mill* means a type of agricultural processing facility, established as a commercial enterprise engaged in the production of animal feed, which may include storing, processing and milling grain for agricultural use. Ancillary sales of bedding and accessories and farm and garden supplies (such as seed, hardware, pesticides, and fertilizers) to agricultural operations may be permitted.

*Feed yard* means a type of agricultural processing facility, established as a commercial operation, either part of (accessory to), or near a *livestock exchange* , where livestock are gathered to be fattened for market.

*Financial institution* means any establishment, to include an unmanned bank teller machine(s) and/or drive through window(s), wherein the primary occupation is concerned with such state regulated businesses as banking, savings and loans, loan companies and investment companies.

*Floodplain* means those land areas in and adjacent to streams and watercourses subject to continuous or periodic inundation from flood events with a one-percent chance of occurrence in any given year (i.e., the 100-year flood frequency event) and having a drainage area greater than seventy (70) acres.

Floodplains shall include all areas of the county which are designated as a floodplain by the Federal Insurance Administration, by the United States Geological Survey or by the county. Areas designated as floodplains by the Federal Insurance Administration shall not have their base flood elevations altered without prior approval from the Federal Insurance Administration.

*Floor area, gross* means the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The term "gross floor area" shall include basements; elevator shafts and stairwells at each story; floor space used for mechanical equipment with structural headroom of six (6) feet, six (6) inches or more;

penthouses; attic space, whether or not a floor has actually been laid, providing structural headroom of six (6) feet, six (6) inches or more; interior balconies; and mezzanines.

The term "gross floor area" shall not include cellars, or outside balconies which do not exceed a projection of six (6) feet beyond the exterior walls of the building. Parking structures below or above grade and rooftop mechanical structures are excluded from gross floor area.

*Floor area, net* means the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls and from the centerline of walls separating two (2) or more buildings. The term "net floor area" shall include outdoor display areas for the sale, rental and display of recreational vehicles, boats and boating equipment, trailers, horticultural items, farm or garden equipment and other similar products, but shall exclude areas designed for permanent uses such as toilets, utility closets, malls enclosed or not, truck tunnels, enclosed parking areas, meters, rooftop mechanical structures, mechanical and equipment rooms, public and fire corridors, stairwells, elevators, escalators, and areas under a sloping ceiling where the headroom in fifty (50) percent of such area is less than six (6) feet, six (6) inches. For purposes of determining off-street parking requirements, the term "net floor area" shall exclude cellars used exclusively for storage.

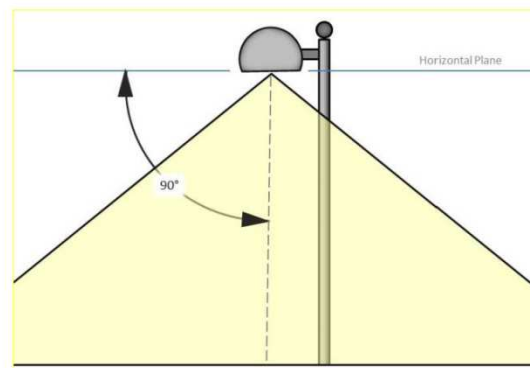
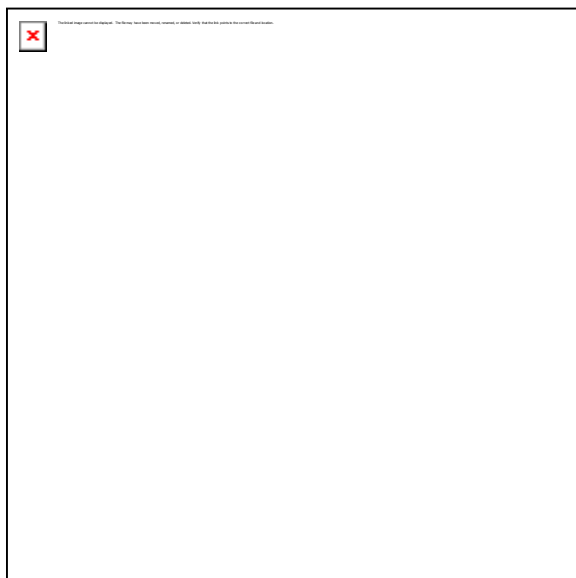
*Floor area ratio.* Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

*Forestry* , also known as silviculture, means developing, caring for, cultivating forests or timbering operations associated with forest management.

*Front yard.* See *Yard, front*.

*Fuel dispensing service* means an establishment where liquids and gases used as motor fuels are stored and dispensed into the fuel tanks of motor vehicles. A fuel dispensing service may include an onsite convenience store.

*Full cutoff luminaire* means an outdoor light fixture, independently certified by lighting manufacturers, shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane.



*Fully shielded luminaire* means a fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal. This can be determined by a "field test" or visual assessment of an operating sample, or fixture photographs and/or diagrams.

*Funeral home* means a facility primarily used for human funeral services. Such a building may contain facilities for: (a) embalming and the performance of other services used in the preparation of deceased human bodies for burial, (b) the storage of caskets, funeral urns, and other related funeral supplies, (c) storage of funeral vehicles, and (e) cremation of deceased human bodies.

*Game land preserve, wildlife sanctuary and fish hatchery.* A wildlife refuge or areas where human activities are limited and the natural environment is protected and preserved for game, vegetation and fish.

*Garden center* means a retail and/or wholesale sales establishment with or without a *greenhouse/plant nursery*, for the sale of plants, vegetation, trees and shrubs primarily (more than fifty-one (51) percent) sourced elsewhere or off-site and maintained and cared for onsite temporarily until sale. Accessory retail sales complementary to the primary use, including, but not limited to, (1) florist, (2) garden tools, (3) garden accent items, (4) lawn and garden care items (5) bulk landscaping materials; and, (6) water gardening, including sale of ornamental fish and aquatic plants, are also permitted.

*Golf course and clubhouse* is a tract of land so designed for at least nine (9) holes for playing the game of golf. Golf course and clubhouse may include accessory uses such as a clubhouse, *golf driving range*, dining, snack bar, pro-shop, or other practice facilities.

*Golf driving range* means an area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots. Golf course and clubhouse [driving range] may include accessory uses such as a clubhouse, dining, snack bar, pro-shop.

*Grade* means a reference plane representing the average of finished ground level adjoining a building at all exterior walls.

*Grade plane.* See definition of *Grade*.

*Greenhouse, commercial* means a type of horticulture, floriculture, hydroponic cultivation or aquaculture growing operation within a *greenhouse/plant nursery* and wholesale sales and distribution. Accessory offices and retail sales of such of *greenhouse, commercial* products are also permitted.

*Greenhouse/plant nursery* means a structure or structures, primarily of glass or plastic, in which temperature and humidity can be controlled for the cultivation or protection of plants.

*Group home* means a type of medical care facility for developmentally disabled persons licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services 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. For purposes of this definition, the current illegal use of or addiction to a controlled substance as defined in Virginia Code § 54.1-3401 is neither a mental illness nor a developmental disability.

*Heavy equipment and specialized vehicle sale, rental and/or service establishment* means buildings and premises for the sale, rental and servicing of trucks, buses, boats, manufactured homes, trailers and farm and construction machinery or equipment, but not including any vehicle designed primarily for the transportation of nine (9) or less passengers. For the purpose of this chapter, heavy equipment and specialized vehicle sale, rental and service establishments shall not be deemed to include *vehicle sale, rental and ancillary service establishments* ; however, vans and recreational vehicles may be sold, rented and serviced.

*Height, building* means the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than ten (10) feet distant from the front lot line, or from the *grade* in all other cases.

*Height, effective building* means the vertical distance from that elevation on a lot line where the angle of bulk plane is established to the highest point on any building.

*Heliport* means an area designed to accommodate all phases of operation of helicopters with suitable space and facilities for a terminal, loading, unloading, service and storage of such aircraft, to include facilities for such accessory uses as are commonly associated with an airport terminal.

*Helistop* means an area designed to accommodate touch-down and lift-off of helicopters, for the purpose of picking up and discharging passengers or cargo. Such an area shall contain no operation facilities other than one (1) tie down space and such additional facilities as are required by law, ordinance or regulation.

*Home enterprise* means a low impact home based business within any dwelling unit within zoning districts as permitted including but not limited to uses such as *art and craft studio* , cottage industry, photographic studio, custom gun-smith, schools of special education, beauty parlor or other personal service establishments. Home enterprise may include access by employees, customers or clients, subject to use limitations as defined. Such operations are clearly incidental and subordinate to the principle residential use permitted on the parcel, subject to development standards as established in chapter 23, division 4A, Home enterprises.

*Home occupation* means low impact home based business activities for individuals within any *dwelling* such as but not limited to home office, artist space, home crafts, internet sales, completely contained within residential dwellings that chiefly serve as a place of residence, subject to development standards as established in chapter 23, division 4, Home occupations.

*Hospital* means an institution for health care providing patient medical testing and treatment for the sick, aged or infirmed, including care of mental illness, drug and alcohol addiction cases by specialized staff and equipment, providing both inpatient and outpatient medical care services in the treatment of a wide variety of medical conditions. Such an institution is largely staffed by professional physicians, surgeons and nurses. This terminology shall include, but not be limited to mental health sanitariums.

*Hotel, motel* means a building or portion thereof or a group of buildings which provide sleeping accommodations in six (6) or more separate units or rooms for transients on a daily, weekly or similar short-term basis, whether such establishment is designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home or otherwise. A hotel or motel shall be deemed to include any establishment which provides

residential living accommodations for transients on a short-term basis, such as an apartment hotel. A hotel or motel may contain one (1) or more eating establishments as a subordinate use, provided that such establishment is located within the principal hotel/motel structure.

*Hydroponic cultivation* means a method of growing plants using mineral nutrient solutions, in water, without soil.

*Impounding structure* means a man-made structure, whether a dam across a water course or other structure outside a watercourse, used or to be used to retain or store waters or other materials as defined by Code of Virginia, § 10.1-604.

*Indoor, commercial recreation/athletic facility* means an indoor sports building or activity facility in which are conducted recreational, therapeutic or athletic activities, whether or not under instruction. These include, but are not limited to, the following: roller or ice skating rink, batting cages, bowling alley, miniature golf, golf driving range, shooting ranges, tennis and other court games, swimming, aerobics and weight lifting, canine, feline, companion animal sporting event or exhibition, excluding livestock or *equestrian event facility*, but does not include *billiard hall*, bingo or dance hall.

*Industrial/flex* means any structure occupied by two (2) or more of the following uses: contractor's offices and shops; establishments for production, processing, assembly, manufacturing, compounding, preparation, cleaning, servicing, testing, or repair of materials, goods or products; warehousing establishments; wholesale trade establishments; and offices; provided however that the combined area of all office, both as a principal use and as an accessory use, shall not exceed thirty-five (35) percent of the total gross floor area of the structure. For the purpose of this chapter, when any of the above uses are permitted by right in the applicable zoning district, such uses may be combined within a single structure in accordance with the provisions of that district, and shall not be deemed industrial/flex.

*Industry, type I* means enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products, from processed or previously manufactured materials. Included are assembly of electrical appliances, bottling and printing plants, brewery, winery, cidery, distillery, and the manufacturing of paint, oils, pharmaceuticals, cosmetics, solvents and other chemical production of items made of stone, metal or concrete.

*Industry, type II* means enterprises in which goods are generally mass produced from raw materials on a large scale through use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Included in this use type are industries involved in processing and/or refining raw materials such as chemicals, rubber, wood or wood pulp, forging, casting, melting, refining, extruding, rolling, drawing, and/or alloying ferrous metals, and the production of large durable goods such as automobiles, manufactured homes, or other motor vehicles.

*Industry, type III* means an establishment which has the potential to be dangerous or extremely obnoxious. Included are those in which explosives are stored, petroleum is refined, natural and liquid gas and other petroleum derivatives are stored and/or distributed in bulk, radioactive materials are compounded, pesticides and certain acids are manufactured, and hazardous waste is treated or stored as the establishment's principal activity.



*Integrated photovoltaic material* or *integrated PVM* means photovoltaic material incorporated into building materials, such as shingles.

*Junk yard* means the use of any space, whether inside or outside a building, for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof; provided that this definition shall not apply to outside storage as permitted as an accessory use as provided for in this chapter. A junk yard shall also be inclusive of an *automobile graveyard* as defined herein.

*Kennel* means any establishment in which five (5) or more canines, felines, or hybrids of either are kept for the purpose of breeding, training, renting, buying, boarding, selling, or showing for the purpose of sale or rental.

*Lamp* means the component of a luminaire that produces light. A lamp is also commonly referred to as a bulb.

*Land disturbance activity* as defined in chapter 8, erosion and sediment control, Spotsylvania County Code, including the disturbance of land areas two thousand five hundred (2,500) square feet in size or more. The term shall not include minor activities such as home gardening, planting of trees and shrubs and home maintenance.

*Landfill* means a disposal site in which refuse and earth, or other suitable cover material are deposited and compacted in alternating layers of specified depth.

*Live entertainment, indoor* shall mean entertainment or concert venues located within an enclosed building intended for musical performances, music played by disc jockeys, public speaking, performance art including dancing, modeling and similar uses, or comedy performances, whether operated for profit or not, providing live performances, entertainment, including dance halls/dance clubs, and bingo halls, but not including adult oriented business as defined herein. Outdoor deck or patio entertainment events may also be held accessory to the primary use.

*Live entertainment, outdoor* shall mean any permanent commercial establishment, excluding *civic and sports arena*, where concerts, theater arts, movies or any other type of entertainment is provided outside a fully enclosed building in structures such as but not limited to a band shell or pavilion, outdoor stage. Live entertainment, outdoor shall be limited to no more than one thousand five hundred (1,500) attendees and shall not include music festivals or other outdoor special events of a temporary and/or infrequent nature, regulated elsewhere in chapter 3, article 2, Outdoor music or entertainment festivals.

*Livestock* includes all domestic or domesticated: bovine animals, equine animals, ovine animals, porcine animals, cervidae animals, caprae animals, animals of the genus lama, ratites, enclosed domesticated rabbits or hares raised for food or fiber, or any other individual animal specifically raised for food or fiber, except companion animals as defined in § 3-2.6500, Code of Virginia.

*Livestock exchange* means a type of agricultural processing facility, established as a commercial operation in which the public may consign livestock for sale by auction open to public bidding, or sold on a commission basis. Such use may include accessory uses, such as an eating establishment, for which service is generally provided for the convenience of patrons of

the primary use itself. A *feed yard* , if part of the same operation, can be accessory to a *livestock exchange* .

*Lot* for the purpose of this chapter, a parcel of land that is designated at the time of application for a special permit, a site plan, a building permit, or occupancy permit, as a tract all of which is to be used, developed or built upon as a unit under single ownership. A parcel of land shall be deemed to be a lot in accordance with this definition, regardless of whether or not the boundaries thereof coincide with the boundaries of lots or parcels as shown on any map of record.

*Lot area* means the total horizontal area included within the lot lines of a lot.

*Lot boundary*. Same as *Lot line* as defined herein.

*Lot, cluster subdivision*. See *Subdivision, cluster*.

*Lot, conventional subdivision*. See *Subdivision, conventional*.

*Lot, corner* means a lot at the junction of and abutting on two (2) or more intersecting streets when the interior angle of intersection does not exceed one hundred thirty-five (135) degrees; provided, however, that when one of the intersecting streets is an interstate highway, the resultant lot shall not be deemed a corner lot.

*Lot depth* means the average horizontal distance between the front and rear lot lines.

*Lot, interior* means any lot, including a through lot, other than a corner lot.

*Lot line* means any boundary line of a lot as defined herein. Where applicable, a lot line shall coincide with a *street line* . Where a lot line is curved, all dimensions related to said lot line shall be based on the chord of the arc.

*Lot line, front* means a street line which forms the boundary of a lot; or, in the case where a lot does not abut a street other than by its driveway, or is a through lot, that lot line which faces the principal entrance of the main building.

Corner lots shall be considered to have two (2) fronts and are subject to front yard requirements for both fronts. Rear yard requirements shall apply to the yard opposite the shorter front street line; the remaining yard shall be considered a side yard and shall be subject to side yard requirements.

*Lot line, rear* means that lot line that is most distant from, and is most nearly parallel with, the front lot line. If a rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a ten-foot line parallel to the front lot line, lying wholly within the lot for the purpose of establishing the required minimum rear yard.

*Lot line, side* means a lot line which is neither a front lot line nor a rear lot line as defined herein.

*Lot, pipestem* means a lot approved in accordance with the provisions of the subdivision ordinance which does not abut a public street other than by its driveway which affords access to the lot.

*Lot, reverse frontage* means a residential through or corner lot, intentionally designed so that the front lot line faces a local street rather than facing a parallel major thoroughfare.

*Lot, through* means an interior lot, but not a corner lot, abutting on two (2) or more public streets, but not including an alley. For the purpose of this chapter, a through lot shall be subject to the regulations of an *interior lot*.

*Lot width* means the width of a lot along a line parallel to the front street line and lying at a distance from said street line equal to the required minimum front yard on said lot.

In the case of a lot which has an area in excess of five (5) acres, the width may be measured at any point where the minimum lot width is at least two hundred (200) feet, provided that such point shall also be where the front yard is established by location of the principal structure.

*Lumberyard* means a type of agricultural processing facility including area and structures used for the storage of any of lumber, either finished or rough cut, for transport to other locations, wholesale or retail sale from site.

*Luminaire* means 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.

*Manufactured home.* See *Dwelling, manufactured home*.

*Manufactured home park* means any area of fifteen (15) acres or more, however designated, that is occupied or designed for occupancy by one (1) or more manufactured homes.

*Marina, dock and boating facility, commercial.* A marina, dock, or bating facility designed and intended to be used for mooring and launching of boats, hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, and storage or any combination of these are provided.

*Medical care facility* means any specialized institution, place, building, or agency, whether or not licensed or required to be licensed by the state board of health or the state hospital board, by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical. This terminology shall include, but not be limited to medical clinic, medical laboratory, cosmetic surgery and laser center, oral surgery center, urgent and outpatient care center, whether operated for profit or nonprofit, and whether privately owned or operated by a local government unit. This definition shall not include a physician's office, dentist's office, assisted living facility, nursing home, group home, hospital or a first aid station.

*Medical clinic* means a type of medical care facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to outpatients, employees, or visitors. Medical clinic includes immediate care facilities, where emergency treatment is the dominant form of care provided at the facility.

*Medical laboratory* means a type of medical care facility in a building or part thereof devoted to bacteriological, biological, x-ray, pathological and similar analytical or diagnostic services to medical doctors or dentists including incidental pharmaceuticals; and production, fitting and/or sale of specialized or custom medical devices.

*Micro-brewery, winery, cidery, distillery* means a type of small scale brewery, winery, cidery, distillery where the primary use is the production of alcoholic beverages including beer, wine, cider, or other spirits on site for retail or wholesale sale in accordance with any

manufacturing or wholesale license requirements by the Code of Virginia or other applicable law. Beer production capacity shall not to exceed fifteen thousand (15,000) barrels per year. Production of distilled spirits, wine, or alcoholic cider shall not exceed twenty thousand (20,000) gallons per year. Permitted accessory uses may include accessory uses such as onsite eating establishment, brewpub, retail sales establishment, office, tasting rooms and uses as otherwise permitted in the zoning district.

*Mini/micro cell* means an antenna support structure not exceeding eighty (80) feet in height.

*Mini-warehousing establishment* means a building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods, or contractors' supplies.

*Miniature golf* means an establishment for golf designed on a miniaturized scale and which may include accessory structures in which an accessory office, snack bar, facility for the retail sale of golf-related items and supplies, and video games or a video arcade may be located.

*Mitigate* means to reduce or eliminate adverse impacts.

*Modular unit.* See *Dwelling, modular unit.*

*Motel.* See *Hotel* .

*Motor freight terminal* means terminals with the capability of handling a large variety of goods involving various forms of transportation and providing multimodal shipping capabilities, such as rail to truck, ship to truck, and truck to air.

*Multi-tenant complex* is a group of buildings either housing one (1) tenant with multiple structures or multiple tenants on one (1) parcel. A multi-tenant complex is characterized by multiple buildings under one (1) controlling body. Government and university campuses are examples of multi-tenant complexes.

*Multi-tenant structure* is a structure with more than one (1) occupant, characterized by multiple exterior entrances into the structure. Office buildings (or non-residential condominiums) and strip malls with separate tenant spaces are examples of multi-tenant structures.

*Non-contributing building, structure, or landscape* means a building, structure, or landscape that does not add to the historic architectural qualities, historic associations or archaeological values for which a property is significant because it was not present during the period of significance or does not relate to the documented significance of the district; or due to alterations, disturbances, additions or other changes, it no longer possesses historic integrity, cultural value, or is capable of yielding important information about the period.

*Nude* means any state of dress less than seminude.

*Nursing home* means a type of medical care facility for extended or intermediate care for persons of advanced age, chronic illness, convalescent or infirmity are unable to care for themselves.

*Office* means any room, studio, clinic, suite or building wherein the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by salesmen, sales representatives or manufacturer's representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, computer programmers, financial advisors,

auditors, travel agents, real estate brokers, insurance agents, dentists or physicians, psychologists, urban planners and landscape architects.

Any use shall be deemed an office use which: (a) involves the administration and conduct of investigation, examination or experimentation, but which does not include the operation of laboratory facilities, pilot plants, prototype production, or the assembly, integration, testing, manufacture or production of goods and products on-site; or (b) involves prototype production limited to computer software development, demographic and market research, technical or academic consulting services, and data processing facilities. Office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products; or the sale and/or delivery of any materials, goods or products which are physically located on the premises unless such activities are otherwise permitted within the zoning district. A veterinary clinic shall not be deemed to be an office use.

*Office building* means a building used for conducting the affairs of a business, service, industry, or government.

*Office complex* means a tract of land that contains two (2) or more buildings designed and constructed for occupancy of, or occupied by, general, medical/dental and/or professional businesses and/or personnel.

*Open air market* means a site where outdoor stalls, booths, tables and/or the like that may be set aside and rented or otherwise provided that are intended for use by various retail vendors at which articles that are either homemade, homegrown (farmers market), handcrafted, antique, or collectible are displayed and sold.

*Open space* means that area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space may include, but need not be limited to lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, undisturbed natural areas, agriculture, wooded areas, water bodies and those areas where landscaping and screening are required by the provisions of article 5, division 5; provided, however, that the area required for interior parking lot landscaping shall not comprise more than twenty-five (25) percent of the total required open space; and provided further, however, that the area within wetlands, resource protection areas, floodplains and slopes greater than fifteen (15) percent shall not comprise more than fifty (50) percent of the total required open space. Open space shall not include driveways, parking lots, or other vehicular surfaces, any area occupied by a building, nor areas so located or so small as to have no substantial value for the purposes stated in this definition. Within a residential subdivision, open space shall be composed of only those areas not contained in individually owned lots. In cluster subdivisions, the limitations related to slopes and to vehicular surfaces for the purpose of access to the cluster development shall not apply.

*Open space, landscaped* means that open space within the boundaries of a given lot that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include, but need not be limited to lawns,

decorative planting, flower beds, sidewalks/walkways, ornamental objects such as fountains, statues and other similar natural or artificial objects, wooded areas, and water courses, any or all of which are designed and arranged to produce an aesthetically pleasing effect within the development.

*Outdoor luminaire* means a luminaire which is permanently installed outdoors including, but not limited to, devices used to illuminate any site, structure, or sign, except that it does not include an internally illuminated sign.

*Outdoor sports and recreation, commercial* means a commercial sports or activity establishment open to the general public in an open or partially enclosed or screened facility; these include but are not limited to: batting and pitching cages, hard and soft courts, swimming pools, water slides, go-carts, pony rides, and ice skating rinks, canine, feline, companion animal sporting event or exhibition, excluding livestock or equestrian event facility, competitive racing facilities, shooting ranges, paintball or similar game fields.

*Parking, commercial off-street* means a facility, lot or structure used for the sole purpose of parking operative motor vehicles.

*Personal service establishment* means any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. For the purpose of this chapter, personal service establishments shall include but are not limited to barber shops, beauty parlors, tanning salons, day spas, tattoo parlors, piercing studio, pet grooming establishments, laundering, cleaning and other garment servicing establishments, tailors, dressmaking shops, shoe cleaning or repair shops, and other similar places of business; but not including offices of physicians, dentists, and veterinarians, or dry cleaning plants or laundries containing more than three thousand (3,000) square feet of net floor area devoted to cleaning, processing, etc., or linen or diaper service establishments.

*Photovoltaic material* or *PVM* means materials and devices that absorb sunlight and convert it directly into electricity.

*Piercing studio* shall mean any establishment where the piercing of body parts is performed for purposes of allowing the insertion of jewelry.

*Pipestem driveway* means a driveway or means of access to a lot or several lots which do not abut a street other than by the pipestem driveway which is a part of the lot(s).

*Pipestem lot.* See *Lot, pipestem.*

*Place of worship* means a use located in permanent building(s) and providing regular organized religious worship and related incidental activities, except primary or secondary schools and child day care centers.

*Principal use* means the main or primary purpose for which a structure or lot is designed, arranged or intended, or for which it may be used, occupied or maintained under this ordinance.

*Private school* means a school primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, dance, linguistic, scientific, religious, or other subjects, but not including (a) a child care center or adult day care center; or (b) a riding school, however designated. Private school may also include offering space for public assemblies including but not limited to community meetings, services as an accessory use.

*Property owner* means any entity with fee simple title to any parcel of land within the county.

*Public facility/use* means any area, building or structure held, used or controlled exclusively for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the county government under the direct authority of the board of supervisors, without reference to the ownership of the building or structures or the realty upon which it is situated. For the purpose of this chapter, uses sponsored by agencies such as the industrial development authority, the social services department or the juvenile court shall not be deemed public uses and shall be subject to the applicable zoning ordinance provisions for the proposed use; provided, however, if such uses are implemented under the direct authority of the board of supervisors, they shall be deemed public uses.

*Public school* means any area, building or structure held, used or controlled for public education purposes by the Spotsylvania County School Board. Public school may also include offering space for public assemblies including but not limited to community meetings, services as an accessory use.

*Public street.* See *Street, public*.

*Public utility* means a business or service having an appropriate franchise from the state, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water, transportation or communications.

*Public utility, heavy* means the following shall be deemed to be heavy public utilities:

1. Electrical generating plants and facilities.
2. Sewage treatment and disposal facilities.
3. Solid waste disposal and treatment facilities including incinerators and landfills.
4. Storage facilities for natural gas, oil and other petroleum products.
5. Supply yards for any public utility.
6. Water purification facilities.
7. Local office space and maintenance facilities incidental to any use set forth above.

*Public utility, light* means the following shall be deemed to be light public utilities:

1. Electric substations and distribution centers including transformer stations.
2. Natural gas, oil and other petroleum product metering, regulating, compressor, control and distribution stations, and local office space incidental thereto and necessary for the operation of such station, but not including any storage facilities.
3. Radio and television broadcasting tower facilities, microwave facilities and satellite earth stations.
4. Sewerage pumping facilities.
5. Utility transmission facilities, including but not limited to poles, structures, wires, conduits, cables, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of telephone or other communication, electricity, gas or water.

For the purpose of this part, utility transmission facilities shall not include:

- (a) Ordinance distribution facilities for delivery of such utilities to customers where such facilities are located in the public right-of-way or are located in easements, or strips of property owned in fee simple not more than twenty-five (25) feet in width; or
  - (b) Transmission lines approved by the state corporation commission pursuant to section 56-46.1 of the Code of Virginia, as amended.
6. Water storage, control, and pumping facilities.
7. Mobile and land based telecommunication facilities.

*Quasi-public park, playground, athletic field and related facility* means a use owned or operated by a nonprofit or religious institution and providing educational, recreational or similar types of programs.

*Railroad station/depot/terminal* means a transportation facility used for the loading and unloading of passengers and/or passenger luggage from railroad cars and temporary parking of rail cars and engines, incidental to the primary use.

*Railway yard* means an area having a network of railway tracks and sidings for the storage, loading and unloading of bulk goods in transport, maintenance, and switching of railroad cars and engines.

*Rear yard.* See *Yard, rear*.

*Recreational vehicles* means a vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

*Recycling collection center* means a lot or parcel of land, with or without buildings, upon which used recyclable materials are collected from the general public, are separated and shipped to a landfill, recycling plant or other similar facility.

*Recycling plant* means a facility in which recyclables, such as newspapers, magazines, books and other paper products; glass; metal cans; and other products, are recycled, reprocessed, and treated to return such products to a condition in which they may be used again in new products.

*Religious retreat center* means a facility, owned and operated by a non-profit corporation, at which said corporation provides services, including food and lodging, for religious retreats consisting of such customary religious retreat activities as quiet prayer, meditation, study, discussion, worship and contemplation. Each retreat shall be under the personal direction of (i) a cleric or member of a religious order, or (ii) a spiritual director, pastoral counselor or religious retreat master, all of whom shall be certified by an accredited college, university or seminary to conduct religious retreats.

*Repair service establishment* means any establishment containing no more than five thousand (5,000) square feet of net floor area wherein the primary occupation is the repair and general service of common home appliances such as musical instruments, sewing machines, computers, televisions and radios, washing machines, vacuum cleaners, power tools, electric



razors, refrigerators and lawnmowers not exceeding five (5) horsepower; or any establishment wherein the primary occupation is interior decorating services which include reupholstering and/or the making of draperies, slipcovers and other similar articles, but not to include furniture or cabinet-making establishments. Repair service establishments shall not include the use of more than three (3) vehicles other than passenger cars.

*Restaurant.* See *Eating establishment*.

*Retail sales* means the sale of goods, merchandise and commodities for use or consumption by the immediate purchaser.

*Retail sales establishment* means any establishment wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. This term shall also include establishments such as television and tool rental establishments and photographic and portrait studios, convenience stores. For the purpose of this chapter, however, retail sales establishment shall not be deemed to include *heavy equipment and specialized vehicle sale, rental and/or service establishments, vehicle, light service establishments, or vehicle sale, rental and ancillary service establishments*.

*Reverse stacking* means extending the height of a tower in order to accommodate co-location starting with the lowest height possible.

*Road.* See *Street*.

*Rooming/boarding houses* means a residential use in which: (a) room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation, or (b) a dwelling unit includes greater than the permitted maximum number of unrelated persons. A *rooming/boarding house* shall not include a use that meets the definition of a *hotel, motel, dormitory, fraternity, sorority house or other residence hall, bed and breakfast, nursing home, convent, monastery, seminary and nunnery*. A *rooming/boarding house* may either involve or not involve the providing of meals to residents. A *rooming/boarding house* shall primarily serve persons residing on-site for five (5) or more consecutive days.

*Sawmill* means a type of agricultural processing facility intended for processing of raw timbers into usable wood products including but not limited to lumber, planks, posts, poles, paneling or shavings. Sawmill may also include lumberyard.

*Scientific research and development establishment* means a facility for investigation into the natural, physical, or social sciences, which may include engineering and product development.

*Seasonal wayside stand* means the sale from a structure to the public of crafts and agricultural products grown or collected on the parcel on which the stand is located, or on a contiguous parcel under the same ownership. The stand shall have direct access to a public road and be on one (1) ground floor which shall not exceed two hundred fifty (250) square feet. The stand shall not provide facilities for on-premises food consumption by the public nor for public seating, but may provide overhead shelter of customers while they are inspecting or purchasing goods. The stand shall be open to the public on at least one (1) side, which may be by way of doors or other openings in a wall. The stand shall be closed at least three (3) months of the year. The stand may be of a permanent or nonpermanent construction.

*Seminude* means any state of dress with less than completely and opaquely covered male and/or female pubic region, buttocks, or female breasts below a point immediately above the top

of the areolae excepting any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided the areolae are not exposed, but under no circumstances less than completely covered male and/or female genitals, anus, or areolae of the female breast.

*Secondary support structure* means any structure designed primarily for other purposes that can be utilized to support antennae including but not limited to buildings, power transmission towers, church steeples, light poles, water storage tanks, smoke stacks and silos.

*Setback.* Except for division 28, Mixed use district, in this chapter the term setback is not used, as such term represents a distance that is established in like manner as that for a *yard*.

*Shopping center* means any group of two (2) or more commercial uses which (a) are designed as a single commercial group, whether or not located on the same lot; (b) are under common ownership or are subject to reciprocal parking and ingress and egress agreements or easements; (c) are connected by party walls, partitions, canopies or other structural members to form one (1) continuous structure, or if located in separate buildings, are interconnected by common parking areas, travel lanes, walkways or accessways designed to facilitate customer interchange between the uses on-site; (d) share common points of vehicular access; and (e) otherwise present the appearance of one (1) continuous commercial area. For the purpose of this chapter, a grouping of predominantly office uses which meet the characteristics specified herein shall not be deemed to be a shopping center.

*Side yard.* See *Yard, side*.

*Sight triangle* means a triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

*Sign* means any display of letters, words, numerals, figures, devices, emblems or pictures or any combination thereof, by any means which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one (1) square foot in area is excluded from this definition.

*Sign, building-mounted* means any sign affixed to a building. A sign, tenant is a type of a sign, building-mounted.

*Sign, electronic or digital display* means any portable or permanent sign or part of a sign that is designed so that characters, letters or illustrations can be changed or rearranged electronically through light, digital, LED or other display.

*Sign, freestanding* means any permanently mounted monument or pylon sign not attached to a building facade.

*Sign, ground-mounted* means any sign affixed to or supported off of the ground. A sign, monument is a type of a sign, ground-mounted.

*Sign, monument* means a permanent, freestanding sign mounted on a base or other supports and where the bottom of the sign face is located within three (3) feet or less of ground level.

*Sign, pinnacle* means a sign, building mounted placed on the exterior wall of the top floor or parapet above the top floor of a multi-story building within a single uniform horizontal band

running the length of an exterior wall to advertise primary tenants or building name. Roof signs shall not be considered sign, pinnacle.

*Sign, pylon* means a freestanding sign supported from the ground by one or more supports where the sign face is mounted on the top of the support.

*Sign, roof* means a sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge or roof line of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

*Sign, temporary* means any sign, valance, or advertising display constructed of plastic, cardboard, wallboard or other materials with or without frames intended to be displayed for a period of not more than sixty (60) consecutive days.

*Sign, tenant* means a permanent, building-mounted sign, not exceeding one (1) square foot in size. A sign, tenant is used to demarcate an entrance to or the tenants of a building.

*Silviculture*. See *Forestry*.

*Site plan* means the proposal for a development or subdivision, except:

- (i) Individual single-family detached dwellings, and
- (ii) Accessory structures where the land disturbance is less than two thousand five hundred (2,500) square feet, including all covenants, grants or easements and other conditions relating to use location and bulk of buildings, density of development, common open space, public facilities and other information as required by the zoning ordinance to which the proposed development is subject.
- (iii) Building or structure additions that disturb less than 2,500 square feet unless it amends other site features or utilities, which shall require a minor site plan.

*Site plan, building addition* is a plan for modification to an existing building or structure that disturbs less than 2,500 square feet, and does not require amendments to parking, landscaping, or the extension of public water or sewer lines and may be completed with approval of building plans, zoning use approval, and meeting the Chesapeake Bay water quality standards.

*Site plan, linear trail* is a plan for land disturbance of equal to or greater than 2,500 square feet exclusively for trail construction. A plan that includes parking or accessory structures shall be submitted as a Site Plan, major or minor.

*Site Plan, infrastructure* is a plan which demonstrates that all required infrastructure is feasible within the proposed project and that shows the location of all property lines, topography, and monuments and the possible locations of rights-of-way, water and sewer lines, and vehicle and pedestrian access.

*Site plan, major* is a plan for development, redevelopment, or accessory structures where the land disturbance is equal to or greater than 10,000 square feet.

*Site plan, minor* is a plan for development, redevelopment, or accessory structures where the land disturbance is equal to or greater than 2,500 square feet but less than 10,000 square feet and for development projects proposing modification to public water and sewer lines, access onto a public right-of-way, or parking.

*Solar energy facility* or *SEF* means a renewable energy facility that generates electricity from sunlight, consisting of one or more photovoltaic material (PVM) systems and other appurtenant structures and facilities within the boundaries of the site, and which is interconnected with the local transmission or distribution system for the purposes of wholesale electric generation. A solar energy facility shall not include net metered solar energy systems installed in accordance with the Code of Virginia, § 56-594.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered:
  - (a) Human genitals, pubic region;
  - (b) Buttock; and
  - (c) Female breast below a point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means:

- (1) Human genitals in a stage of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

*Stealth technique* means any technique designed to conceal or disguise wireless telecommunication facilities.

*Storage yard* means a facility used for outdoor storage of products as delineated on an approved site plan.

*Street* means a strip of land intended primarily for vehicular traffic and providing the principal means of access to property, including but not limited to road, lane, drive, avenue, highway, boulevard, or any other thoroughfare.

*Street line* means the dividing line between a street and a lot; same as a right-of-way line of a public street, or the curb line of a parking bay, travel lane or private street.

*Street, private* means a local or collector street, not a component of the state primary or secondary system, which is guaranteed to be maintained by a private corporation and is subject to the provisions of the Design Standards Manual.

*Street, public* means a platted street, dedicated for the use of the general public, graded and paved in order that every person has the right to pass and to use it at all times, for all purposes of travel, transportation or parking to which it is adapted and devoted.

*Structure* means that which is built or constructed. The term "structure" shall be construed as though followed by the word "or parts thereof."

*Structural alteration* means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another.

*Structural engineer* means an individual or firm licensed by the Commonwealth of Virginia to practice structural engineering.

*Subdivider* means any person who subdivides land pursuant to chapter 20 of this Code, the subdivision ordinance.

*Subdivision* means the land subdivided as defined in chapter 20 of this Code, the subdivision ordinance, and when appropriate to the context, the process of subdividing or resubdividing.

*Subdivision, cluster* means an alternate means of subdividing a lot premised on the concept of reducing lot size requirements for the provision of open space within the development, all in accordance with the provisions of article 6 of this chapter.

*Subdivision, conventional* means a conventional subdivision of a lot in accordance with the lot size requirements and bulk regulations specified in the district regulations.

*Summer camp* means any area or place, which is operated or used (1) for the entertainment, education, recreation, religious instruction or activities, physical education or health of persons under eighteen (18) years of age, or (2) for the bona fide members of a civic, charitable or fraternal organization exempt from state or federal taxation.

*Tannery* means a type of agricultural processing facility where hides are tanned to make leather.

*Tasting room* means a facility, or portion of a facility, accessory to a brewery, winery, cidery, distillery, cannery where customers may sample the manufacturer's products.

*Tattoo parlor* means a type of personal service establishment involving the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

*Telecommunications tower* means any self-supporting lattice, guyed, or monopole structure that is designed and constructed for the purpose of supporting one (1) or more telecommunication facilities and equipment utilized by commercial telecommunication companies, governmental, or other public and quasi-public users, including all infrastructures and equipment including but not limited to antenna support structures, antennae, transmission cables, equipment shelters, equipment cabinets, utility pedestals, ground systems, fencing, signage and other ancillary equipment associated with the transmission or reception of radio frequencies. The term "tower" does not include commercial or home use radio and television antennas and supporting structures, satellite dishes or antennas and support structures of amateur radio operators licensed by the Federal Communications Commission. These shall be considered as accessory uses and structures.

*Theater* means a building or structure designed for the enactment of dramatic performances and/or showing of motion pictures. For the purpose of this ordinance, a dinner theater shall be deemed an eating establishment and a drive-in motion picture theater shall be deemed a separate and distinct use as defined herein.

*Tower developer* means any entity that develops structures for the purpose of leasing space to entities operating antennae.

*Transportation facility* means a facility for the purpose of repair, storing or dispatching of fleet vehicles for either public or private transportation needs.

*Truck stop* means any building, premises, or land involving the maintenance, servicing, storage, or repair of commercial vehicles including the dispensing of motor fuel or other petroleum products directly into commercial motor vehicles and the sale of accessories or equipment for trucks or other similar commercial vehicles. A truck stop may also include overnight accommodations and/or restaurant facilities primarily for the use of truck crews and accessory retail sales.

*Use* means any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in or on a structure or on a tract of land.

*Use, accessory.* See *Accessory use*.

*Use, public.* See *Public use*.

*Vehicle, light service establishment* means buildings and premises wherein the primary use is the sale, servicing, repair and/or installation of motor vehicle and boat accessories, such as the following: sparks plugs, batteries, distributors and distributor parts, tires, brakes, brake fluid, mufflers, tail pipes, water hoses, fan belts, light bulbs, fuses, floor mats, windshield wipers, wiper blades, grease retainers, wheel bearings, and mirrors. Vehicle light service establishments may also include greasing, lubrication and radiator flushing, minor servicing and repair of carburetors, fuel pumps, oil pumps, water pumps and lines, electrical systems, and minor motor adjustments not involving removal of the head or crankcase or racing the motor. Uses permissible at a *vehicle light service establishment* shall not include major mechanical and body work, the repair of transmissions or differentials, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. Accessory retail sales are permitted provided that they are associated with such business.

*Vehicle major service establishment* means buildings and premises wherein major mechanical and body work, repair of transmissions and differentials, straightening of body parts, painting, welding or other similar work is performed on vehicles. Vehicle light service establishments may be permitted as an ancillary use, however, vehicle major service establishments shall not be deemed to include heavy equipment and specialized vehicle sale, rental and service establishments. Accessory retail sales are permitted provided that they are associated with such business.

*Vehicle sale, rental, and ancillary service establishment, large scale* means any use of two (2) acres or greater of land whereon the primary occupation is the sale, rental, and ancillary service of vehicles in operating condition including, but not limited to, automobiles, motorcycles, ambulances, taxicabs, vans, and recreational vehicles.

*Vehicle sale, rental, and ancillary service establishment, small scale* means any use of fewer than two (2) acres of land whereon the primary occupation is the sale, rental, and ancillary service of vehicles in operating condition including, but not limited to, automobiles, motorcycles, ambulances, taxicabs, vans, and recreational vehicles.

*Veterinary hospitals/services* means a place where animals are given medical care and may include the boarding of animals as a secondary use. This use includes veterinary clinics.

*Viewing area* means any area within an adult oriented business where a motion picture, film, videotape, moving picture, live entertainment, live exhibition or performance is taking place, being shown, and/or viewed. Viewing area shall also include an adult booth.

*Warehouse* means a building used primarily for the holding or storage of goods and merchandise. For the purpose of this chapter where a warehousing establishment is permitted a mini-warehousing establishment shall also be permitted.

*Wayside stand* means a temporary structure or use designed for the retail sale of agricultural products, subject to the following limitations:

1. Shall be permitted only on a lot containing at least two (2) acres.
2. Structures shall not exceed four hundred (400) square feet in gross floor area.
3. Shall be permitted only during crop-growing season, and such structures shall be removed except during such season.
4. Shall be for the expressed purpose of sale of agricultural products grown on the same property, or the sale of products of approved home occupations conducted on the same property. For the purpose of this chapter, plants which are balled, burlapped and bedded shall not be considered as growing on the same property.
5. Shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
6. Notwithstanding the provisions of article 5, division 8, a wayside stand may have one (1) building-mounted sign, mounted flush against the stand, which does not exceed ten (10) square feet in area, but no other signs shall be permitted.
7. A tent may not be used as a wayside stand.

*Wetland mitigation bank* means an area of land on which wetlands are to be restored, created, enhanced or preserved in a manner that will qualify the land for the purpose of engaging in the sale, exchange or transfer of wetlands mitigation credits required by federal or state authorities to compensate for adverse impact to wetlands. This definition shall not include wetlands mitigation banks owned and controlled by the United States, the Commonwealth of Virginia, the county, or any department or agency thereof.

*Wholesale sales* means the sale of goods, merchandise and commodities in gross, primarily for purposes of resale.

*Wholesale trade establishment* means any building wherein the primary occupation is the sale of merchandise in gross for resale, and any such building wherein the primary occupation is the sale of merchandise to institutional, commercial and industrial consumers. For the purpose of this chapter, a warehouse shall not be deemed a wholesale trade establishment.

*Width, lot.* See *Lot, width*.

*Wildlife refuge.* See *Game preserves, wildlife sanctuaries* and *fish hatchery*.

*Winery* means a facility utilized for growing or processing grapes into wine for bottling, tasting and selling.

*Wireless service provider* means any entity providing commercial mobile radio services.

*Wood by-products* means a substance, which is principally composed of woody materials such as stumps, logs, limbs, brush, leaves, and similar items that can be chipped or ground into smaller components.

*Wood by-products recycling center* means a type of agricultural processing facility in a building and/or associated land area and equipment primarily used for the processing of wood by-products into mulch, wood chips, topsoil and similar materials. On-site retail sales of the processed materials and other similar commodities such as sand, gravel and rock shall be considered an auxiliary use.

*Yard* means any open space on the same lot with a building or building group lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in such open space by the provisions of this chapter. On any lot which is occupied by an attached dwelling, no minimum required yard shall be occupied by any part of a vehicular travel way or parking space that is owned and maintained by a homeowner's association, condominium, or by the public.

For the purpose of this chapter, there shall be a distinction between "yard" and "minimum yard required." The minimum yard requirements set forth in this chapter represent that minimum distance which the principal building(s) shall be set back from the respective lot lines.

On a non-residential lot where a service drive is to be dedicated to the county or to the department of highways and transportation, such dedication shall not affect the applicable minimum yard requirements. The minimum required yard shall be established from the original lot line, except in no instance shall a building be erected closer than fifteen (15) feet from the nearest street line.

In instances where future roadway improvement plans have been listed on the VDOT Primary or Secondary Road 6-year Improvement Plan, Comprehensive Plan, or are on a county approved road bond project list, for the widening, opening, or relocation of any street or highway within the county, it shall be required that the minimum yard required for any new construction be calculated based on the planned right-of-way in order to protect and preserve the right-of-way for such proposed street or highway. The zoning administrator may consider modifications to minimum front, rear, or side yards on a case by case basis in instances where it compromises the by-right development, code compliance of a lot.

*Yard, front* means a yard extending across the full width of a lot and lying between the front lot line and the principal building.

On a corner lot, the two (2) yards lying between the principal building and the intersecting streets shall both be deemed to be front yards.

On a through lot, the two (2) yards lying between the principal building and the two (2) or more public streets shall be deemed to be front yards and shall be controlled by the provisions for same, except as qualified in section 20-5.2.1, subdivision regulations for residential lots having reverse frontage, and except in those instances where one (1) of the public streets is an alley. On a pipestem lot or a lot abutting a pipestem driveway, any yard contiguous to the pipestem driveway shall be deemed a front yard and shall be subject to the provisions of article 6 of this chapter.

*Yard, privacy* means a small area contiguous to a building and enclosed on at least two (2) sides with either a wall or fence of six (6) feet minimum height.



*Yard, rear* means a yard extending across the full width of the lot and lying between the rear lot line of the lot and the principal building group.

Corner lots shall be considered to have two (2) fronts and are subject to front yard requirements for both fronts. Rear yard requirements shall apply to the yard opposite the shorter front street line; the remaining yard shall be considered a side yard and shall be subject to side yard requirements.

*Yard, residential manufactured home park* means any open space on the same lot within a manufactured home park lying between any manufactured home or group of manufactured homes or other building or building group and the nearest lot line of a residential manufactured home park parcel, unobstructed from the ground upward and unoccupied except by specific uses and structures allowed in such open space by the provisions of this chapter.

*Yard, side* means a yard between the side lot line of the lot and the principal building, and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be.

*Zoning administrator* means the administrative officer designated by the board to administer the zoning ordinance and issue zoning certificates.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-72, 4-22-97; Ord. No. 23-73, 8-12-97; Ord. No. 23-78, 2-9-99; Ord. No. 23-79, 4-13-99; Ord. No. 23-82, 8-24-99; Ord. No. 23-89, 12-12-00; Ord. No. 23-95, 9-25-01; Ord. No. 23-97, 10-23-01; Ord. No. 23-100, 4-9-02; Ord. No. 23-103, 2-11-03; Ord. No. 23-111, 1-11-05; Ord. No. 23-119, 9-11-07; Ord. No. 23-120, 10-9-07; Ord. No. 23-124, 2-12-08; Ord. No. 23-126, 9-23-08; Ord. No. 23-131, 3-10-09; Ord. No. 23-135, 12-8-09; Ord. No. 23-142, 2-8-11; Ord. No. 23-144, 11-10-11; Ord. No. 23-151, 1-8-13; Ord. No. 23-153, 2-12-13; Ord. No. 23-154, 2-26-13; Ord. No. 23-160, 1-13-15; Ord. No. 23-160(2), 9-22-15; Ord. No. 23-163, 9-13-16; Ord. No. 23-166, § 1, 12-13-16; Ord. No. 23-173, § 1, 11-9-17; Ord. No. 23-174, § 1, 11-28-17; Ord. No. 23-177, 9-11-18)

**State Law reference**— Definitions and rules of construction generally, § 1-2.

#### DIVISION 11. - SITE PLAN REVIEW

##### Sec. 23-4.11.1. - Purpose and applicability.

- (a) Site Plan review is intended to provide information to enable the County staff to determine whether a proposed use complies with the development standards of this Chapter and with other applicable regulations.
- (b) Site Plan approval shall be a prerequisite to any development or redevelopment.
- (c) Site Plan review and approval is applicable to:
  - (1) Single family detached dwellings or accessory structures. Agreement in Lieu of Plan Approval may be substituted for Site Plan approval in accordance with Section 23-4.1.1.(i);
  - (2) Site Plan, major;
  - (3) Site Plan, minor;
  - (4) Site Plan, linear trail; and
  - (5) Site Plan, infrastructure.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-131, 3-10-09; Ord. No. 23-177, 9-11-18)

Sec. 23-4.11.2. - General application requirements.

- (a) An application for Site Plan approval may be filed only by the owner or attorney-in-fact of the lot which is the subject of the Site Plan, or by any person specifically authorized in writing by the owner to file such application.
- (b) An application for Site Plan approval shall be filed with the Planning Department on a form provided by the Department, together with a fee in accordance with Section 23-4.1.3, copies of the Site Plan and any other plans, permits, documents and information as specified in the application packet. Applicants are advised to familiarize themselves with the application before preparing plans or documents.
- (c) The required Site Plan shall be drawn to the size and scale specified on the application and shall be prepared by an architect, engineer, landscape architect or surveyor licensed in the Commonwealth of Virginia. The application for Site Plan approval shall contain the information listed in this subsection, and, in addition, if the development is proposed within a Chesapeake Bay Preservation Area, the information described in the County's Chesapeake Bay Preservation Ordinance (CBPO), unless the CBPO Administrator determines that some of the information is unnecessary due to the scope and nature of the proposed development or the information has been previously submitted and approved:
  - (1) A Title Page containing the following:
    - (i) Title block denoting the type of application, name of project, tax map reference, voting district, magisterial district, and street address;
    - (ii) The name, address and phone number of the applicant and property owner;
    - (iii) The name, address, phone number, signature and registration number of the plan preparer, and the preparation date of the plan;
    - (iv) Vicinity map, 1" = 2000', a north arrow, scale, and scale graphic;
    - (v) A table (with computations) estimating the lot coverage ratio and impervious surface ratio;
    - (vi) A table (with computations) stating the types of proposed uses, the number of residential dwelling units and densities, and the gross and net floor areas of non-residential structures.
    - (vii) Signature and seal of professional person certifying the plan;
    - (viii) Revision block for date, reasons for revision, and signature of person making revision; and
    - (ix) Signature block for approving agent.
  - (2) Plan Sheets containing:
    - (i) The distance to and identification of the nearest intersection;
    - (ii) The boundary of the entire parcel with courses and distances;

- (iii) Any existing or proposed parcel lines, easements, or rights-of-way within the subject parcel;
- (iv) The present zoning and principal use of the subject parcel and all contiguous properties;
- (v) The boundaries of any overlay zoning districts described in Article 6 of this Chapter;
- (vi) The locations, dimensions, height, and setbacks of all existing and proposed buildings, structures and other improvements;
- (vii) The boundaries of any lakes, rivers, streams, ponds, or wetlands;
- (viii) A landscape plan showing the location, dimensions and material descriptions of all existing and proposed screens, bufferyards, or landscaping;
- (ix) The location and dimensions of existing and proposed parking and loading areas and any other impervious surfaces, such as driveways, streets (and names), sidewalks, and playing surfaces;
- (x) The location and description of all points of access;
- (xi) The estimated daily vehicular trips generated by the proposed development on each road segment shown on the plan;
- (xii) The location and dimensions of on-site pedestrian walkways or bicycle paths and any connection to adjacent property;
- (xiii) Typical roadway pavement and design section for all proposed streets, roads, and driveways;
- (xiv) Points of connection to public water and sewer and/or location of wells and septic systems and reserve drainfields;
- (xv) Topographic contour lines at two-foot intervals based on field or aerial survey, for the existing site and after the completion of the proposed development;
- (xvi) The location and dimensions of on-site and off-site facilities for the retention or detention of stormwater;
- (xvii) The size, location and boundaries of any common open spaces, recreation areas and recreation facilities, including a statement of whether such open areas are to be dedicated to the public;
- (xviii) For large-scale, phased developments, identification of the location and timing of each phase of the development;
- (xix) Any known historic building or features;
- (xx) Any known places of burial, cemetery easements, or objects or structures marking places of burial;
- (xxi) The 100 year floodplain limits and dam break inundation zone limits;
- (xxii) A table estimating the daily public water usage and sewage flow attributable to the proposed development in gallons per day, including the timing of any necessary connections;

- (xxiii) Location of water mains, sewer lines, fire hydrants, gas lines, electrical lines, easements, outdoor lighting, and outdoor trash receptacles;
  - (xxiv) An Erosion and Sediment Control Plan including the information required under Chapter 8 of the County Code;
  - (xxv) Any wetland permits required under applicable State or Federal law;
  - (xxvi) Preliminary engineering for all required improvements, drawn to the specifications provided by the County;
  - (xxvii) GPS coordinates for all new storm sewer outfalls, including outfalls from permanent stormwater management facilities. Every Site Plan shall reference at least two (2) concrete monuments at the subdivision corners to the VCS 1983. All information required under Chapter 20, Article 8 of the County Code applies;
  - (xxviii) A legend for all symbols shown on the plan;
  - (xxix) Signature and seal of professional person certifying the plan;
  - (xxx) Revision block for date, reasons for revision and signature of person making revision; and
  - (xxxi) Signature block for approving agent placed at the same location on each sheet.
- (d) For purposes of clarity, any of the items listed in subsection (c) above- may be shown on additional sheets drawn to the same size and scale as all other Site Plan sheets, or may be included in a separate plan such as an Erosion and Sediment Control Plan or Stormwater Management Plan.
- (e) An executed infrastructure agreement and any improvement guarantees as required under Article 6 of the Subdivision Ordinance shall be submitted, approved, and posted prior to approval.
- (f) A sealed engineer's estimate for all infrastructure (including necessary off-site improvements) required to service the lot.
- (g) An executed best management practices agreement for any storm water management facilities proposed on the plan shall be submitted, approved, and recorded prior to approval.
- (h) A complete plat application for any required public or private easements and right-of-way dedication shall be submitted prior to approval.
- (Ord. No. 23-66, 10-24-95; Ord. No. 23-112, 2-8-05; Ord. No. 23-136, 1-12-10; Ord. No. 23-177, 9-11-18)

Sec. 23-4.11.3. - Determination of completeness.

Within ten (10) working days after receiving an application for Site Plan approval, the County staff shall determine whether the application is complete based upon the requirements of Section 23-4.11.2. If the County staff determines that the application is not complete, they shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-177, 9-11-18)

Sec. 23-4.11.4. - Review by staff and government agencies.

- (a) After the application and Site Plan are determined to be complete, County staff shall review the application and Site Plan to determine whether the proposed use is in compliance with the standards set forth in Section 23-4.11.8 of this Chapter.
- (b) The County staff shall forward the application to any State, County or other government departments or agencies as appropriate, including the Chesapeake Bay Local Assistance Department (CBLAD), and request review and written comments. Comments from agencies other than CBLAD shall be received within forty-five (45) days of the request. Any comments by CBLAD on a water quality impact assessment shall be received within ninety (90) days of the request under state law.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-177, 9-11-18)

Sec. 23-4.11.5. - Decision by staff.

- (a) No later than sixty (60) days after the application for Site Plan approval is determined to be complete in accordance with the provisions of Section 23-4.11.5, or no later than thirty-five (35) days after receipt of the approvals from all state agencies, whichever is later, after review in accordance with Section 23-4.11.6, County staff shall either:
  - (1) Approve the Site Plan, by marking approval on the Site Plan if staff finds that the Site Plan meets the standards set forth in Section 23-4.11.6; or
  - (2) Disapprove the Site Plan if staff finds that the Site Plan does not meet the standards set forth in Section 23-4.11.6.
- (b) County staff shall give the applicant written notice of the action taken on a proposed Site Plan, and shall describe any modifications and corrections that are necessary conditions prior to receiving approval.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-177, 9-11-18)

Sec. 23-4.11.6. - Standards for evaluation of Site Plans.

The County staff shall base its decision to approve or disapprove an application for Site Plan approval on consideration of:

- (1) Whether the proposed use complies with the requirements and standards set out in Articles 5, 6, and 7 of this Chapter and with Chapter 20, if applicable;
- (2) Whether the proposed use complies with the Design Standards Manual.
- (3) Whether the proposed use complies with any applicable State and Federal regulations, including, but not limited to regulations pertaining to Chesapeake Bay Preservation Areas and wetlands.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-177, 9-11-18)

Sec. 23-4.11.7. - Submission of revised Site Plan, construction drawings and performance guarantees.

- (a) Upon receipt of written notice from County staff that a Site Plan has not been approved in accordance with Section 23-4.11.5, the applicant shall submit a revised Site Plan within sixty (60) days of the date of notice showing any corrections or modifications which are required as conditions for approval, construction drawings for required improvements and

required performance guarantees, such as improvement, bond or maintenance agreements, prepared in accordance with the standards of the county's Subdivision Ordinance. The revised Site Plan shall be reviewed and acted upon in accordance with Subsections 23-4.11.4 through 23-4.11.6. The applicant may request a resubmission extension in writing for a period not to exceed sixty (60) days. A second extension may be requested in writing for a period not to exceed thirty (30) days.

- (b) If staff approves the Site Plan consistent with Section 23-4.11.5, the applicant must acquire the Site Plan permit and pay all associated permit fees within six (6) months of approval or the Site Plan will be void and a new application and fees will be required.
- (c) If the approved Site Plan indicates that any easements, land, or right-of-way is to be dedicated to the public, the applicant shall submit appropriate legal documents to the County Attorney for approval and for acceptance by the Board of Supervisors. After the dedication has been approved by the County Attorney and accepted by the Board of Supervisors, the applicant shall record a plat and an original warranty deed containing a metes and bounds description of all lands dedicated as part of the approved Site Plan. Such plat and deed shall be recorded no later than the time limit established for recording of deeds for required dedications under the County's Subdivision Ordinance and shall occur prior to issuance of a Final Zoning Certification.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-81, 6-22-99; Ord. No. 23-177, 9-11-18)

**Sec. 23-4.11.8. - Effect and duration of Site Plan approval.**

- (a) Approval of a Site Plan shall authorize the applicant to proceed with any application for land-disturbing permits, building permits, and other permits and approvals required in order to develop the property in conformity with the approved Site Plan.
- (b) An approved final Site Plan shall be valid for a period of not less than five (5) years from the date of approval thereof or for such longer period as the County staff may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A Site Plan shall be deemed final once it has been reviewed and approved by the County staff, the review fees have been paid by the applicant, and the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.
- (c) Upon application of the developer filed prior to expiration of a final Site Plan, the County staff may grant one or more extensions of such approval for additional periods as the County staff 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. If the County staff denies an extension requested as provided herein and the developer 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 Circuit Court having jurisdiction of land subject to the final Site Plan, provided that such appeal is filed with the Circuit Court within sixty (60) days of the written denial by the County staff.
- (d) For so long as the final Site Plan remains valid in accordance with the provisions of this section, no amendment to this chapter adopted subsequent to the date of approval of the final Site Plan shall adversely affect the right of the developer or his successor in interest to

commence and complete an approved development in accordance with the lawful terms of the Site Plan unless the 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.

- (e) Application for minor changes 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 such minor changes extend the period of validity of such plans.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-81, 6-22-99; Ord. No. 23-177, 9-11-18)

**Sec. 23-4.11.9. - Appeal to Circuit Court.**

If the County staff fails to make a decision within the time limits prescribed in Sections 23-4.11.5 of this Division, or disapproves an application for Site Plan approval, the applicant may appeal to the Circuit Court of the County in accordance with the provisions of Virginia Code, Section 15.1-475.

(Ord. No. 23-66, 10-24-95; Ord. No. 23-177, 9-11-18)

**R16-0009 Palmers Creek, LLC and Massaponax Land Company, L.L.C. (RO16-0009)(Lee Hill District)**

Ms. Pomatto presented.

Sherman Patrick, on behalf of the applicant: He gave an overview of the project and stood to answer any questions.

Mr. Benton declared the public hearing opened.

The following citizen spoke in favor: John Fields.

The following citizens spoke in opposition or with concerns: Michael George, David Pete, and Holly Talent.

Mr. Benton closed the public hearing.

Sherman Patrick, on behalf of the applicant: He addressed the concerns of the citizens regarding transportation.

On a motion by Mr. Skinner and passed 6 to 0 with Mr. McLaughlin absent, the Board tabled until the next meeting.

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**SUP18-0006: Shirley P. Joseph (Columbia Gas of Virginia, Inc.)(Chancellor District)**

Ms. Pomatto presented.

Mr. Benton declared the public hearing opened and when no one indicated an intention to speak, closed the public hearing.

On a motion by Mr. Marshall and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted the resolution as follows:

VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

**RESOLUTION NO. 2018-120**

**Approve with Conditions  
Special Use Permit SUP18-0006  
Shirley P. Joseph (Columbia Gas of Virginia, Inc.)**

**WHEREAS**, Shirley P. Joseph (Columbia Gas of Virginia, Inc.) requests Special Use Permit approval to allow a public utility, light, on Rural (RU) zoned property. Approval of the special use permit will allow the installation of a PIG insertion facility on a portion of TM# 4-10-6 (.32 acres). The property is located at 15213 Spotswood Furnace Road, which is located on the west side of Spotswood Furnace Road (Route 620) approximately .85 miles north of the Spotswood Furnace Road (Route 620) and Elys Ford Road (Route 610) intersection. The property is located outside the Primary Development Boundary. The property is identified for Rural Residential development on the Future Land Use Map of the Comprehensive Plan. Tax parcel 4-10-6. Chancellor Voting District; and

**WHEREAS**, staff has reviewed the subject application and recommends approval with conditions as stated in the staff report and the executive summary; and



**WHEREAS**, the Spotsylvania County Planning Commission held a public hearing on August 15, 2018, duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

**WHEREAS**, the Spotsylvania County Planning Commission recommended approval of the project with a vote of 6-0; and

**WHEREAS**, the Spotsylvania County Board of Supervisors held a public hearing on September 11, 2018, duly advertised in a local newspaper for a period of two weeks, and interested citizens were given an opportunity to be heard; and

**WHEREAS**, the Spotsylvania County Board of Supervisors considered the Special Use Permit request in accordance with Sec. 23-4.5.7, Standards of Review, and finds that the application with the recommended conditions satisfies the following standards:

1. That the proposed use is in accord with the comprehensive plan and other official plans adopted by the county;
2. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
3. That the proposed use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof;
4. That the proposed use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use;
5. That the proposed use will not be detrimental to the public welfare or injurious to property or improvements within the neighborhood;
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, wastewater treatment, fire and police protection, waste disposal, and similar facilities;
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard; and
8. That the proposed use will have no unduly adverse impact on environmental or natural resources.

**WHEREAS**, general welfare and good zoning practice are served by approval of the Special Use Permit application;

**NOW, THEREFORE, BE IT RESOLVED** that the Spotsylvania County Board of Supervisors does hereby approve Shirley P. Joseph's (Columbia Gas of Virginia, Inc.) Special Use Permit with the conditions listed below:

1. The property shall be developed in accordance with the Generalized Development Plan (GDP) titled, "WEST PIG INSERTION FACILITY SPECIAL USE PERMIT 15213 SPOTSWOOD FURNACE ROAD" dated April 13, 2018 and last revised June 4, 2018.
2. The facility shall be completely fenced and all fencing shall be six (6) feet in height and screened with forest green slats as detailed on the GDP.
3. Landscaping shall be provided around the facility, as detailed on the GDP, in order to screen the facility to the extent possible from the public right-of-way and neighboring properties.
4. The facility shall not be lit.

**BE IT FINALLY RESOLVED** that the Spotsylvania County Board of Supervisors' approval and adoption of any conditions does not relieve the applicant and/or subsequent owners from compliance with the provisions of any applicable Spotsylvania County Ordinances, rules, regulations, or adopted standards. To the extent anything in this Special Use Permit is less restrictive than the County's Ordinances, or its rules, regulations, or adopted standards, the lessened restriction shall be void and the County's Ordinances, or its rules, regulations, or adopted standards shall control and be applicable to the Special Use Permit.

### **CLOSED MEETING**

On a motion by Mr. Yakabouski and passed 6 to 0 with Mr. McLaughlin absent, the Board adopted a resolution to adjourn into closed meeting as follows:

#### **VOTE:**

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

### **RESOLUTION NO. 2018-121**

#### **To Adjourn into a Closed Meeting**

WHEREAS, the Spotsylvania County Board of Supervisors desires to adjourn into a Closed Meeting for a discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the County, specifically, the Director of the Department of Social Services and the County Administrator; and

WHEREAS, the Spotsylvania County Board of Supervisors desires to adjourn into a Closed Meeting for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, specifically relating to Lee's Parke and Virginia Heritage rezoning and proffers; and

WHEREAS, the Spotsylvania County Board of Supervisors desires to adjourn into a Closed Meeting for a discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms of scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body, specifically, a contract for legal services; and

WHEREAS, pursuant to Va. Code Ann. § 2.2-3711(A)(1), (8) and (29), such discussions may occur in Closed Meeting.

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Board of Supervisors does hereby authorize discussion of the aforesated matters.

### **RETURN TO OPEN MEETING AND CERTIFICATION**

On a roll call vote, the Board returned to open meeting and adopted the following resolution:

#### **VOTE:**

Ayes:	7	Mr. Benton, Mr. Marshall, Mr. McLaughlin, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabowski
Nays:	0	
Absent:	0	
Abstain:	0	

### **RESOLUTION NO. 2018-122**

#### **Return to Open Meeting**

WHEREAS, the Spotsylvania County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 (D) of the Code of Virginia requires a certification by this Board of Supervisors that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Spotsylvania County Board of Supervisors hereby returns to open session and certifies, by roll call vote, that to the best of each member's knowledge only public business matters lawfully exempted from the open meeting requirements of the Freedom of Information Act and identified in the motion to go into Closed Meeting were heard, discussed or considered in the Closed Meeting.

### **NEW BUSINESS**

None

## **ADJOURNMENT**

On a motion by Mr. Yakabouski and passed 6 to 0 with Mr. McLaughlin absent, the Board adjourned its meeting at 11:52 p.m.

### VOTE:

Ayes:	6	Mr. Benton, Mr. Marshall, Mr. Ross Mr. Skinner, Dr. Trampe and Mr. Yakabouski
Nays:	0	
Absent:	1	Mr. McLaughlin
Abstain:	0	

---

Mark B. Taylor  
Clerk to the Board of Supervisors