

# NOTTOWAY COUNTY VIRGINIA

# ZONING ORDINANCE

APPROVED JULY 21, 2005  
REVISED NOVEMBER 17, 2005  
REVISED OCTOBER 19, 2006  
REVISED JULY 23, 2007  
REVISED NOVEMBER 24, 2008  
REVISED MAY 21, 2009  
REVISED OCTOBER 15, 2009  
REVISED DECEMBER 18, 2009  
REVISED MARCH 18, 2010  
REVISED OCTOBER 21, 2010  
REVISED APRIL 25, 2011  
REVISED OCTOBER 20, 2011  
REVISED JULY 18, 2013  
REVISED MARCH 20, 2014  
REVISED OCTOBER 20, 2016  
REVISED JUNE 21, 2018  
REVISED JANUARY 17, 2019  
REVISED MARCH 21, 2019  
REVISED DECEMBER 20, 2020 (Updated 4-12-5-1-1 from 20 to 32 ft<sup>2</sup>)  
REVISED APRIL 15, 2022 (Repeal & Replaced Article 3, Division 1 Floodplain)  
REVISED MAY 26, 2022 (Repeal of Article IV, Division 19 Renewable Energy)

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## **ARTICLE 1. GENERAL PROVISIONS**

### **DIVISION 1 TITLE AND PURPOSE**

#### **Sec. 1-1-1 Title**

This Ordinance, and the official Zoning Map made a part hereof, shall be known and may be cited and referred to as the Nottoway County Zoning Ordinance.

#### **Sec. 1-1-2 Purpose**

The General Assembly of the Commonwealth of Virginia empowers the County to enact a Zoning Ordinance, and to provide for its administration, enforcement, and amendment; and the Board of Supervisors of Nottoway County deems it necessary, for the purpose of promoting the health, safety, morals and general welfare of the County to enact such an ordinance; and the Board of Supervisors of Nottoway County appointed a Planning Commission to recommend the boundaries of the districts and appropriate regulations to be enforced therein; and the zoning regulations and districts as herein set forth have been made in accordance with a Comprehensive Plan for Nottoway County, and for the purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives and purposes of §15.2-2200 and §15.2-2283 of the Code of Virginia, 1950, as amended. To these ends, this Ordinance is designed to:

1. Provide for adequate light, air, convenience of access, safety for fire, flood and other dangers;
2. Reduce or prevent congestion in the public streets;
3. Facilitate the creation of a convenient, attractive and harmonious community;
4. Expedite the provision of adequate police and fire protection, disaster, evacuation, civil defense, transportation, water, sewerage, schools, parks, forests, playgrounds, recreational facilities, airports, and other public requirements;
5. Protect against destruction of or encroachment upon historic areas; and
6. Protect against one or more of the following: overcrowding of land, undue densities of populations in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health or property from fire, flood, panic or other dangers
7. Encourage economic development activities that provide desirable employment and enlarge the tax base;
8. Provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of natural resources;
9. Protect approach slopes and other safety areas of licensed airports;
10. Encourage and accommodate affordable housing suitable for meeting the current and future housing needs of the County;
11. Protect surface water and groundwater resources;
12. Provide safety from crime.

The Code further states that the governing body of any county may by ordinance classify territory under its jurisdiction or any substantial portion thereof into districts of such number,

shape and size as it may deem best suited to carry out the purposes of such article, and in each district it may regulate, restrict, permit, prohibit and determine the following:

13. The use of land, buildings, structures and other premises for agricultural, business, industrial, floodplain and other specific uses;
14. The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing or removal of structures;
15. The areas and dimensions of land, water and air space to be occupied by buildings, structures and uses, and of courts, yards and other open space to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used;
16. The excavation or mining of soil or other natural resources.

**Sec. 1-1-3 Matters Considered**

The zoning regulations and districts, including the official zoning map, as set forth herein, have been drawn with reasonable consideration for the existing use of property, the suitability of properties for various uses, the trends of growth or change, the current and future requirements of the community as to land 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, and other public services; for the conservation of natural resources and the preservation of floodplains; and for the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County (§15.2-2284, Code of Virginia, 1950, as amended.)

**Sec. 1-1-4 Authority**

This Zoning Ordinance is adopted by the County of Nottoway, Virginia, under authority granted by the General Assembly of the Commonwealth of Virginia, particularly Title 15.2 of the Code of Virginia, 1950, as amended.

## **DIVISION 2 APPLICATION OF ORDINANCE**

### **Sec. 1-2-1 Repeal of Previous Ordinance; Effective Date**

The previously enacted Zoning Ordinance of this County, together with its amendments, is repealed as of the effective date of this Ordinance. This Ordinance shall become effective at 12:00 a.m. midnight, immediately following its adoption by the Nottoway County Board of Supervisors. It is thus effective as of July 22, 2005, and its provisions shall be in force thereafter until repealed.

### **Sec. 1-2-2 Territorial Application**

The regulations and restrictions in this Ordinance shall apply uniformly to all buildings, structures, land, water and uses within the unincorporated area of Nottoway County, Virginia, excepting those areas determined by law to be under the sovereign control of the United States of America or the Commonwealth of Virginia.

### **Sec. 1-2-3 General Application**

All buildings and structures erected hereafter, except those exempted herein, all uses of land, water or buildings established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this Ordinance shall likewise be subject to all regulations of this Ordinance.

Existing buildings, structures and uses which do not comply with regulations herein shall be subject to the provisions of Article 5 of this Ordinance relating to nonconformities.

### **Sec. 1-2-4 Compliance Required**

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations specified in this chapter for the district in which it is located.

2. No building or other structure shall be erected or altered:
  - 1) To exceed the height or bulk specified in this Ordinance.
  - 2) To accommodate or house a greater number of families than permitted by this Ordinance.
  - 3) To occupy a greater percentage of lot area than specified in this Ordinance.
  - 4) To have narrower or smaller rear yards, front yards, side yards, or other open space than required by this Ordinance.
  - 5) In any other manner contrary to the provisions of this Ordinance.

#### **Sec. 1-2-5 General Prohibitions**

1. No building or structure, no use of any building, structure or land, and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this Ordinance.
2. Unless otherwise specifically provided for in this Ordinance, no part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
3. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. All existing yards or lots and all yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### **Sec. 1-2-6 Conflicts with Other Rules**

Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, and plans the most restrictive or that which imposes the higher standards shall govern.

#### **Sec. 1-2-7 Exemptions**

1. Pursuant to Section 56-46.1 of the Code of Virginia, electrical transmission lines of 150 kV or more, approved by the State Corporation Commission, shall be deemed to have satisfied the requirements of this Ordinance. In addition, the following utility uses are exempt from the provisions of this article: poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants, substations, major transmission lines, or trunk lines located on or above the surface of the ground, for any type of utility service, nor for underground trunk lines providing public water or sewerage service.

2. The height limitations of this Ordinance shall not apply to antennas less than sixty-five feet in height, cupolas, barns, silos, farm buildings, chimneys, flues, flag poles, water tanks, church spires, and monuments and necessary mechanical appurtenances not exceeding in height the distance there from to the nearest lot line. Parapet walls may be up to four (4) feet above the regulated height of the building on which the walls rest.

#### **Sec. 1-2-8 Relationship to Private Agreements**

This Ordinance is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided, however, that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such private agreements or legal relationships, the regulations of this Ordinance shall govern.

#### **Sec. 1-2-9 Zoning of Annexed Land**

Any land that is annexed from the County into an incorporated Town or independent City, or that is reverted to the County from an incorporated Town or independent City, shall be regulated in accord with the terms of the annexation or reversion agreement that establishes such change in governance.

#### **Sec. 1-2-10 Effect of Chapter on Existing Plans, Permits and Lots**

Nothing contained in this chapter shall require any change in the plans or construction of any building or structure for which a building permit was granted prior to the effective date of this Ordinance. If construction is discontinued for a period of six (6) months, further construction shall be in conformity with the provisions of this chapter for the district in which the activity is located.

#### **Sec. 1-2-11 Effect of Chapter on Existing Districts**

On the effective date of this Ordinance, the previously existing Nottoway County Zoning Ordinance is hereby repealed, and this Ordinance replaces it in its entirety. Further, all property in Nottoway County shall retain the zoning district classification as named under the previous Zoning Ordinance except as amended and otherwise provided by this Ordinance.

#### **Sec. 1-2-12 Calculation of Density**

1. Calculations of development density, including lot, lot area, parent tract, net and gross density for residential development, floor area ratio for nonresidential development density, and other such terms, shall be made in accord with the formulas provided within the definitions of those terms in Article 6 of this Ordinance.
2. Calculations of allowable floor area ratio shall be based upon the floor area ratio as established by the zoning district in effect for the site at the time a site plan for the lot is officially accepted for review by the County.

**Sec. 1-2-13 Authorization for Constructing Public Facilities**

No public facility shall be constructed, established or authorized unless and until it has been determined by the Zoning Administrator to be excepted from review for conformity with the Comprehensive Plan, or its general or approximate location, character and extent has been formally reviewed and approved by the Planning Commission or Board of Supervisors as provided by Section 15.2-2232 of the Virginia Code, as being in substantial accord with the County's adopted Comprehensive Plan or part thereof.

Repair, reconstruction, improvement and normal service extensions of public facilities or public corporation facilities, unless involving a change in the location or extent of a street or public area shall be deemed to be in accordance with Section 15.2-2232 of the Virginia Code. For purposes of this section, widening, extension, enlargement or change of use of public streets or public areas shall not be deemed to be excepted from the requirement of review for Comprehensive Plan conformity.

**Sec. 1-2-14 Multiple Structures**

In any district, no more than one structure housing a permitted or permissible principal use may be erected on a single lot.

**Sec. 1-2-15 Structures Must Have Access**

All structures requiring a building permit shall be erected on lots which have frontage on a public road, or access to a public road by a private road or access easement if otherwise provided for herein, or as provided for in the Subdivision Ordinance so as to provide safe and convenient access for servicing, fire protection, and required off-street parking

**Sec. 1-2-16 Schedule of Fees**

The governing body shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, certificates of zoning compliance, applications, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the administrator, and may be altered or amended only by the governing body. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

## **DIVISION 3 INTERPRETATION OF ZONING ORDINANCE & MAP**

### **Sec. 1-3-1 Provisions Are Minimum Requirements**

The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare, as set forth in Article 1, establishing the purpose and intent of this Ordinance.

### **Sec. 1-3-2 Uses Not Specified Are Not Permitted**

1. Subject to the Zoning Administrator's interpretive powers as provided for herein, no uses are permitted unless included in the lists of permitted, permissible or accessory uses in a district.
2. Uses other than those allowed in a particular district may be added to a district only upon adoption of a text amendment approved by the Board of Supervisors, pursuant to the procedures set forth in Article 5 of this Ordinance.

### **Sec. 1-3-3 Interpretation of Terms**

1. For the purpose of this Ordinance, certain words and terms are to be interpreted as set forth in Article 6.
2. In case of any dispute over the meaning of a word, phrase or sentence, whether defined in this chapter or not, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this chapter, as set forth in Section 1-1-2; provided, that an appeal may be taken from any such determination as provided in Article 5 of this chapter.

### **Sec. 1-3-4 Zoning Map and District Boundaries**

1. Zoning Districts and Zoning Map

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be comprised of a complete set of official Nottoway County tax maps, color coded to reflect the Zoning Classification of each and every parcel of land in Nottoway County. The Board of Supervisors may, by its formal action, adopt a new graphic format for the Official Zoning Map, as long as the map shows every parcel of land in the County and accurately represents the zoning districts as set forth on the original Zoning Map at the time the new graphic version is created.

The Official Zoning Map shall be identified by the signature of the Chairman of the Board of Supervisors attested by the clerk under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 3 of the Zoning Ordinance of Nottoway County, Virginia," together with the date of adoption of this Ordinance and any subsequent amendments to the map adopted by the Board.

If, in accordance with the provisions of this Ordinance and the Code of Virginia, 1950, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of Supervisors with an entry on the Official Zoning Map as follows: "On (date), the official action of the Board of Supervisors, the following change(s) were made in the Official Zoning Map: (Brief description of nature or change)," which entry shall be signed and attested by the Zoning Administrator. No amendment of this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided in Article 5.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Office of the Zoning Administrator shall be the final authority as to the current zoning status of land and water area, buildings, and other structures in the County.

## 2. Replacement of Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, lost, or difficult to interpret because of the nature or number of changes and additions, the Board may by resolution adopt new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the Board attested by the clerk under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of Nottoway County, Virginia."

Unless the prior Official Zoning Map have been lost, or have been totally destroyed, the prior maps or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

3. District Boundaries

The boundaries of these districts are hereby established as shown on the Official Zoning Map of Nottoway County, on file in the office of the Zoning Administrator.

4. Rules for Interpretation of District Boundaries.

Where uncertainty exists as to the boundaries of any district as shown on the Official Zoning Map, the following rules shall apply:

- 1) Boundaries, wherever possible, are deemed to follow the center lines of highways, streets, alleys, railroad lines, streams, and rivers; or plotted lot lines, and town limits.
- 2) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of said map, by the Zoning Administrator.
- 3) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered above, the Zoning Administrator shall interpret the district boundaries.

**Sec. 1-3-5 Methods of Measuring Lots, Yards and Related Terms**

1. Regular lots, measurements

- 1) The width of a regular lot shall be determined by measurement across the lot at the front lot line at its intersection with each side lot line.
- 2) The length of a regular lot shall be determined by measuring the distance between the front and rear lot lines at each of the two side yard setback lines and averaging those two distances.

2. Regular lots, determination of front yard

- 1) On regular interior lots, the front shall be construed to be the portion nearest the street or access road.
- 2) On regular corner lots, the front shall be construed to be the shortest boundary fronting on a street. If the lot has equal frontage on two or more streets, the front lot shall be determined and shown on the subdivision plat or site plan by the prevailing building pattern or the prevailing lot pattern if the building pattern has not been established.

- 3) On regular through lots, unless otherwise determined by the Zoning Administrator due to the prevailing building pattern, the front shall be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot shall be determined and shown on all subdivision plats and site plans by the prevailing building pattern or the prevailing lot pattern if a building pattern has not been established.
3. Regular lots, yards adjacent to street
    - 1) Front yards of at least the depth required by setback requirements in the district shall be provided across the entire frontage of a regular lot.
    - 2) Other yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.

4. Irregular lots, yard requirements

All yards shall provide at least the same separation from all lot lines as required for minimum side yards in the district, and for the lot line which is determined to be the front lot line, setback and yard requirements for front yards shall be met. Additionally, if an irregular lot abuts a street at any point, a distance shall be provided that equals the yard required on a regular lot adjacent to a street in the district.

5. Setback Measurement from streets

All setbacks from public streets shall be measured from the wider of either:

- 1) The existing right-of-way, or
- 2) The minimum right-of-way permitted for VDOT acceptance of the right-of-way for state maintenance.

If no right-of-way exists, or if no construction plans are approved for the road, or if less than the minimum right-of-way exists, the right-of-way shall be assumed to be the edge of the existing travel way. The landowner shall determine the location of the front property line and shall certify by affidavit to the County that the setbacks of all structures meet the requirements of this Ordinance.

## **Sec. 1-3-6 Lots and Yards**

1. Lot Size and Shape

All lots and yards shall meet the dimensional requirements set forth in the District requirements of this Ordinance, in conjunction with all other requirements set forth herein.

## 2. Principal Use

Only one principal use or structure is permitted per lot unless otherwise provided for herein.

The Zoning Administrator shall determine what constitutes a principal use when two or more permitted uses occupy the same lot.

## 3. Required yards

No part of a yard or other open space, area or off-street parking or loading space required about or in connection with any building or use for the purpose of complying with this chapter shall be included as part of a yard, open space, area or off-street parking or loading space similarly required for any other building or use, unless otherwise specifically provided for in this chapter.

## 4. Reductions below minimum requirements of chapter

- 1) No lot or area existing prior to the adoption of this Ordinance, shall be reduced in dimension or area below the minimum requirements set forth in this chapter except for the purpose of meeting or exceeding standards set forth in this chapter. Lots or areas created after such date shall meet at least the minimum requirements established by this chapter.
- 2) No yards existing prior to the adoption of this Ordinance shall be reduced in dimensions below the minimum requirements set forth in this chapter. Yards created after adoption of this Ordinance shall meet at least the minimum requirements established by this chapter.
- 3) No existing off-street parking or loading space, and no off-street parking or loading space hereafter provided, which meets all or part of the requirements for off-street parking or loading space set forth in this chapter, shall be reduced or eliminated, if the reduction results in area not meeting requirements or standards contained in this chapter. Reductions may be permitted where spaces are no longer required by this chapter or alternative spaces meeting the requirements of this chapter are provided.

## 5. Length / Width Ratios

- 1) Maximum length / width ratios of 5½ to 1 are required for new divisions of land in Agriculture and Conservation zoned districts.
- 2) To determine the method of measuring lots for length / width compliance, see 1-3-6-1.

- 3) New divisions of land in Agriculture and Conservation zoned districts may be exempted from length / width ratio requirements by an administrative variance (issued from the Zoning Administrator or their designee) provided the following requirements can be met:
  1. The new division must be compliant with all other zoning requirements.
  2. The new division must contain more than fifteen (15) acres.
  3. The parent tract must contain more than twenty (20) acres.
  4. The new division shall not create an unnecessarily odd shaped lot nor shall it, by its division, create an unnecessarily odd shaped remaining portion of the parent tract.
  5. DELETED 10/15/2009
  6. A survey of the new division must be reviewed by the Nottoway County Planning Commission.
  7. The new division must be for the purpose of building development.

**Sec. 1-3-7 Use of Two or More Lots to Satisfy Zoning Requirements**

Two or more contiguous lots under the same ownership may be used to satisfy zoning requirements only after a subdivision plat has been approved and recorded eliminating the common internal lot lines.

**Sec. 1-3-8 Setbacks are to Lot Lines, Not Zoning Boundaries**

When one lot is bisected by a zoning district boundary line, setbacks shall be required from the lot line, not from the line that divides the zoning districts on the lot.

## **DIVISION 4    CONDITIONAL ZONING**

Conditional zoning, as defined by the Code of Virginia, is hereby permitted in the County, providing a more flexible and adaptable zoning method, whereby a zoning reclassification may be allowed, subject to certain conditions proffered by the zoning applicant for the protection of the community, which are not generally applicable to land similarly zoned.

As part of a petition to rezone property and amend the official zoning maps, the property owner may include a voluntary proffer in writing placing certain conditions and restrictions on the use and development of such property, and the Zoning Administrator shall be vested with all necessary authority to administer and enforce such conditions and restrictions, all in accordance with sections 15.2-2296 et seq., of the Code of Virginia, and such sections are incorporated herein as a part hereof to the same extent and purpose as though such sections were herein fully set out at length.

## **DIVISION 5    SEVERABILITY**

Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so held to be unconstitutional or invalid.

## **DIVISION 6    ZONING DISTRICTS ESTABLISHED**

For the purpose of this Ordinance, Nottoway County is divided into the following base zoning districts:

- Agricultural District (A-1)
- Conservation District (C-1)
- Rural Residential District (RR)
- Urban Residential District (UR)
- General Business District (GB)
- Light Industrial District (LI)
- General Industrial District (GI)
- Planned Development District (PD-1)

In addition to the Base Districts, Overlay Districts are hereby established which may be applied by the Board of Supervisors as overlay regulations to portions of any or all of the Base Districts, through the zoning map amendment process in accord with the procedures established in Article 5 and subject to the standards and procedures of this Ordinance. The following Overlay Districts are established herein:

- Floodplain Overlay District (FPOD)
- Historic Overlay District (HOD)
- Airport Safety Overlay District (ASOD)

## **ARTICLE 2. BASE DISTRICT REGULATIONS GENERALLY**

### **DIVISION 1 AGRICULTURAL DISTRICT (A-1)**

#### **Sec. 2-1-1 Purpose**

The Agricultural District (A-1) is established to provide areas for agricultural and silvicultural interests that represent a major portion of Nottoway County's economic base. The intent of this district is to provide and protect agricultural and silvicultural areas from the encroachment of uses which are not compatible with them and to conserve water, forest and other natural resources. The district provides areas for large scale, intensive livestock operations with surroundings that will not inhibit the activities associated with their operation. Residential development is not encouraged in this district. This corresponds with land use goals as outlined in the Nottoway County Comprehensive Plan concerning future land use.

#### **Sec. 2-1-2 Qualifying Lands**

Lands qualifying for inclusion in the A-1 zoning district shall be those within the current A-1 district on the effective date of this Ordinance and other lands within areas designated for Agriculture, Forest or Rural use in the Comprehensive Plan. Qualifying lands shall generally not include those served or planned to be served by public water or sewer service, or by any private community utility systems.

#### **Sec. 2-1-3 Permitted Uses**

1. Agriculture
2. Intensive Livestock Operation, subject to use limitations provided in Article 4
3. Horse training and boarding facility
4. Vineyard
5. Commercial fish production
6. Orchards and fruit storage structures
7. Wildlife refuges, preserves and conservation areas
8. School
9. Church
10. Park, unlighted
11. Playground, unlighted
12. Home occupation, subject to standards of Article 4
13. Home business, subject to standards of Article 4
14. Dwelling, single-family detached
15. Accessory building
16. Bed and Breakfast Establishment
17. Telecommunications Tower, attached
18. Mobile Home Storage Unit on Lots Equal to or Greater than 2 Acres.
19. Mobile Home, as required by State Code
20. Nontraditional Accessory Structure (See 4-18)

## **Sec. 2-1-4 Uses Permitted by Special Exception (as provided in Article 5)**

1. Airport
2. Sawmill, commercial (also refer to provisions of Article 4)
3. Cemetery
4. General Store, as defined in Article 6
5. General advertising sign
6. Lodge, civic organization, hunting and boating clubs, and campground as defined in Article 6
7. Processing plants for agricultural and forestry products, such as wineries, fruit processing facilities and fish processing facilities
8. Commercial livestock markets or show rings
9. Commercial hunting preserves and shooting ranges
10. Horse racing facility
11. Telecommunications Tower, freestanding
12. Mobile Home Storage Units on Lots less than 2 Acres
13. Nursing home
14. Day Care Center
15. Country Inn (also refer to provisions of Article 4)
16. Rural Resort (also refer to provisions of Article 4)
17. Wayside stand
18. Country club
19. Golf course
20. Fire and rescue station
21. Park and ride lot
22. Public utility plant (with Commission Permit)
23. Park, lighted
24. Playground, lighted
25. Rural Home Business, subject to standards of Article 4
26. Mobile Home Park
27. Duplex
28. Light Commercial
29. Nontraditional Accessory Structure (See 4-18)
30. Guest House
31. Flea Market
32. Outdoor Retail Sales
33. Outdoor Events
34. Abattoir
35. Wholesale Uses, including warehouse and light processing as defined
36. Lumber, building, and landscaping supplies and equipment (with storage under cover)

**Sec. 2-1-5 Lot Requirements and Development Density**

1. Minimum Lot Area.
  - 1) All permitted uses except intensive livestock operations: Five (5) acres.
  - 2) Intensive Livestock Operations: 5 acres, subject to the provisions of Article 4.
2. Minimum Lot Width from front lot line to rear lot line: Two hundred (200) feet.
3. Frontage on Public Road: 200 feet.
4. Maximum Lot Coverage: Fifteen (15) percent.
5. Flag Lot: See 4-16.
6. Wastewater Disposal

All lots must meet Health Department requirements for individual wastewater disposal, and drain fields shall be located only on the lot that is served by that drain field. A-1 lots shall not be served by public or community water or sewer service.

**Sec. 2-1-6 Building Requirements**

1. Minimum Building Setbacks
  - 1) Front: One hundred (100) feet (from front lot line)
  - 2) Side: Fifty (50) feet (from side lot line)
  - 3) Rear: Seventy (70) feet (from rear lot line)
  - 4) Accessory buildings: No closer than fifteen (15) feet to a side or rear lot line;
2. Maximum Building and Structure Height
  - 1) General: 35 feet.
  - 2) Publicly-owned building: maximum of 60 feet, provided that front, side and rear yard requirements increase 3 feet for each increase of 1 foot in height over 35 feet.
  - 3) Accessory buildings - less than the main structure and no more than 1 story if within 30 feet of the lot line.
  - 4) Exemptions as provided in Article 1.

**Sec. 2-1-7 Use Limitations**

All development within the A-1 District is required to be served by private, individual wells and individual wastewater disposal systems which shall meet all Health Department requirements. Septic fields shall be either fully contained on the lot served by that septic system or located on a lot contiguous to the lot served by that septic field, provided that the location of any off-site septic field shall also meet all requirements of the Health Department and shall be surveyed and recorded on the plat with an access easement permitting installation, maintenance and repair.

## **DIVISION 2 CONSERVATION DISTRICT (C-1)**

### **Sec. 2-2-1 Purpose**

The Conservation District covers the unincorporated portions of the County which are occupied by a mix of rural residential uses, open spaces and a variety of small, non-intensive farms. This district is established to conserve these open spaces, to protect the rural residential character of the area, including small farms that are compatible with neighboring residential uses, conserve water, forest and other natural resources; and maintain a distinctly rural environment.

### **Sec. 2-2-2 Qualifying Lands**

Lands qualifying for inclusion in the C-1 zoning district shall be those within the current C-1 district on the effective date of this Ordinance and other lands within areas designated in the Comprehensive Plan for uses compatible with and including rural residential uses. Qualifying lands shall generally not include those served or planned to be served by public water or sewer service, or by any private community utility systems.

### **Sec. 2-2-3 Permitted Uses**

1. Agriculture
2. Dwelling, single-family detached
3. School
4. Church
5. Park, unlighted
6. Playground, unlighted
7. Home occupation
8. Home business, subject to standards of Article 4
9. Radio and television station
10. Preserves and conservation areas
11. Accessory structure
12. Mobile Home Storage Unit on Lots Equal to or Greater Than 2 Acres

### **Sec. 2-2-4 Uses Permitted by Special Exception**

1. Airport
2. Commercial sawmill
3. Cemetery
4. Golf course
5. Hospital
6. General store
7. Lodge, civic organization
8. Hunting or boating clubs, camp ground as defined in Article 6
9. Mobile home, subject to standards of Article 4
10. Motel
11. Restaurant
12. Day care center

13. Telecommunications Tower, freestanding
14. Intensive livestock operation, subject to use limitations of Article 4
15. Mobile Home Storage Unit on Lot Less Than 2 Acres
16. Rural Home business, subject to standards of Article 4
17. General advertising signs
18. Guest House
19. Mobile Home Park
20. Duplex
21. Nontraditional Accessory Structure (See 4-18)
22. Flea Market
23. Outdoor Retail Sales
24. Outdoor Events
25. Bed & Breakfast Establishments
26. Light Commercial

**Sec. 2-2-5 Lot Requirements**

1. Minimum Lot Area.
  - 1) All permitted uses except intensive livestock operations: Two (2) acres
  - 2) Intensive Livestock Operations: 5 acres, subject to the provisions of Article 4.
2. Minimum Lot Width from front lot line to rear lot line: Two hundred (200) feet.
3. Frontage at the street (road) line: 200 feet.
4. Maximum Lot Coverage: Fifteen (15) percent.
5. Wastewater Disposal

All lots must meet Health Department requirements for individual wastewater disposal, and drain fields shall be located only on the lot that is served by that drain field. C-1 lots shall not be served by public or community water or sewer service.

## **Sec. 2-2-6 Building Requirements**

1. Minimum Building setback
  - 1) Front: One hundred (100) feet (from front lot line)
  - 2) Side: Fifty (50) feet (from side lot line)
  - 3) Rear: Seventy (70) feet (from rear lot line)
  - 4) Accessory buildings: No closer than fifteen (15) feet to a side or rear lot line;
  
2. Maximum Building and Structure Height
  - 1) General: 35 feet
  - 2) Publicly-owned building: maximum of 60 feet provided front, side and rear yard requirements increase 3 feet for each increase of 1 foot in height over 35 feet.
  - 3) Accessory buildings - less than the main structure and no more than 1 story if within 30 feet of the lot line.
  - 4) Exemptions as provided in Article 1

## **Sec. 2-2-7 Use Limitations**

All development within the C-1 District is required to be served by private, individual wells and individual wastewater disposal systems which shall meet all Health Department requirements. Septic fields shall be fully contained on the lot served by that septic system.

## **DIVISION 3 RURAL RESIDENTIAL DISTRICT (RR)**

### **Sec. 2-3-1 Purpose**

The Rural Residential District is established to provide low-density, rural residential development in a rural setting in proximity to the Towns and other urban areas of the County, as defined in the Comprehensive Plan. District regulations are designed to promote and encourage a suitable environment for family life.

### **Sec. 2-3-2 Qualifying Lands**

Lands qualifying for inclusion in the RR zoning district shall be those within the current R-1 district on the effective date of this Ordinance and other lands within areas designated in the Comprehensive Plan for uses compatible with and including rural residential uses in proximity to the Towns and other urban areas as defined in the Comprehensive Plan. Qualifying lands shall generally not include those served or planned to be served by public water or sewer service, or by any private community utility systems.

### **Sec. 2-3-3 Permitted Uses**

1. Dwelling, single-family detached
2. Dwelling, duplex
3. School
4. Church
5. Park, unlighted
6. Playground, unlighted
7. Home occupation, subject to standards of Article 4
8. Home business, subject to standards of Article 4
9. Accessory building
10. Fire and Rescue facilities
11. Library
12. Local government office
13. Telecommunications Tower, attached

**Sec. 2-3-4 Uses Permitted by Special Exception**

1. Professional office
2. Rooming house, boarding house
3. Mobile home, subject to standards of Article 4
4. Mobile Home Subdivision
5. Mobile Home Park
6. Day Care Center
7. Telecommunications Tower, freestanding
8. Guest House
9. Community Center
10. Mobile Home Storage Unit
11. Public Utilities (amended 11/19/2015)
12. Outdoor Events (amended 6/21/2018)

**Sec. 2-3-5 Lot Requirements**

1. Minimum Lot Area: One (1) Acre
2. Minimum Lot Width from front lot line to rear lot line: One hundred (100) feet.
3. Maximum Lot Coverage: Twenty (20) percent.
4. Flag Lot: See 4-16
5. Wastewater Disposal

All lots must meet Health Department requirements for individual wastewater disposal, and drain fields shall be located only on the lot that is served by that drain field. RR lots established after the effective date of this Ordinance shall not be served by public or community water or sewer service unless they are part of a parent tract that has already been provided with either such service, or unless the County's Comprehensive Plan calls for providing such service to the area in which the lot is located.

6. Frontage at the street (road) line: 100 feet.

**Sec. 2-3-6 Building Requirements**

1. Minimum Building Setbacks
  - 1) Front: Seventy-five (75) feet (from the front lot line)
  - 2) Side: Fifteen (15) feet (from side lot line)
  - 3) Rear: Thirty-five (35) feet (from rear lot line)
  - 4) Accessory buildings: No closer than ten (10) feet to a side or rear lot line;
  
2. Maximum Building and Structure Height
  - 1) General: 35 feet
  - 2) Publicly-owned building: maximum of 60 feet provided front, side and rear yard requirements increase 3 feet for each increase of 1 foot in height over 35 feet.
  - 3) Accessory buildings - less than the main structure and no more than 1 story if within 30 feet of the lot line.
  - 4) Exemptions as provided in Article 1.

**Sec. 2-3-7 Use Limitations**

All development within the RR District is required to be served by either public (or community) water and sewer facilities which meets the provisions of the County's Comprehensive Plan and all design standards set forth by the County, or by private, individual wells and individual wastewater disposal systems which shall meet all Health Department requirements; septic fields shall be fully contained on the single lot served by the septic system.

## **DIVISION 4 URBAN RESIDENTIAL DISTRICT (UR)**

### **Sec. 2-4-1 Purpose**

The Urban Residential district (UR) is established to provide for single-family dwellings with public or community water and sewer services. Therefore, the specific purpose of this district is to encourage the construction of, and the continued use of the land for, single-family dwellings and to prohibit commercial and industrial uses, and to prohibit any other use which would substantially interfere with development or continuation of single-family dwellings in the district. This district is reserved for residential uses and subdivisions of an urban character and the permitted uses as listed in this division.

### **Sec. 2-4-2 Qualifying Lands**

This district is generally intended to apply to land designated in the Comprehensive Plan as being planned for Low to Medium Density Residential Uses, located adjacent to an incorporated Town or in an existing center of population. Land in this district is intended to be served with public or community water and wastewater facilities.

### **Sec. 2-4-3 Permitted Uses**

1. Church
2. Dwelling, single-family detached
3. Group Home
4. Home occupation, subject to standards of Article 4
5. Park, unlighted
6. Playground, unlighted
7. School, public
8. Telecommunications tower, attached

### **Sec. 2-4-4 Uses Permitted by Special Exception**

1. Community Center
2. Country Club
3. Day Care Center
4. Dwelling, accessory
5. Fire, police and rescue stations
6. Golf course
7. Park, lighted
8. Playground, lighted
9. Public water or sewer trunk lines
10. Public water or sewer treatment plants
11. Public utility substations (gas, electric, communications)
12. Recycling collection point
13. School, private
14. Solid waste collection point

**Sec. 2-4-5 Lot Requirements**

1. Minimum Lot Area: One-half (½) Acre.
2. Minimum Lot Width from front lot line to rear lot line: One hundred (100) feet.
3. Maximum Lot Coverage: (20) percent.
4. Flag Lot: See 4-16
5. Wastewater Disposal

All lots must be served by public or community water and wastewater services.

6. Frontage at the street (road) line: 100 feet.

**Sec. 2-4-6 Building Requirements**

1. Minimum Building Setbacks
  - 1) Front: Thirty-five (35) feet (from front lot line)
  - 2) Side: Fifteen (15) feet (from side lot line)
  - 3) Rear: Twenty-five (25) feet (from rear lot line)
  - 4) Accessory buildings: No closer than ten (10) feet to a side or rear lot line;
2. Maximum Building and Structure Height
  - 1) General: 35 feet
  - 2) Publicly-owned building: maximum of 60 feet provided front, side and rear yard requirements increase 3 feet for each increase of 1 foot in height over 35 feet.
  - 3) Accessory buildings - less than the main structure and no more than 1 story if within 30 feet of the lot line.
  - 4) Exemptions as provided in Article 1

**Sec. 2-4-7 Use Limitations**

All development within the UR District is required to be served by public (or community) water and sewer facilities, which meets the provisions of the County's Comprehensive Plan and all design standards set forth by the County.

## **DIVISION 5    GENERAL BUSINESS DISTRICT (GB)**

### **Sec. 2-5-1    Purpose**

Generally, this district is intended to provide land for conducting general business activities that serve the community-wide public and which require direct and frequent vehicle access, but which are not characterized either by constant and heavy trucking, other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise of congregation of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants, public garages and service stations which may be clustered together in small shopping centers. This district is intended to ensure that such business development features consolidated access points on collector and arterial roads and parking areas that are interconnected between adjacent commercial uses and is intended to apply to areas identified for such uses in the Comprehensive Plan.

### **Sec. 2-5-2    Qualifying Lands**

This district, and additions to existing districts, should be located in proximity to residential areas, as well as other existing and/or planned commercial, industrial and institutional land use activities with utilities and safe access to high capacity roadways and shall be consistent with the County's Comprehensive Plan.

### **Sec. 2-5-3    Permitted Uses**

1. Retail stores
2. Personal Service Establishments
3. Home appliance services
4. Theater, assembly hall
5. Office, business, professional and/or government
6. Church
7. Library
8. Clubs, lodges
9. Dancing schools, dancing studios
10. Medical Clinic
11. Day care centers

#### **Sec. 2-5-4 Uses Permitted by Special Exception**

1. Hotel, motel
2. Restaurants
3. Hospital
4. Wholesale uses, including warehouses and light processing as defined
5. Indoor game room
6. Public utility transmission substations, transmission lines and towers other than normal distribution facilities, pipes, meters and water and sewerage facilities
7. Gas transmission lines, compressor stations, measurement stations, regulator stations
8. Nursing home
9. Auto sales and service
10. Service stations (with major repair under cover)
11. Lumber, building, and landscaping supplies and equipment (with storage under cover)
12. Plumbing and electrical supply (with storage under cover)
13. Machinery sales and service
14. Mobile home sales lots
15. Travel trailer, motor home and camper sales lots
16. Mini Warehouses
17. Government structures and uses
18. Water or Sewerage treatment plant
19. Recycling collection point.
20. Fire and rescue station
21. Telecommunication facility, subject to Commission Permit and Article 4
22. Funeral home ('without crematorium' –was deleted 3/18/2010)
23. General advertising signs
24. Convenience Store
25. Transportation Services
26. Bulk storage of oil, gasoline or other combustibles
27. Flea Market
28. Outdoor Retail Sales

#### **Sec. 2-5-5 District Requirements**

Minimum district size: Five (5) acres

#### **Sec. 2-5-6 Lot Requirements**

1. Minimum Lot Area: One (1) Acre.
2. Maximum Floor Area Ratio: 0.30
3. Maximum Impervious Surface Area: Sixty (60) percent of the lot area
4. Minimum Lot Width from front lot line to rear lot line: Sixty (60) feet

## **Sec. 2-5-7 Building Requirements**

### **1. Minimum Building Setback**

- 1) Front: eighty (80) feet, unless one or both of the following standards are met, in which case the front setback shall be sixty (60) feet (from center line of road):
  1. Parking is located behind principal building
  2. Parking is screened from public road view with berms at least two and one-half (2.5) feet in height and/or coniferous landscaping
- 2) Side: Ten (10) feet; Twenty-five (25) feet if adjoining residential use or district
- 3) Rear: Twenty (20) feet; Forty (40) feet if adjoining residential use or district

### **2. Maximum Height of Buildings and Structures**

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

### **3. Accessory Structures**

No accessory structure which is within ten (10) feet of any party lot line shall be more than one (1) story high. All accessory structures shall be less than the main structure in height.

## **Sec. 2-5-8 Use Limitations**

### **1. Sewer and Water**

All development within the GB district shall be served by public or community sewer and water systems, or by private on-site septic fields and individual wells which comply with current County and State Health Department standards.

### **2. Landscaping**

Buffer yards between lot lines and buildings shall be landscaped with a minimum average of one canopy tree every thirty (30) linear feet and eight shrubs (mix of evergreen and deciduous) every thirty (30) linear feet.

## **DIVISION 6 LIGHT INDUSTRIAL DISTRICT (LI)**

### **Sec. 2-6-1 Purpose**

The Light Industrial District is established to provide areas in which the principal use of land and buildings is for light industry, assembly plants, processing, storage, warehousing, wholesaling and distribution, in order to enhance the long-term economic well-being of the County in concert with the County's Comprehensive Plan. It is the intent that permitted uses be designed, located and conducted so that noise, odor, dust, and glare of each operation is generally confined within the boundary of the Light Industrial District.

### **Sec. 2-6-2 Qualifying Lands**

This district, and additions to existing districts, should be located in proximity to existing and/or planned commercial, industrial and institutional land use activities with utilities and safe access to high capacity roadways, and shall be consistent with the County's Comprehensive Plan.

### **Sec. 2-6-3 Permitted Uses**

1. Manufacture, processing, fabrication and/or assembly of products having characteristics similar to but not limited to: scientific and precision instruments, clothing, photographic equipment, communication and computer equipment, pharmaceuticals, furniture, optical goods, household appliances, musical instruments, toys and sporting goods
2. Agriculture, horticulture, forestry
3. Book Binding
4. Bottling or packaging works
5. Creamery
6. Drug Manufacturing
7. Electrical appliances and equipment assembly
8. Electronic equipment manufacturing and assembly
9. Engraving and/or printing plant
10. Laboratories, pharmaceutical and/or medical uses
11. Laundry and cleaning establishments
12. Mini-warehouse
13. Public utility generating, booster or relay stations, transformer substations, transmission lines and towers and other facilities for the provision and maintenance of public utilities, including railroads and facilities and water and sewerage installations
14. Public utility service yard or electrical receiving or transforming station
15. Warehouse for wholesale or distribution
16. Office as an accessory use
17. Governmental structures and use

**Sec. 2-6-4 Uses Permitted by Special Exception**

1. Contractor service establishment, excluding retail sales
2. Day Care facilities
3. Recycling drop off and processing centers
4. Heavy equipment sales and service
5. Lumber, building, and landscaping supplies & equipment (with storage under cover)
6. Machinery sales and service
7. Manufacturing, processing, and packaging of baked goods, candy, meat and other food products
8. Motor and engine assembly
9. Motel, Hotel
10. Plumbing and electrical supply (with storage under cover)
11. Service station
12. Auto body repair and refinishing
13. Truck terminals
14. Truck complexes
15. Utility substation
16. Water or Sewerage treatment plant
17. Flex Industrial use

**Sec. 2-6-5 District Requirements**

Minimum District Area: Ten (10) Acres

**Sec. 2-6-6 Lot Requirements**

1. Minimum Lot Area: Three (3) Acres
2. Minimum Lot Width from front lot line to rear lot line: One hundred (100) feet.

**Sec. 2-6-7 Building Requirements**

1. Minimum Building Setback
  - 1) Front: Sixty (60) feet (from center line of road)
  - 2) Side: Twenty (20) feet (Three hundred (300) feet adjoining residential or conservation uses or districts or historic overlay district)
  - 3) Rear: Thirty (30) feet (Sixty (60) feet adjoining residential)
2. Maximum Density
  - 1) Maximum Floor Area Ratio: 0.40
  - 2) Maximum Lot coverage: Impervious surfaces on any lot shall not exceed seventy (70) percent of the lot area.
  - 3) Maximum Building Coverage: Buildings (including accessory structures) shall not cover more than fifty (50) percent of the lot area.

3. Maximum Building Height.

Forty-five (45) feet. Buildings over forty-five (45) feet in height may be permitted by the Board of Supervisors as a Special Exception where building setback is increased five (5) feet for each additional foot over forty-five (45) feet plus such other conditions as the Board of Supervisors may impose.

4. Minimum Parking Setbacks

- 1) Front: Sixty (60) feet; minimum requirement may be reduced to thirty (30) if parking is screened by a minimum 2.5 feet high berm, or screened by minimum 2.5 feet high evergreen hedge, or located behind the buildings or structures on the site.
- 2) Side: Fifty (50) feet; minimum requirement may be reduced to twenty (20) if parking is screened by a minimum 2.5 feet high berm, or screened by minimum 2.5 feet high evergreen hedge, or located behind the buildings or structures on the site.
- 3) Rear: Fifty (50) feet; minimum requirement may be reduced to twenty (20) if parking is screened by a minimum 2.5 feet high berm, or screened by minimum 2.5 feet high evergreen hedge, or located behind the buildings or structures on the site.

**Sec. 2-6-8 Use Limitations**

1. All outdoor storage areas, loading areas, refuse handling areas and facilities, and similar activities, shall be screened from public roads and residential areas by dense vegetative buffers and/or solid fencing.
2. A minimum of 10% of the lot area shall be landscaped with vegetative ground cover, trees, shrubs and other vegetation.
3. Industrial traffic generated by any use in this district shall not be permitted to use existing residential neighborhood streets for general access to and from the industrial use.

## **DIVISION 7 GENERAL INDUSTRIAL DISTRICT (GI)**

### **Sec. 2-7-1 Purpose**

The General Industrial District is established to provide areas in which the principal use of land and buildings is for larger and more intensive industries that are generally not compatible with most other land uses, but which offer good prospects for employment and expansion of the economic base and which do not present significant risk of long-term environmental harm to the County or its residents and which will otherwise meet the goals and policies of the County's Comprehensive Plan. It is the intent that permitted uses be designed, located and conducted so that noise, odor, dust, and glare of each operation is confined within the boundary of the General Industrial District.

### **Sec. 2-7-2 Qualifying Lands**

This district, and additions to existing districts, should be located in areas which do not present conflicts with residential or institutional uses, which provide for safe access to high capacity roadways, and are consistent with the County's Comprehensive Plan.

### **Sec. 2-7-3 Permitted Uses**

All uses allowed in this district shall be permitted only by special exception.

### **Sec. 2-7-4 Uses Permitted by Special Exception**

1. Bulk storage of oil, gasoline or other combustibles
2. Junk, scrap or salvage yards of any kind, including automobile
3. Paper products manufacturing
4. Crushed stone operation to include but not limited to quarrying, crushing, processing, treating, washing and selling of stone
5. Asphalt mixing, ready mix concrete, concrete block, concrete product plants and any other such plants when accessory to a crushed stone operation
6. Saw mills, including chip mills and planing mills, as defined herein
7. Manufacture, compounding, processing, packaging or treatment of articles or merchandise from the following previously prepared materials: Bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, clay, shale, stone, metals, shells, straw, textiles, tobacco, wood, yarn and paint
8. Auto body repair and refinishing
9. Truck terminals
10. Truck complexes
11. Utility substation
12. Water or Sewerage treatment plant
13. Recycling processing center
14. Mineral processing operations such as crushing plants, cement, lime and gypsum manufacturing; masonry block and brick manufacturing, and asphalt plants
15. Livestock and auction markets
16. Outdoor manufacturing operations

**Sec. 2-7-5 District Requirements**

Minimum District Area: Ten (10) Acres

**Sec. 2-7-6 Lot Requirements**

1. Minimum Lot Area: Three (3) Acres
2. Minimum Lot Width from front lot line to rear lot line: One hundred (100) feet.

**Sec. 2-7-7 Building Requirements**

1. Minimum Building Setback (from lot lines)
  - 1) Front: Eighty (80) feet
  - 2) Side: Forty (40) feet (Three hundred (300) feet adjoining residential or conservation uses or districts or historic overlay district)
  - 3) Rear: Thirty (30) feet (Sixty (60) feet adjoining residential)
2. Maximum Density
  - 1) Maximum Floor Area Ratio: 0.40
  - 2) Maximum Lot coverage: Impervious surfaces on any lot shall not exceed seventy (70) percent of the lot area.
  - 3) Maximum Building Coverage: Buildings (including accessory structures) shall not cover more than fifty (50) percent of the lot area.
3. Maximum Building Height

Forty-five (45) feet. Buildings over forty-five (45) feet in height may be permitted by the Board of Supervisors as a Special Exception where building setback is increased five (5) feet for each additional foot over forty-five (45) feet plus such other conditions as the Board of Supervisors may impose.
4. Minimum Parking Setbacks
  - 1) Front: Sixty (60) feet; minimum requirement may be reduced to thirty (30) if parking is screened by a minimum 2.5 feet high berm, or screened by minimum 2.5 feet high evergreen hedge, or located behind the buildings or structures on the site.
  - 2) Side: Fifty (50) feet; minimum requirement may be reduced to twenty (20) if parking is screened by a minimum 2.5 feet high berm, or screened by minimum 2.5 feet high evergreen hedge, or located behind the buildings or structures on the site.
  - 3) Rear: Fifty (50) feet; minimum requirement may be reduced to twenty (20) if parking is screened by a minimum 2.5 feet high berm, or screened by minimum 2.5 feet high evergreen hedge, or located behind the buildings or structures on the site.

**Sec. 2-7-8 Use Limitations**

1. All outdoor storage areas, loading areas, refuse handling areas and facilities, and similar activities, shall be screened from public roads and residential areas by dense vegetative buffers and/or solid fencing.
2. A minimum of 10% of the lot area shall be landscaped with vegetative ground cover, trees, shrubs and other vegetation.
3. Indoor/Outdoor Operations

All manufacturing operations must take place within a completely enclosed building, unless permission for outside operations is specifically granted by the Board of Supervisors as a Special Exception Use.

4. Industrial traffic generated by any use in this district shall not be permitted to use existing residential neighborhood streets for general access to and from the industrial use.

## **DIVISION 8 PLANNED DEVELOPMENT DISTRICT (PD-1)**

### **Sec. 2-8-1 Purpose**

The purpose of this district is to promote the efficient use of land by allowing a wide range of land uses at various densities and allowing the flexible application of development controls, while protecting surrounding property, natural and cultural resources, and the scenic beauty of the land.

The PD-1 district is intended to allow greater flexibility than is generally possible under conventional zoning district regulations by encouraging ingenuity, imagination and high-quality design. Incorporation of significant areas of open space is a primary component of this district. The PD-1 district is particularly appropriate for parcels which contain a number of constraints to conventional development. In addition to an improved quality design, the PD-1 district creates an opportunity to reflect changes in the technology of land development, provide opportunities for new approaches to home ownership, and provide for an efficient use of land which can result in reduced development costs.

The Planned Development shall be a visual asset to the community. The appropriate siting of buildings, controlled access points, attractive and harmonious architecture, and effective landscape buffering shall be characteristics of these planned communities. The PD-1 district should have a variety of uses. Development within the PD-1 district shall promote:

1. Compact development with defined edges
2. Human scale buildings and streets
3. A mix of uses, including residential, commercial, civic, and open space uses
4. A mix of housing styles, types, and sizes to accommodate households of all ages, sizes and incomes
5. A system of interconnected streets with sidewalks for the connection of those streets to existing and future developments
6. Preservation and adaptive use of existing buildings with historical significance or architectural features that enhance the visual character of the community
7. Preservation of significant environmental features and incorporation of such features into the design of new neighborhoods
8. Design and development consistent with the County's Comprehensive Plan

### **Sec. 2-8-2 Permitted Uses**

Permitted uses shall be those listed or those similar to those listed in the Nottoway County Zoning Ordinance.

### **Sec. 2-8-3 Site Development Regulations**

Each planned development shall be subject to the following site development standards.

1. Acreage requirement. Minimum acreage required to create a planned development district shall be 25 acres of contiguous land.
2. Lot sizes, lot frontage and density. Minimum lot sizes for allowable uses, minimum lot frontage requirements, and residential densities shall be established during review and approval of the preliminary master plan.
3. Lot coverage. Maximum lot coverage shall be established during the review and approval of the preliminary master plan but in no case shall exceed 75%.
4. Building setbacks and spacing.
  - 1) Minimum front setbacks: All structures proposed to front on existing public streets external to the PD-1 shall be located a minimum of 30 feet from the front property line.
  - 2) Minimum setbacks and spacing requirements shall be specifically established during the review and approval of the preliminary master plan. The following guidelines shall be used in establishing the building spacing and setbacks:
    1. Building spacing shall provide privacy within each dwelling unit;
    2. Building spacing shall ensure that each room has adequate light and air;
    3. Areas between buildings used as service yards, storage of trash, or other utilitarian purposes should be designed so as to be compatible with adjoining dwellings;
    4. Building spacing and design shall provide privacy for outdoor activity areas (patios, decks, etc.) associated with individual dwelling units.
  - 3) Height of buildings/structures. The height of buildings and structures shall be established during the review and approval of the preliminary master plan. Buildings and structures over 45 feet in height will need to be justified in order to receive approval.
  - 4) Architectural standards. A variety of architectural features and building materials should be utilized to provide the development with a unique character, while maintaining compatibility with surrounding area's architecture. Architectural renderings shall be submitted with all phases of the development. The renderings should include the features, materials, and the articulation of the façade of a building for all sides visible from a public right-of-way.

- 5) Streets. Streets in the PD-1 district shall be built in accordance with VDOT standards. In reviewing the preliminary master plan, the Planning Commission may recommend, and the Board of Supervisors may approve, one or more private streets within the proposed district. Private street standards, specifications and a proposed maintenance agreement shall be submitted with the preliminary master plan.

Alleyways shall have a minimum 20-foot right-of-way. Dead-end alleys are not permitted unless approved by the Board of Supervisors through a waiver approved at the time of rezoning, but in no circumstances shall an alley have a dead end length of over 100 feet. Dead-end alleys shall have hammerhead turnarounds.

- 6) Grid network. The transportation system in the PD-1 district shall be generally in the form of a grid of interconnected streets, alleys and paths, modified as necessary to accommodate topography and parcel shape.
  1. Proposed streets within the PD-1 district shall be extended to the boundary lines of the parcel being developed and terminated with stub outs to provide access to adjacent tracts not presently being subdivided or developed.
  2. Cul-de-sacs shall not exceed ten percent (10%) of the total length of streets in the PD-1 district or 500 feet in length. Alleys are exempt from this calculation.
- 7) Block size. Street layouts should provide for rectilinear or curvilinear blocks that are generally in the range of 200-400 feet deep by 300-600 feet long, measured along the interior edge of the street right-of-way, except where prohibited by natural grade.
- 8) Lot Access.
  1. All lots shall front on a public street or on a square or plaza.
  2. The use of rear alleys is encouraged; alleys shall serve only the rear or sides of lots or uses.
- 9) Entrances. In order to promote safe ingress and egress for the development, the minimum separation distance between entrances to the existing public right-of-way shall be 300 feet, except for single-family dwellings which shall front internal streets, squares or plazas. Additional access between adjoining lots such as frontage roads and shared parking areas are strongly encouraged. The principal entrance into the PD-1 district shall be sufficiently designed and landscaped to comply with the purposes of this district.

- 10) **Parking.** The applicant may propose a reduction to the number of parking spaces required by this Ordinance for each use type, if justified. This proposal will be reviewed with consideration given to potential future uses of the site, parking demand and expansion potential. The use of shared parking arrangements shall be encouraged. Parking should be located to the side or rear of the principal structures on the lot, wherever feasible. During review, consideration will be given to topographical constraints, innovative site design, buffering and landscaping factors. The use of on-street parking is also encouraged, provided that the design and placement of such spaces are approved by the Virginia Department of Transportation (VDOT). On-street as well as off-street parking spaces may be counted toward satisfying the use-based parking requirements contained within.
- 11) **Loading areas.** Loading areas shall be screened for public view and shall not be placed in front yards.
- 12) **Pedestrian facilities.** Pedestrian facilities (sidewalks, benches, pocket parks, trash receptacles, etc.) should be incorporated into all areas of the planned development.
- 13) **Lighting.** Street lighting shall be provided along all public streets. Floodlights or directional lights may be used to illuminate alleys, parking garages and working (maintenance) areas, but must be shielded or aimed in such a way that they do not shine into other lots, the street or direct light out of the PD-1 district.
- 14) **Open Space.** Minimum common open space and/or recreational areas should be 15 percent of the gross area of the PD-1 district. Common open space shall not include proposed street rights-of-way, open parking areas, driveways, or sites reserved for schools or places of religious assembly. Common open space and/or recreational areas shall be of an appropriate nature and location to serve the residents of the district.
- 15) **Landscaping/Buffer Yards.** Planned development districts shall be well landscaped and have a park-like atmosphere. The overall composition and location of landscaping shall complement the scale of the development and its surroundings. Street trees planted shall be native species.

Maintenance and replacement of landscaping and buffer yards shall be the responsibility of the property owner or property owners' association.

- 16) **Arrangement of areas:**
  1. The location and arrangement of structures, parking, access drives, outdoor lighting, signs and other uses and developments within the PD-1, in addition to achieving these development standards, shall be accomplished in accordance with an approved final master plan to assure compatibility with the existing and future land use in the vicinity.

2. Areas designed for future expansion or not intended for immediate improvement or development shall be specified as reserve areas on the preliminary master plan. The future use and the limitations on future use of such area shall be specified, or else such areas shall not be included as part of the PD-1 application. Reserve areas included in the PD-1 shall be landscaped or otherwise maintained in a neat and orderly manner.
- 17) Utilities. Planned development districts shall be served by public water and public sewer systems. If existing public water and public sewer facilities are not available to the property, then the applicant/developer shall provide assurances that such facilities acceptable to the County Health Department will be in place within a reasonable period of time not to exceed 24 months. Final subdivision plats and/or final site development plans will not be approved until water and sewer are guaranteed to be available Unless a waiver is granted by the Board of Supervisors at the time of rezoning, underground utilities (and associated pedestals, cabinets, junction boxes and transformers) including electric, cable TV, telephone and natural gas service shall be required and should be located to the rear of properties in alley rights-of-way or the rights-of-way of minor streets and not along the streetscape frontage.
  - 18) Fire Prevention Systems and Hydrants. The placement of fire hydrants or other fire prevention systems shall be reviewed by the local Fire Marshall to ensure compliance with the standards set forth by the National Fire Protection Association, or NFPA.
  - 19) Miscellaneous.
    1. Any outside storage area shall be fully screened so that no materials so stored are visible from the public right-of-way.
    2. Fences shall not be placed in front yards except as necessary for security purposes or on individual lots where decorative fencing, not to exceed 3' in height, is used as an architectural element to separate private yards from public sidewalks, squares or plazas. Fencing shall be uniform and well kept.

**Sec. 2-8-4 Relationship to Existing Development Regulations**

All zoning regulations shall apply to the development of the PD-1, unless modified in the approval of the final master plan.

**Sec. 2-8-5 Application Process**

Applicants may request a rezoning if the parcel is not currently designated a Planned Development zoning district by initiative and action of the Board of Supervisors. If an amendment to the zoning map is required, the applicant shall complete a rezoning application packet.

1. Prior to submitting a formal application for review and approval under these provisions, the applicant and county staff shall meet to discuss the requirements of this section. The purpose of the meeting is to obtain a mutual understanding of the application requirements and process. The applicant is encouraged to submit information on the scope and nature of the proposal to allow staff to become familiar with the proposal in advance of this meeting.
2. A preliminary master plan shall include all graphic and written information. All information submitted shall be of sufficient clarity and scale to clearly and accurately identify the location, nature, and the character of the proposed location. At a minimum this information shall include:
  - 1) A legal description and plat showing the site boundaries, and existing street lines, lot lines, and easements.
  - 2) Existing zoning, land use, and ownership of each parcel proposed for the district.
  - 3) A general statement of planning objectives to be achieved by the PD-1 district, including a description of the character of the proposed development, the existing and proposed ownership of the site, the market for which the development is oriented, and objectives towards any specific man-made and natural characteristics located on the site.
  - 4) A description and analysis of existing site conditions, including information on topography, archeological and historic resources, natural water courses, floodplains, unique natural features, tree cover areas, etc.
  - 5) A land use plan designating specific uses for the site, both residential and nonresidential uses, and establishing site development regulations, including setback, height, building coverage, lot coverage, and density requirements.
  - 6) A circulation plan and/or a Traffic Impact Statement may be required per Virginia Department of Transportation guidelines.
  - 7) A public services and utilities plan providing requirements for and provision of all utilities, sewers, and other facilities to serve the site.
  - 8) An open space plan, including areas proposed for passive and active recreational uses, natural and undisturbed areas, and proposed buffer areas proposed around the perimeter of the site. Information on the specific design and location of these areas and their ownership and maintenance should be included.
  - 9) Architectural renderings and community design guidelines should be submitted in sufficient detail to provide information on building designs, orientations, styles, lighting plans, etc.
  - 10) A development schedule indicating the location, extent and sequence of proposed development. Specific information on development of the open space, recreational areas, and nonresidential uses shall be included. Common community amenities shall be completed in sequence with residential and commercial areas.
3. The completed rezoning application and supporting preliminary master plan materials shall be submitted to the Planning Commission for review and analysis. The Planning Commission shall review this information and make a report of its findings to the Board of Supervisors. The Planning Commission shall as part of its review hold a public hearing pursuant to Section 15.2-2204 of the Code of Virginia, as amended.

4. The Planning Commission shall make a report of its findings to the Board of Supervisors within 90 days of the receipt of the materials, unless the applicant requests, or agrees to an extension of this time frame. The Planning Commission's report shall recommend approval, approval with modifications, or disapproval of the preliminary master plan. Failure of the Planning Commission to make a report of its findings to the Board of Supervisors within this period shall constitute a Planning Commission recommendation of approval.
5. If the Planning Commission recommends denial of the preliminary master plan, or approval with modification, the applicant shall, if requested, have 60 days to make any modifications. If the applicant desires to make any modifications to the preliminary master plan, the Board of Supervisor's review and action shall be delayed until such changes are made and submitted for review.
6. The Board of Supervisors shall review the preliminary master plan, and act to approve or deny the plan within 12 months from the date of application. Approval of the preliminary master plan shall constitute acceptance of the plan's provisions and concepts. The plan approved by the Board of Supervisors shall constitute the final master plan for the PD-1.

Once approved by the Board of Supervisors, the Zoning Administrator shall authorize the revisions to the official zoning map to indicate the establishment of the PD-1 district.

#### **Sec. 2-8-6 Revisions to Final Master Plan**

All revisions to the final master plan shall be reviewed by the Planning Commission. The Planning Commission shall determine if the revisions to the final master plan are major or minor. Major revisions shall be reviewed and approved following the procedures and requirements. Minor revisions shall be reviewed and approved by the Planning Commission. Major revisions include, but are not limited to changes such as:

1. Any increase in the density of the development;
2. Substantial change in circulation or access;
3. Substantial change in the mixture of dwelling unit types included in the project;
4. Substantial changes in grading or utility provisions;
5. Substantial changes in the mixture of land uses or an increase in lot coverage or the amount of land devoted to nonresidential purposes;
6. Reduction in the approved open space, landscaping or buffering;
7. Substantial change in architectural or site design features of the development;
8. Any other change that the Zoning Administrator finds is a major divergence from the approved final master plan.

### **Sec. 2-8-7 Approval of Preliminary and Final Site Development Plans**

1. Following the approval of the final master plan, the applicant or its authorized agent shall be required to submit preliminary and final site development plans for approval. Final site development plans for any phase or component of the PD-1 that involves the construction of structures or facilities, shall be approved prior to the issuance of a building and zoning permit, and the commencement of construction.
2. Subdivision review under the subdivision regulations will be carried out simultaneously with the review of a planned development under this section. The plans required under this section shall be submitted in a form which will satisfy the requirements of the subdivision regulations.
3. Preliminary and final site development plans submitted for review shall be in compliance with the final master plan approved by the Board of Supervisors. Nottoway County shall review and approve or disapprove any final site development plan within 45 days of the monthly filing deadline.
4. No Planned Development shall be approved and no work shall be authorized on construction until all property included in the final master plan is in common ownership.

### **Sec. 2-8-8 Failure to Begin Development**

Failure of the applicant to submit a preliminary site development plan for at least one portion of the planned development within 18 months of the approval of the final master plan, shall constitute an application on the part of applicant to rezone the PD-1 to the district designations in effect prior to the approval of the final master plan.

### **Sec. 2-8-9 Control Following Approval of Final Development Plans**

The Zoning Administrator shall periodically inspect the site and review all building permits issued for the development to ensure that the development schedule is generally complied with. The provision and construction of all of the common open space and public and recreational facilities shown on the final development plan must proceed at the same rate as the construction of dwelling units. If the Zoning Administrator finds that the development schedule has not been followed, no permits, except for the above-mentioned facilities, shall be issued until the developer complies with the development schedule, unless the developer has provided a performance bond or similar instrument to guarantee that such common open space and/or public and recreational facilities will be provided for at a specific date.

## **ARTICLE 3. OVERLAY DISTRICT REGULATIONS**

### **DIVISION 1 FLOODPLAIN OVERLAY DISTRICT (FPOD)**

#### **GENERAL PROVISIONS**

##### **Sec. 3-1-1 Purpose**

Va. Code § 15.2-2283 specifies that zoning ordinances shall be for the general purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of § 15.2-2200 which encourages localities to improve the public health, safety, convenience, and welfare of their citizens. To these ends, flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood.

In accordance with these directed provisions, this ordinance is specifically adopted pursuant to the authority granted to localities by Va. Code § 15.2 - 2280.

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

1. Regulating uses, activities, and development which, alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities, and frequencies;
2. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;
3. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and,
4. Protecting individuals from <sup>buying</sup> land and structures which are unsuited for intended purposes because of flood hazards.

**Sec. 3-1-2            Applicability**

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Nottoway County and identified as areas of special flood hazard shown on the Flood Insurance Rate Map (FIRM) or included in the Flood Insurance Study (FIS) that are provided to the Nottoway County by Federal Emergency Management Agency (FEMA).

**Sec. 3-1-3            Compliance and Liability**

1. No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provisions of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.
2. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that districts outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages.
3. This ordinance shall not create liability on the part of Nottoway County or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**Sec. 3-1-4            Records**

Records of actions associated with administering this ordinance shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

**Sec. 3-1-5            Abrogation and Greater Restrictions**

To the extent that the provisions are more restrictive, this ordinance supersedes any ordinance currently in effect in flood-prone districts. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.

**Sec. 3-1-6            Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining

portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

**Sec. 3-1-7            Penalty for Violations**

Any person who fails to comply with any of the requirements or provisions of this article or directions of the director of planning or any authorized employee of the Nottoway County shall be guilty of the appropriate violation and subject to the penalties thereof.

The Virginia Uniform Statewide Building Code (VA USBC) addresses building code violations and the associated penalties in Section 104 and Section 115. Violations and associated penalties of the Zoning Ordinance of Nottoway County are addressed in §5.2.2 of the Zoning Ordinance.

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

**ADMINISTRATION**

**Sec. 3-1-8            Designation of the Floodplain Administrator**

The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:

1. Do the work themselves. In the absence of a designated Floodplain Administrator, the duties are conducted by the Nottoway County chief executive officer.
2. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
3. Enter into a written agreement or written contract with another community or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations (CFR) at 44 C.F.R. Section 59.22.

**Sec. 3-1-9            Duties and Responsibilities of the Floodplain Administrator**

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

1. Review applications for permits to determine whether proposed activities will be located in the Special Flood Hazard Area (SFHA).
2. Interpret floodplain boundaries and provide available Base Flood Elevation (BFE) and flood hazard information.
3. Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.
4. Review applications to determine whether all necessary permits have been obtained from the Federal, State, or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free-flowing non-tidal waters of the State.
5. Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (DCR - Division of Dam Safety and Floodplain Management), and other appropriate agencies (e.g. Virginia Department of Environmental Quality (VADEQ); United State Army Corps of Engineers (USACE), and have submitted copies of such notifications to FEMA.
6. Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met, or disapprove applications if the provisions of these regulations have not been met.
7. Inspect or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if non-compliance has occurred or violations have been committed.
8. Review Elevation Certificates and require incomplete or deficient certificates to be corrected.
9. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the Nottoway County, within six months after such data and information becomes available if the analyses indicate changes in BFEs.
10. Maintain and permanently keep records that are necessary for the administration of these regulations, including:
  - 1) FIS, FIRM (including historic studies and maps and current effective studies and maps), and Letters of Map Change (LOMC); and

- 2) Documentation supporting issuance and denial of permits, Elevation Certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, inspection records, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.
11. Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop work orders, and require permit holders to take corrective action.
  12. Advise the Board of Zoning Appeals regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.
  13. Administer the requirements related to proposed work on existing buildings:
    - 1) Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
    - 2) Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
  14. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.
  15. Notify FEMA when the corporate boundaries of the Nottoway County have been modified and:
    - 1) Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and
    - 2) If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR (Division of Dam Safety and Floodplain Management) and FEMA.

16. Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the Special Flood Hazard Area (SFHA), number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.
17. It is the duty of the Community Floodplain Administrator to take into account flood, mudslide and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of the Community, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

### **Sec. 3-1-10 Use and Interpretation of Firms**

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

1. Where field surveyed topography indicates that adjacent ground elevations:
  - 1) Are below the BFE in riverine SFHAs even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as special flood hazard area and subject to the requirements of these regulations;
  - 2) Are above the BFE and the area is labelled as a SFHA on the FIRM, the area shall be regulated as special flood hazard area unless the applicant obtains a LOMC that removes the area from the SFHA.
2. In FEMA-identified special flood hazard areas where BFE and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a Federal, State, or other source shall be reviewed and reasonably used.
3. BFEs and designated floodway boundaries on FIRMs and in FISs shall take precedence over BFEs and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower BFEs.
4. Other sources of data shall be reasonably used if such sources show increased BFEs and/or larger floodway areas than are shown on FIRMs and in FISs.
5. If a Preliminary FIRM and/or a Preliminary FIS has been provided by FEMA:
  - 1) Upon the issuance of a Letter of Final Determination (LOFD) by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

- 2) Prior to the issuance of a LOFD by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to §3.1.16.(3)(a) and used where no BFEs and/or floodway areas are provided on the effective FIRM.
- 3) Prior to issuance of a LOFD by FEMA, the use of preliminary flood hazard data is permitted where the preliminary BFEs or floodway areas exceed the BFEs and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

### **Sec. 3-1-11 Jurisdictional Boundary Changes**

The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the National Flood Insurance Program. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards. If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, the governing body shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to DCR (Division of Dam Safety and Floodplain Management) and FEMA.

In accordance with the CFR, Title 44 Subpart (B) Section 59.22(a)(9)(v) all NFIP participating communities must notify the Federal Insurance Administration (FIA) and optionally the State Coordinating Office in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

In order that all FIRMs accurately represent the community's boundaries, a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority must be included with the notification.

### **Sec. 3-1-12 District Boundary Changes**

The delineation of any of the Floodplain Districts may be revised by the Nottoway County where natural or man-made changes have occurred and/or where more detailed studies have been conducted or undertaken by the USACE or other qualified agency, or an individual documents the need for such change. However, prior to any such change, approval must be obtained from the FEMA. A completed Letter of Map Revision (LOMR) is a record of this approval.

**Sec. 3-1-13 Interpretation of District Boundaries**

Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Floodplain Administrator. Should a dispute arise concerning the boundaries of any of the Districts, the Board of Zoning Appeals (BZA) shall make the necessary determination. The person questioning or contesting the location of the District boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

**Sec. 3-1-14 Submitting Model Backed Technical Data**

A community’s BFEs may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify FEMA of the changes by submitting technical or scientific data. The community may submit data via a letter of map revision (LOMR). Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

**Sec. 3-1-15 Letters of Map Revision**

When development in the floodplain will cause or causes a change in the BFE, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then a LOMR.

Example cases:

- Any development that causes a rise in the BFEs within the floodway.
- Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one foot in the BFE.
- Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

**ESTABLISHMENT OF ZONING DISTRICTS**

**Sec. 3-1-16 Description Of Special Flood Hazard Districts**

1. Basis of Districts

The various special flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Nottoway County prepared by FEMA, FIA, dated May 3, 2022, and any subsequent revisions or amendments thereto.

Nottoway County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a “Local Flood Hazard

Map” using best available topographic data and locally derived information such as flood of record, historic high-water marks, or approximate study methodologies.

The boundaries of the SFHA Districts are established as shown on the FIRM which is declared to be a part of this ordinance and which shall be kept on file at the Nottoway County offices.

- 1) The **Floodway District** is in an **AE Zone** and is delineated, for purposes of this ordinance, using the criterion that certain areas within the floodplain must be capable of carrying the waters of the one percent annual chance flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in this District are specifically defined in Table 2 of the above-referenced FIS and shown on the accompanying FIRM.

The following provisions shall apply within the Floodway District of an AE zone [44 CFR 60.3(d)]:

1. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently-accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies – with the Nottoway County’s endorsement – for a CLOMR, and receives the approval of FEMA.

If §3.1.16(A)(1)(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §3.1.23.

2. The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured home (mobile home) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring, elevation, and encroachment standards are met.
- 2) The **AE, or AH Zones** on the FIRM accompanying the FIS shall be those areas for which one-percent annual chance flood elevations have been provided and the floodway has **not** been delineated. The following provisions shall apply within an AE or AH zone [44 CFR 60.3(c)] where FEMA has provided BFEs:

Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as Zones A1-30, AE, or AH on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the Nottoway County.

Development activities in Zones A1-30, AE, or AH on the Nottoway County's FIRM which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the applicant first applies – with the Nottoway County's endorsement – for a CLOMR, and receives the approval of FEMA.

- 3) The **A Zone** on the FIRM accompanying the FIS shall be those areas for which no detailed flood profiles or elevations are provided, but the one percent annual chance floodplain boundary has been approximated. For these areas, the following provisions shall apply [44 CFR 60.3(b)]:

The Approximated Floodplain District shall be that floodplain area for which no detailed flood profiles or elevations are provided, but where a one percent annual chance floodplain boundary has been approximated. Such areas are shown as Zone A on the maps accompanying the FIS. For these areas, the BFEs and floodway information from Federal, State, and other acceptable sources shall be used, when available. Where the specific one percent annual chance flood elevation cannot be determined for this area using other sources of data, such as the U.S. Army Corps of Engineers (USACE) Floodplain Information Reports, U. S. Geological Survey (USGS) Flood-Prone Quadrangles, etc., then the applicant for the proposed use, development and/or activity shall determine this BFE. For development proposed in the approximate floodplain the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high water marks, or detailed methodologies hydrologic and hydraulic analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such BFE data is utilized, the lowest floor shall be elevated to or above the base flood level plus twelve (12) inches.

During the permitting process, the Floodplain Administrator shall obtain:

1. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and,

2. If the structure has been floodproofed in accordance with the requirements of this article, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

BFE data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser.

- 4) The **AO Zone** on the FIRM accompanying the FIS shall be those areas of shallow flooding identified as AO on the FIRM. For these areas, the following provisions shall apply:
  1. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.
  2. new construction and substantial improvements of non-residential structures shall
    - (a) Have the lowest floor, including basement, elevated to or above the flood depth specified on the FIRM, above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or,
    - (b) Together with attendant utility and sanitary facilities be completely floodproofed to the specified flood level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  3. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
  4. The Floodplain Administrator shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V and VE. The Floodplain Management Administrator shall maintain a record of all such information.
  5. All new construction shall be located landward of the reach of mean high tide.

6. All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this Section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - (a) Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
  - (b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.
7. The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access, or storage. Such space shall not be partitioned into multiple rooms, temperature-controlled, or used for human habitation.

### **Sec. 3-1-17      Overlay Concept**

The Floodplain Districts described above shall be overlays to the existing underlying districts as shown on the Official Zoning Ordinance Map, and as such, the provisions for the floodplain districts shall serve as a supplement to the underlying district provisions.

If there is any conflict between the provisions or requirements of the Floodplain Districts and those of any underlying district, the more restrictive provisions and/or those pertaining to the floodplain districts shall apply.

In the event any provision concerning a Floodplain District is declared inapplicable as a result of any legislative or administrative actions or judicial decision, the basic underlying provisions shall remain applicable.

## **DISTRICT PROVISIONS**

### **Sec. 3-1-18 Permit and Application Requirements**

#### 1. Permit Requirement

All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit. Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances, as amended, such as the Virginia Uniform Statewide Building Code (VA USBC) and the Nottoway County Subdivision Regulations. Prior to the issuance of any such permit, the Floodplain Administrator shall require all applications to include compliance with all applicable State and Federal laws and shall review all sites to assure they are reasonably safe from flooding. Under no circumstances shall any use, activity, and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

#### 2. Site Plans and Permit Applications

All applications for development within any floodplain district and all permits issued for the floodplain shall incorporate the following information:

- 1) The elevation of the Base Flood at the site.
- 2) For structures to be elevated, the elevation of the lowest floor (including basement) or, in V zones, the lowest horizontal structural member.
- 3) For structures to be floodproofed (non-residential only), the elevation to which the structure will be floodproofed.
- 4) Topographic information showing existing and proposed ground elevations.

### **Sec. 3-1-19 General Standards**

The following provisions shall apply to all permits:

1. New construction and substantial improvements shall be built according to this ordinance and the VAUSBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.
2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state anchoring requirements for resisting wind forces.
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

4. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
5. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

In addition to provisions A – H above, in all special flood hazard areas, the additional provisions shall apply:

9. Prior to any proposed alteration or relocation of any channels or of any watercourse, stream, etc., within this jurisdiction a permit shall be obtained from the USACOE, VADEQ, and the Virginia Marine Resources Commission (VMRC) (a joint permit application is available from any of these organizations). Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, DCR (Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.
10. The flood carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

### **Sec. 3-1-20 Elevation and Construction Standards**

In all identified flood hazard areas where BFEs have been provided in the FIS or generated by a certified professional in accordance with §3.1.16(A)(3)(a) the following provisions shall apply:

#### **1. Residential Construction**

New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed BFEs shall have the lowest floor, including basement, elevated to or above the base flood level plus twelve (12) inches.

## 2. Non-Residential Construction

- 1) New construction or substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated to or above the base flood level plus twelve (12) inches.
- 2) Non-residential buildings located in all A1-30, AE, and AH zones may be floodproofed in lieu of being elevated provided that all areas of the building components below the elevation corresponding to the BFE plus twelve (12) inches are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by Floodplain Administrator.

## 3. Space Below the Lowest Floor

In zones A, AE, AH, AO, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

- 1) Not be designed or used for human habitation, but shall be used solely for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator).
- 2) Be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- 3) Include measures to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria:
  1. Provide a minimum of two openings on different sides of each enclosed area subject to flooding.
  2. The total net area of all openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding.
  3. If a building has more than one enclosed area, each area must have openings to allow floodwaters to automatically enter and exit.

4. The bottom of all required openings shall be no higher than one (1) foot above the adjacent grade.
5. Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
6. Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.

#### 4. Accessory Structures

- 1) Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of §3.1.20(B) or, if not elevated or dry floodproofed, shall:
  1. Not be used for human habitation;
  2. Be limited to no more than 600 square feet in total floor area;
  3. Be useable only for parking of vehicles or limited storage;
  4. Be constructed with flood damage-resistant materials below the BFE;
  5. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;
  6. Be anchored to prevent flotation;
  7. Have electrical service and mechanical equipment elevated to or above the BFE;
  8. Shall be provided with flood openings which shall meet the following criteria:
    - (a) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.
    - (b) The total net area of all flood openings shall be at least 1 square inch for each square foot of enclosed area (non-engineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.

- (c) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.
- (d) Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

5. Standards for Manufactured Homes and Recreational Vehicles

In zones A, AE, AH, and AO, all manufactured homes placed, or substantially improved, on individual lots or parcels, must meet all the requirements for new construction, including the elevation and anchoring requirements in §3.1.19 and §3.1.20.

**Sec. 3-1-21 Standards for Subdivision Proposals**

- 1. Shall be consistent with the need to minimize flood damage;
- 2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and
- 4. BFE data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed fifty lots or five acres, whichever is the lesser. BFE.

**EXISTING STRUCTURES IN FLOODPLAIN AREAS**

**Sec. 3-1-22 Existing Structures in Floodplain Areas**

Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one of the following exceptions is established before the change is made:

- 1. The floodplain manager has determined that:
  - 1) Change is not a substantial repair or substantial improvement AND
  - 2) No new square footage is being built in the floodplain that is not complaint AND
  - 3) No new square footage is being built in the floodway AND
  - 4) The change complies with this ordinance and the VA USBC AND

2. The changes are required to comply with a citation for a health or safety violation.
3. The structure is a historic structure and the change required would impair the historic nature of the structure.

## VARIANCES

### **Sec. 3-1-23 Factors to be Considered**

Variations shall be issued only upon (i) a showing of good and sufficient cause, (ii) after the Board of Zoning Appeals has determined that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) after the Board of Zoning Appeals has determined that the granting of such variance will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variations may be issued by the Board of Zoning Appeals for new construction and substantial improvements to be erected below the base flood level, in conformance with the provisions of this Section.

Furthermore, variations may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this Section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

In passing upon applications for variations, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the zoning ordinance and consider the following additional factors:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development, or activity within any Floodway District that will cause any increase in the one percent (1%) chance flood elevation.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
5. The importance of the services provided by the proposed facility to the community.

6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
10. The safety of access by ordinary and emergency vehicles to the property in time of flood.
11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. The historic nature of a structure. Variances for repair or rehabilitation of historic structures may be granted upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
13. No variance shall be granted for an accessory structure exceeding 600 square feet.
14. Such other factors which are relevant to the purposes of this Ordinance.

The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for flood protection and other related matters.

Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief.

The Board of Zoning Appeals shall notify the applicant for a variance, in writing that the issuance of a variance to construct a structure below the one percent (1%) chance flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance.

A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

## GLOSSARY

### Sec. 3-1-24 Glossary

Appurtenant or accessory structure - A non-residential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures are not to exceed 600 square feet.

Base flood - The flood having a one percent chance of being equalled or exceeded in any given year.

BFE - The water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. For the purposes of this ordinance, the base flood is the 1% annual chance flood.

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

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

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

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

Encroachment - The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing construction - For the purposes of the insurance program, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures" and "pre-FIRM."

Flood or flooding -

1. A general or temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters; or,
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated

cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) - a report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

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

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

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

Functionally dependent use - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade - the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior; or,
  - b. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

Lowest adjacent grade - the lowest natural elevation of the ground surface next to the walls of a structure.

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

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

Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level – for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which BFEs shown on a community’s FIRM are referenced.

New construction - For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after August 28, 1981, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Post-FIRM structures - A structure for which construction or substantial improvement occurred on or after August 28, 1981.

Pre-FIRM structures - A structure for which construction or substantial improvement occurred before August 28, 1981.

Primary frontal dune - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms.

Recreational vehicle - A vehicle which is:

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

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

Severe repetitive loss structure - a structure that: (a) Is covered under a contract for flood insurance made available under the NFIP; and (b) Has incurred flood related damage - (i) For which 4 or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding \$5,000, and with the cumulative amount of such claims payments exceeding \$20,000; or (ii) For which at least 2 separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

Shallow flooding area - A special flood hazard area with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Special flood hazard area - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year as determined in Article 3, Section 3.1 of this ordinance.

Start of construction - For other than new construction and substantial improvement, under the Coastal Barriers Resource Act (P.L. – 97-348), means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of the construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

Substantial improvement - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.
3. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined above, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

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

Watercourse - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

## **DIVISION 2 HISTORIC OVERLAY DISTRICT (HOD)**

### **Sec. 3-2-1 Purpose**

Historic Districts are designed to protect historic landmarks, areas and buildings or structures having an important historical, architectural or cultural interest.

### **Sec. 3-2-2 Designation**

Historic Districts shall be designated by the Board of Supervisors around and including the site of the specified landmark, building or structure, and shall be overlays to the Official Zoning Maps.

### **Sec. 3-2-3 Design**

No building or structure, including signs, shall be erected, reconstructed, altered or restored within any such historic district unless the same is approved by the Architectural Review Board or, on appeal, by the Board of such county or municipality as being architecturally compatible with the historic landmarks, buildings or structures therein.

### **Sec. 3-2-4 Demolition**

No historic landmark, building or structure within any such historic district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the Architectural Review Board, or, on appeal, by the Board after consultation with such Architectural Review Board.

### **Sec. 3-2-5 Architectural Review Board (ARB)**

There is hereby established an Architectural Review Board (ARB) which shall have the power to administer this article of the Zoning Ordinance. The Board shall consist of not less than three, nor more than five, members each of whom shall be appointed by the Board of Supervisors to serve a period of one year. At least one member of the ARB shall be a registered Architect and/or have educational credentials in historic preservation or architectural history. Members shall be eligible to serve successive terms.

Within ninety days of formation, the ARB shall adopt by-laws by majority vote of a quorum of the members present. The ARB may from time-to-time update and amend the by-laws.

### **Sec. 3-2-6 Permits and Appeals**

The owner of any such landmark, building or structure, and the owner of any real property who petitions the Architectural Review Board pursuant to Section .3 or .4 herein shall have the right to appeal an adverse decision of the Board of Supervisors to the Circuit Court for Nottoway County, by filing a petition with such Court setting forth the alleged illegality of the Board's actions within thirty (30) days after a final decision is rendered by the Board. The filing of the petition shall stay the decision of the Board pending the outcome of such

appeal to the Court, except that such filing shall not stay any decision of the Board denying the right to raze or demolish a historic landmark, building or structure.

**Sec. 3-2-7 Sale to the County**

In addition to the right of appeal provided herein, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions hereof, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that

1. He has applied to the Board for such right
2. The owner has for the period of time set forth in the schedule provided by this district and at a price reasonably related to its fair market value, made a bona fide offer to sell such landmark, building or structure, and the land pertaining thereto, to such county or municipality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto
3. That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained.

Any appeal which may be taken to the court from the decision of the Board, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the Board, but thereafter the owner may renew his request to the Board to approve the razing or demolition of the historic landmark, building or structure.

The time schedule for offers to sell shall be as follows:

- 1) four months when the offering price is less than \$100,000
- 2) six months when the offering price is \$100,000 or more, but not more than \$200,000
- 3) eight months when the offering price is more than \$200,000

The property values provided for herein represent the value of a dollar at the time of adoption of this Ordinance (July 22, 2005) and shall henceforth be updated annually from the date of adoption to reflect the current value of a dollar based upon the Consumer Price Index.

## **DIVISION 3 AIRPORT SAFETY OVERLAY DISTRICT (ASOD)**

### **Sec. 3-3-1 Purpose; Reference**

An ordinance regulating and restricting the height of structures and objects and natural growth, and otherwise incidentally regulating the use of property in the vicinity of the airports in Nottoway County by creating the appropriate zones and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used; providing enforcement; and imposing penalties can be found in Chapter 35, beginning on page 3501, of the Nottoway County Code.

## **ARTICLE 4. SUPPLEMENTAL REGULATIONS**

### **DIVISION 1 ACCESSORY USES AND PARCEL LIMITATIONS**

#### **Sec. 4-1-1 Accessory Uses Are Subordinate**

Accessory uses and structures are permitted in connection with, and incidental and subordinate to a permitted principal use or structure and in compliance with all other provisions of this Ordinance.

#### **Sec. 4-1-2 Residential Accessory Uses (for A-1, C-1, RR, UR)**

Residential accessory uses and structures shall be limited to the following and to any other use or structure the Zoning Administrator determines to be equivalent in scope, size and impact as those listed below, and are in compliance with all other provisions of this Ordinance:

Deck, Clothesline, Fence or wall, Air conditioning unit, Parking for motor vehicles as provided for in Article 4, Patio, porch, gazebo, Pet houses and pens, Recreational equipment and playhouses, Private garage, carport, Private greenhouse, Private swimming pool, Private tennis court or outdoor recreational court, Storage shed for personal, noncommercial use, and clearly subordinate to principal structure, Accessory dwellings

#### **Sec. 4-1-3 Commercial Accessory Uses**

Commercial and industrial accessory uses and structures shall be limited to the following and to any other use or structure the Zoning Administrator determines to be equivalent in scope, size and impact as those listed below, and are in compliance with all other provisions of this Ordinance:

Dumpsters and dumpster pads, Emergency power generators, Fence or wall, Air conditioning unit, Parking uses and structures, Recycling facilities, Storage sheds, clearly subordinate to principal structure, Storm water management facilities, BMP facilities, Utility substation, Sculpture, fountain, etc., clearly subordinate to principal structure.

#### **Sec. 4-1-4 Use Limitations for Accessory Uses and Structures**

1. Accessory structures shall be located on the same lot as the principal use or structure
2. Accessory structures shall be included in the calculations for height, bulk and coverage as required by this Ordinance
3. No accessory use or structure shall create a nuisance or hazard
4. No accessory use or structure shall be used as a dwelling or for lodging purposes, except for living quarters for guards or custodians
5. Home occupation and home business uses shall comply with the provisions of Article 4

6. Except in the case of home occupations conducted within an accessory dwelling, accessory uses and structures shall be operated and maintained under the same ownership as the principal use
7. No accessory uses or structures shall be established until the principal use or structure is established
8. Accessory Structures shall be subject to the building requirements for the zoning district in which they are located.

**Sec. 4-1-5 Parcel Limitations**

1. Number of Dwelling Units per Parcel

Except for the provisions for accessory dwelling units provided herein, and for multi-family or condominium dwellings as provided herein, no greater than one dwelling unit shall be permitted per parcel for single-family residential uses.

2. Permitted Structures in Required Yards

- 1) Except as provided herein, any physical element that is attached to a principal structure must meet the minimum setback standards of the district.

The following structures shall be permitted to encroach into any yard, including front yards, provided applicable sight distance and fire safety requirements are met and maintained, and provided the following requirements are met:

Fences, provided that no fence in a front yard of a residential district shall exceed four feet in height;  
Ground level terraces and patios;  
Flag poles;  
Recreational equipment, as defined herein, provided that such equipment does not reduce the width of the yard to less than three feet

- 2) For any yard, except front yards, the following structures shall be permitted, provided applicable sight distance and fire safety requirements are met and maintained:

Clotheslines;  
Fences shall not exceed eight feet in height in residential areas;  
Balconies shall not project into a required yard;  
Air conditioners shall not be closer than (ten) 10 feet to any lot line;  
Decks exceeding thirty inches in height provided that they are no closer than twenty feet to a property line;

3) The following structures shall not be permitted to encroach or project into any required yard:

1. Covered entry porches, enclosed or unenclosed
2. Architectural features, chimneys, or the like

3. Interparcel Connections

In every district, major subdivisions and site plans shall be laid out so as to provide for vehicular interparcel connections with surrounding properties, in a location and design consistent with this Ordinance and the Comprehensive Plan, provided that the Zoning Administrator determines that such connections will not promote inappropriate cut-through traffic inconsistent with the design and function of the roadway and adjacent land uses in the district. In business and industrial districts access to adjoining lots within the district must be provided, either by public roadways or private access easements, so as to ensure long-term interparcel access.

4. Visibility at Intersections

- 1) For protection against traffic hazards, no sign, fence, wall, hedge, planting or other obstruction to vision extending to a height in excess of two (2) feet above the established street grade shall be erected, planted or maintained within the area of a corner lot that is included between the lines of the intersecting streets (pavement) and a straight line connecting them at points a distance of twenty (20) feet from the intersection of the street (pavement) lines.
- 2) Exceptions to the above requirements may be permitted by the Zoning Administrator when terrain features present substantial obstacles to provision and maintenance of such visibility triangles, or in which the design of the street is such as to produce vehicle speeds of less than twenty (20) miles per hour, but in any such cases, the minimum clearance required shall be the maximum which is reasonably practicable to provide and maintain, in the sole determination of the Zoning Administrator.

## **DIVISION 2    AUTOMOBILE GRAVEYARDS AND JUNKYARDS**

### **Sec. 4-2-1    Nonconforming Status**

Automobile graveyards and junkyards that legally exist at the time of the adoption of this section are to be considered as nonconforming uses. They shall be allowed up to twelve (12) months after date of amendment adoption in which to completely screen the operation in accordance with the requirements for screening contained herein.

### **Sec. 4-2-2    Standards**

1. In considering a Special Exception Permit for such uses, the Board may set additional standards, including but not limited to the following elements:
  - 1) Surface materials and design of access roads, on-site roads, parking and other vehicle facilities.
  - 2) Control of dust, odor and pests
  - 3) Noise generated by the operation
  - 4) Hours of operation
2. Screening of the site shall be sufficient to ensure a minimal visual impact on adjacent uses, and the Board shall impose conditions sufficient to provide such assurance, which may include, but not be limited to, fencing, berming, preservation of existing vegetation, additional vegetation, entrance design and location, and the design, bulk and height of structures.
3. No structure, storage area or other part of the operation shall be located closer than 300 feet to any existing dwelling or adjacent lot line.
4. Such uses shall have direct access to a state-maintained road, adequate in capacity to serve the traffic generated by the operation.
5. No on-site disposal of fuel, chemicals or hazardous materials is permitted. Any such materials shall be disposed of at a site permitted to receive such materials.

### **DIVISION 3    BED & BREAKFAST INNS AND RURAL LODGING**

The following establishments are permitted subject to all applicable district regulations of this Ordinance and the issuance of a zoning permit.

#### **Sec. 4-3-1    Bed and Breakfast Inn**

1. The owner of the premises shall reside in and manage the establishment
2. The establishment shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
3. Up to five guest rooms may be provided for paying guests.
4. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in Article 4.

#### **Sec. 4-3-2    Country Inn**

1. The owner or manager shall provide full-time management of the establishment at all times when the facility is occupied by one or more guests.
2. The establishment may contain full-service restaurant facilities that provide meal service to guests and to the general public.
3. Up to thirty guest rooms may be provided for paying guests.
4. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in Article 4.
5. The establishment shall have safe access from a public road.

#### **Sec. 4-3-3    Rural Resort**

1. The establishment shall be located on parcels no less than 25 acres, of which no less than 70% of the site shall remain in natural or common open space, or passive park uses.
2. The establishment may contain full-service restaurant facilities that provide meal service to guests and to the general public.
3. More than thirty guest rooms may be provided for paying guests.
4. All new buildings, active recreational areas, parking and lighted areas shall be set back a minimum of two hundred (200) feet from adjacent properties and all lights shall be screened from adjacent properties using full cut-off fixtures.
5. The establishment shall be located on a public road, and the site shall have safe access from the public road.

#### **DIVISION 4    CONDOMINIUM CONVERSION**

In all zoning districts, a structure or use may convert to condominium ownership only if all requirements of this Zoning Ordinance, the subdivision ordinance, the Comprehensive Plan, and all other applicable ordinances can be met. There shall be no vested right to convert to condominium ownership without such conformance; however, conversion may be allowed without such conformance with a Special Exception Permit.

## **DIVISION 5 HOME OCCUPATION AND HOME BUSINESSES**

Home Occupations and Rural Home Businesses, as defined in Article 6, are permitted in certain districts as provided herein, subject to the following requirements.

### **Sec. 4-5-1 Home Occupation**

1. Members of the family residing on the premises are permitted to be engaged in such home business.
2. For activities meeting the definition of Home Business, in addition to family members residing on the premises, up to two (2) nonresident, non-family employees (equivalent to two full-time workers at 40 hours per week) shall be permitted to work on the premises, subject to one additional off-street parking space being provided for each such employee. Such parking space(s) shall not be located in the required front yard, unless located on an existing driveway, and shall not result in any reduction or degradation of the normal minimum required parking for residential dwellings as required herein.
3. The use of the dwelling or accessory building for the home business shall be clearly incidental and subordinate to the use of the dwelling for residential purposes. The area used for the business shall not exceed an amount equal to twenty-five (25) percent of the gross floor area of the dwelling unit.
4. No change shall be made to the outside appearance of the dwelling or lot, or other visible evidence of the conduct of the home business, other than one sign, in accord with the sign regulations in Article 4 of this Ordinance.
5. No traffic shall be generated by such home business in greater volumes than would normally be expected from a residential use (10 vehicle trips per day per dwelling). Any need for parking generated by the conduct of the home occupation or business shall be met by off-street parking other than in a required front yard unless located on an existing driveway.
6. No on-site retail sales, other than of items hand-crafted on the premises, or personal services that generate traffic to the site in excess of what would normally be expected from a residential use shall be permitted.
7. No equipment or process used in such home occupation or business shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses or use of radio, TV or telephone equipment off the lot or in adjacent dwelling units.

#### **Sec. 4-5-2 Home Business**

1. The use of a portion of the residence or the use of an accessory structure for the home business shall be clearly incidental and subordinate to that of the residential dwelling used by the family.
2. There shall be no visible evidence of the home business, except an identification sign not to exceed two square feet in Residential Districts. All business activity shall be held inside the portion of the residence designated, or in the accessory building. Any outside storage associated with the home business shall be contained in a storage yard that is completely screened from the view of adjacent properties and the public right-of-way.
3. There shall be no on-site sales to visiting customers, other than items hand-crafted on the premises.
4. No traffic shall be generated that exceeds normal volumes expected for the district. All parking generated by the home business shall be at the side or rear of the accessory structure. No operation of the business shall create noise, vibrations, glare, fumes or odors that are detectable to normal senses off the premises. Nor shall there be any electrical interference that creates visual or audible interference to electronic devices off the premises.

#### **Sec. 4-5-3 Rural Home Business**

1. A rural home business shall not be permitted on lots of less than five (5) acres in the A-1 and C-1 districts only.
2. Members of the family residing on the premises are permitted to be engaged in such rural home business.
3. For lots of five (5) acres or greater in area, and for activities meeting the definition of Rural Home Business, in addition to family members residing on the premises, up to three (3) nonresident, non-family employees (equivalent to three full-time workers at 40 hours per week) shall be permitted to work on the premises.
4. For lots of twenty-five (25) acres or greater in area, and for activities meeting the definition of Rural Home Business, in addition to family members residing on the premises, up to five (5) nonresident, non-family employees (equivalent to five full-time workers at 40 hours per week) shall be permitted to work on the premises.
5. In addition to the dwelling, accessory buildings may be used for the rural home business, but the rural home business shall be clearly incidental and subordinate to the use of the property for residential and/or agricultural purposes. The area of enclosed space in accessory buildings used for the business shall not exceed twice the amount used for residential purposes in the dwelling unit.

6. No change shall be made to the outside appearance of the dwelling or lot, or other visible evidence of the conduct of the rural home business, other than one sign, in accord with the sign regulations in Article 4 of this Ordinance.
7. No traffic shall be generated by such rural home business in greater volumes than would normally be expected from a residential or agricultural use (10 vehicle trips per day per dwelling, plus farm-related traffic).
8. No on-site retail sales, other than of items hand-crafted on the premises, or personal services that generate traffic to the site in excess of what would normally be expected from a residential or agricultural use shall be permitted.
9. No equipment or process used in such home occupation or business shall create noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses or use of radio, TV or telephone equipment off the lot or in adjacent dwelling units.
10. Three (3) pieces of heavy equipment are permitted for the rural home business, plus one additional piece of such equipment per non-family employee, but a total of no more than eight (8) pieces of such equipment are permitted in any case. Any such equipment must be fully screened from adjacent properties by fencing or vegetation or be kept in an enclosed structure.
11. Outdoor storage areas shall not cover a greater area than the floor plate of the accessory buildings used for the business, and such storage areas shall be visually screened from view of the public right-of-way and from neighboring properties through the use of fencing, natural topography and/or vegetation.

## **DIVISION 6 INTENSIVE AGRICULTURE**

### **Sec. 4-6-1 Minimum Setback of Intensive Swine Structures**

1. Front: Five hundred (500) feet (from the front lot line)
2. Side: Eight hundred (800) feet (from the side lot line)
3. Rear: Eight hundred (800) feet (from the rear lot line)
4. Setback from existing residences (except those of the landowner and immediate family) and residential districts, churches, or other occupied structures: 1,500 feet
5. No intensive livestock facilities or structures shall be located within the floodplain as defined herein.
6. From an existing river or perennial stream: 300 feet, which may be reduced to 100 feet if a planted grass filter strip at least 50 feet in width is maintained.

### **Sec. 4-6-2 Minimum Setback of Other Intensive Livestock Operation Structures**

1. Front: Five hundred (500) feet (from the front lot line / primary road)  
Two hundred fifty (250) feet (from the front lot line / secondary road)
2. Side: Two hundred fifty (250) feet (from the side lot line)
3. Rear: Two hundred fifty (250) feet (from the rear lot line)
4. Setback from existing residences (except those of the landowner and immediate family) and residential districts, churches, or other occupied structures: 1,000 feet
5. From an existing river or perennial stream: 300 feet, which may be reduced to 100 feet if a planted grass filter strip at least 50 feet in width is maintained.
6. No intensive livestock facilities or structures shall be located within the floodplain as defined herein.

### **Sec. 4-6-3 Setback Waiver Agreement**

Setbacks specified previously may be reduced to a minimum of 200 feet by mutual consent of the Intensive Livestock Operator and the affected adjacent landowners. Consent shall be evidenced by a written agreement, in the form of a 25-year deed restriction, granted by the adjacent landowners to the current or future owner of the Intensive Livestock Operation, that grants that owner the right to operate an intensive livestock facility in accord with all applicable laws, without disruption or interference of the neighboring landowner, including the following components:

1. Statement of understanding and agreement of the adjacent property owner that the intensive livestock operation may be established and continue indefinitely, by the current or subsequent owner, in the proposed or existing location and scale
2. Referencing both parcels by deed book reference
3. Signed by all adjacent property owners affected by the setback provision
4. Notarized
5. Recorded in the Office of the Clerk of the Circuit Court, with a copy provided to the Zoning Administrator at the time of recordation and prior to application permit.

## **Sec. 4-6-4 Required Plans and Permits**

### **1. Zoning Permit Required**

All proposed intensive agricultural facilities require approval and issuance of a zoning permit by the Zoning Administrator before any construction is begun. To obtain an approval of the Zoning Administrator, a site development plan, a nutrient management plan and a sedimentation and erosion control plan must be submitted to the Zoning Administrator. Approval and issuance of a zoning permit by the Zoning Administrator must be obtained regardless of whether or not a building permit is needed for said construction.

### **2. Site Development Plan Required**

Subsequent to, or in conjunction with submission of the nutrient management plan as provided herein, and prior to receiving a zoning permit, an applicant (operator or potential operator) shall submit to the Zoning Administrator a site development plan.

The site development plan shall be drawn upon a plat prepared and signed by a land surveyor licensed by the Commonwealth of Virginia certifying that the proposed intensive agriculture facility meets all applicable setback requirements of this chapter. The site plan shall also show:

- 1) The location of the following:
  1. Existing and proposed buildings and structures on the subject parcel or parcels
  2. The size and location of the parcel or parcels and the size and location of proposed buildings and structures.
  3. Proposed entrances and access roads.
  4. Existing streams, rivers and sinkholes on the parcel.
- 2) The approval signature by an official representative of the Virginia Department of Transportation.

With this plan, the owner shall submit a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the Zoning Administrator that the intensive facility shown on the plan meets all applicable setback requirements of this Ordinance.

Within thirty days of acceptance of the plan, the Zoning Administrator shall review it and either approve the plan or provide the applicant with a written description of the portion(s) of the plan that do not comply with this Ordinance.

The site development plan shall remain in force until completion of the proposed structures or for up to five years, whichever is less. Any modifications to such structures or addition of new structures shall require the same procedures as provided herein.

### 3. Nutrient Management Plan Required

- 1) After the effective date of this Ordinance, no intensive facility shall commence operation until a nutrient management plan for the proposed facility has been prepared by the applicant and:
  1. Reviewed and approved by the Virginia Cooperative Extension Service or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner
  2. Submitted to the Zoning Administrator for review and approval in conjunction with the site development plan and prior to approval of a zoning permit.
- 2) If off-site disposal is part of the nutrient management plan, the applicant shall provide, as part of that plan, written documentation of an agreement with the receiver of the wastes produced at the applicant's facility or an affidavit, sworn and subscribed before a notary public, that states the applicant's commitment to dispose of the wastes through sale in retail establishments or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application of use of the wastes.
- 3) A nutrient management plan containing such an agreement shall be valid only as long as agreement remains in force and shall be reviewed whenever such an agreement expires or is terminated by either party. The operator shall notify the Zoning Administrator whenever such an agreement is terminated before its stated expiration date within fifteen days of such termination. The nutrient management plan shall be reviewed and updated every five years by the Virginia Cooperative Extension Service or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner and by the Zoning Administrator, and updated by the operator as necessary to meet the requirements of this Ordinance.
- 4) The nutrient management plan shall provide for the safe disposal of one hundred percent of the animal waste produced at the facility. Disposal or use shall be accomplished by means of land application at agronomic rates, as established by the Virginia Cooperative Extension Service or by the County. Alternative methods of disposal may be provided in the nutrient management plan subject to approval by the Zoning Administrator.

- 5) The nutrient management plan shall take into consideration, among other things, the presence of rivers, streams and private wells, springs and sinkholes, slope, soil and geological features that may indicate a susceptibility to groundwater contamination.
- 6) Disposal of dead animals shall be provided by operator in accord with the requirements of the Commonwealth of Virginia.

4. Entrance Permit Required

A permit for the proposed entrance to the intensive agriculture facility access road must be obtained from the Virginia Department of Transportation prior to application for a zoning permit.

**Sec. 4-6-5 Size of Operation**

1. Maximum Size of Any Intensive Livestock Operation: 1,000 animal units
2. Minimum Lot Size:
  - 1) For of Any Intensive Swine Operation: 50 acres
  - 2) For of Any Other Intensive Livestock Operation: 10 acres

**Sec. 4-6-6 Nonconformities**

1. Intensive facilities of all types which are in operation as of the effective date of this Ordinance which do not meet the acreage requirements set forth herein shall be considered nonconforming uses, subject to the provisions for nonconformities as set forth in this Division and in Article 5.
2. No intensive agriculture facility permitted under this chapter shall continue in operation if, after meeting requirements for obtaining a zoning permit, land is divided from the parcel on which the facility is located, such that the facility or the parcel no longer conforms to the requirements of this chapter.
3. Intensive poultry and hog facilities in operation as of July 22, 2005, that do not meet setback requirements herein may be improved with additional facilities, provided that:
  - 1) The additional facilities shall be located no closer than existing facilities to existing dwellings, schools, churches, nonagricultural uses, residential and commercial zones, planned districts, town boundaries and areas designated for growth and development in the Comprehensive Plan.

- 2) The operator shall obtain the consent of those landowners or towns that would have a setback reduced by the proposed facility improvement. Consent shall be evidenced by written formal agreement referencing both parcels by deed book reference, signed by both parties, notarized and recorded in the office of the Clerk of the Circuit Court with a copy provided to the Zoning Administrator at the time of recordation and prior to application for a zoning permit.
4. Replacement or reconfiguration of intensive agriculture facilities that do not meet the requirements of this chapter, when such facilities have been destroyed or damaged by fire, wind, snow or other phenomena out of the control of the landowner, may be permitted, provided that:
    - 1) The replacement facilities may be located no closer than the facilities being replaced to existing dwellings, schools, churches, nonagricultural uses, residential and commercial zones, planned districts, town boundaries and areas designated for growth and development in the Comprehensive Plan.
    - 2) Any additions to or expansions of facilities that replace facilities originally in operation as of July 22, 2005, shall meet all of the requirements of this Division.

## **DIVISION 7    MOBILE HOMES**

### **Sec. 4-7-1    Individual Mobile Homes**

#### **1.    Purpose, Where Permitted**

Individual mobile homes as permanent dwellings are permitted by right in the A-1 district, and by special exception in the C-1 and RR districts. All district requirements shall apply to mobile homes as for other types of detached single-family dwellings. This will promote development of harmonious lot patterns and allow the mobile home dweller the opportunity to replace his mobile home with a conventional single-family dwelling, should he so desire.

#### **2.    Temporary or Seasonal Use of Mobile Homes.**

Temporary or seasonal uses of mobile homes in an agricultural district A-1 shall meet all other requirements in the district for lot size, setbacks, etc. Such uses are not permitted in any other district.

#### **3.    Emergency uses of individual mobile homes**

Emergency uses of individual mobile homes will be allowed in all residential districts where a natural disaster or fire has destroyed or damaged normal dwellings. This emergency use would alleviate the hardships inflicted on the people involved. A temporary mobile home placement permit shall be required prior to the placement of the mobile home and the Zoning Administrator shall set the time period that such use is permitted. The Zoning Administrator may grant one (1) extension of the time period of up to six (6) months.

#### **4.    Use of mobile home for office or storage for construction projects.**

Mobile homes are permitted as temporary offices or storage structures (not for permanent residential use) in business, industrial or residential districts in the construction phase of buildings in such districts. A temporary mobile home placement permit shall be required prior to the placement of the mobile home and the Zoning Administrator shall set the time period that such use is permitted. The Zoning Administrator may grant one (1) extension of the time period of up to six (6) months.

#### **5.    Ownership**

All mobile homes within a residential district and not located in a mobile home park or mobile home subdivision shall be owned by the property owner or a member of his immediate family. The property owner is the record owner of the real estate or anyone who has a written contract to purchase the real estate. Immediate family includes the owner's mother, father, son, daughter, brother, sister, grandfather or grandmother.

6. Zoning Permit Required; Time of Completion

Unless otherwise specified in the Application for a zoning permit, all site development work and placement/installation of the mobile home must be completed and the allowed use begun within 90 days of the date of approval, or the permit shall automatically expire. Upon request of the applicant, the Zoning Administrator may grant one 90-day extension.

7. Attachment

The attachment of a mobile home to another mobile home or attachment to a single-family dwelling is prohibited.

8. Pre-1976 Mobile Homes Prohibited

Mobile homes manufactured before 1976 shall not be located or relocated within Nottoway County

9. Foundations

Each mobile home site shall be developed with a foundation that complies with the existing county building code. Each mobile home is required to be underpinned unless a solid masonry foundation is provided. Every space for mobile homes shall be provided with devices for anchoring the unit to prevent overturning or uplift. Where concrete platforms are provided for the units, anchorage may be by eyelets imbedded in the concrete with adequate anchor plates or hooks or other suitable means. The anchorage shall be adequate to withstand wind forces and uplift as required in the building code for buildings and structures, based upon the size and weight of the units.

10. Area and Density

The minimum lot and building requirements for mobile homes shall be those of the underlying base zoning district as provided in Article 2.

11. Minimum Size

Mobile homes shall contain at least 750 square feet.

12. Floor Load Level

Floor load level shall equal 40 pounds per square foot, roof snow load and wall load.

13. Doors

All mobile home units must have two doors to provide access and egress.

14. Spacing

No mobile home shall be placed within fifty (50) feet of another mobile home or service building.

15. Sewage Disposal

Individual, on-site septic systems shall meet all requirements of the County and the State Health Department.

**Sec. 4-7-2 Mobile Home Subdivisions**

1. All mobile home subdivisions shall comply with the requirements for mobile home parks, except that the minimum lot size be the same as the underlying base zoning district.
2. Each such subdivision shall be at least five (5) acres in size and shall otherwise conform to the requirements of the County Subdivision Ordinance.
3. No individual septic systems shall be allowed.
4. All mobile home subdivisions shall provide for off-street parking.
5. Any mobile home subdivision platted after the effective date of this Ordinance shall have a greenbelt planting strip not less than twenty (20) feet in width along all subdivision boundaries which do not include public streets, limited access highways, natural floodplains or drainage areas.
6. Every mobile home subdivision shall have a minimum size of five (5) acres and every mobile home subdivision plat shall conform to the subdivision regulations of Nottoway County.
7. Only Class B Mobile Homes shall be permitted.

### **Sec. 4-7-3 New Mobile Home Parks (MHP)**

The location of new permanent mobile home parks shall require, in addition to a zoning permit and certificate of occupancy, a Special Exception Permit issued by the governing body. Operators of such parks shall comply with the following provisions:

1. Minimum area of the park shall be five (5) acres of contiguous land.
2. Maximum of six (6) units per acre.
3. Minimum area required for each unit lot shall be six thousand (6,000) square feet.
4. Minimum width for each lot shall be sixty (60) feet.
5. Minimum front setback from MHP property line – Ten (10) feet.
6. Minimum side yard from MHP property line- Thirty (30) feet.
  - 1) Minimum distance between units- Fifty (50) feet.
  - 2) Minimum distance from unit to unit lot line- Fifteen (15) feet.
7. Minimum rear yard from MHP property line- Ten (10) feet.
8. Maximum building height: Thirty-five (35) feet.
9. Only Class B Mobile Homes shall be permitted.
10. MHP access shall be developed to current VDOT access standards for subdivisions.
11. Each mobile home space shall be provided with individual water and sewer connections.
12. Each mobile home space shall be provided with electrical connections in accordance with current building code requirements.
13. The area in and around mobile home parks shall be kept clean and orderly by the operators of the mobile home parks.
14. The operator of any such park shall provide an approved sewage disposal system.
15. The mobile home operator shall be responsible that garbage collection service is provided for each unit lot and that all garbage containers shall be tightly covered and leak proof.
16. A valid health permit from state and local health offices is required for mobile home park operation.

17. The mobile home park operator shall maintain a register for each lot for a minimum of three previous years. This register shall be available at all times for inspection by law enforcement officers, public health officials, and representatives of local government whose duties require disclosure of the information contained in the register.

The register shall contain the following information:

- 1) Mobile Home owner or occupant.
  - 2) Address and lot number of each mobile home owner or occupant.
  - 3) The name, model and year built of each mobile home.
  - 4) The number of occupants of the mobile home.
  - 5) The number of bedrooms of the mobile home.
  - 6) The dates of arrival and of departure of each mobile home on the lot.
  - 7) Each mobile home park operator shall furnish a verified copy of the register to the County Administrator on January 1st of each year.
18. Mobile Home park operators shall provide ample playground areas; such playground area shall be located so as to minimize traffic hazards.

#### **Sec. 4-7-4 Existing Mobile Home Parks**

Mobile Home Parks in existence as of the date of this Ordinance shall have ninety (90) days to bring their facilities into compliance with this Ordinance. Failure to comply shall be grounds for revocation of the required permits.

#### **Sec. 4-7-5 Temporary Mobile Home Parks**

Temporary mobile home parks are restricted to the temporary housing needs of construction workers on an industrial or highway construction project. Temporary Mobile Home Parks are subject to the following conditions:

1. A certification of need as to the necessity of its establishment must be approved by the Board of Supervisors.
2. Each unit lot shall contain a minimum area of six thousand (6000) square feet.
3. Sanitary facilities must conform to the Virginia Health Department regulations.
4. The period of operation shall concur with the anticipated period of the construction project, not to exceed six (6) months.

Applications for time extension must be filed with the County Administrator at least ninety (90) days before the temporary permit expires.

5. The governing body, in granting a temporary use permit, may require the posting of a bond to assure that the site is left in good condition at the expiration of the permit.
6. The Board of Supervisors may establish additional requirements to protect the public interest.

## **DIVISION 8 MOBILE HOME STORAGE UNITS**

Mobile Home Storage Units must conform to the following requirements converting from a Mobile Home Residence to a Mobile Home Storage Unit:

1. Following must be removed from the residential unit:

Water Heaters, Water Pipes in and under unit, Sinks, toilets, tubs and shower stalls, Waste Pipes in and under unit, Kitchen Sinks, Dishwashers, Stoves, Refrigerators and other appliances, Clothes Washers and Dryers, Interior Walls.

2. Following activities must be approved by Building Inspector:

All Mobile Home Storage Units must be secured with proper tie down equipment, Foundation and underpinning shall meet requirements of mobile homes, Fire resistant skirting shall be installed, Shall not be within fifty (50) feet of any residential dwelling.

## **DIVISION 9 OUTDOOR LIGHTING**

### **Sec. 4-9-1 Purpose**

The purposes of the outdoor lighting regulations are to regulate the design, size, height, placement, orientation, and fixture types of outdoor lighting in order to:

1. Ensure the provision of lighting that provides safety, utility, and security
2. Prevent dangerous conditions caused by glare on public roadways and nuisance glare onto adjacent properties
3. Limit atmospheric light pollution
4. Conserve energy.

## **Sec. 4-9-2     Applicability**

### 1. General

These outdoor lighting regulations shall apply to each outdoor lighting fixture installed or replaced after the date of adoption of these regulations which is:

- 1) Located on property within a business or industrial zoning district, or
- 2) To be installed in conjunction with a public or municipal use such as school, park, fire station or the like, or
- 3) Located on property within a residential or agricultural zoning district and involves the use or installation of a high intensity discharge lamp, or

### 2. Exemptions

The following outdoor lighting and related acts shall be exempt from the requirements of these outdoor lighting regulations:

- 1) Lighting which is not subject to this chapter by state or federal law.
- 2) Temporary lighting for construction activities, agricultural uses, emergency activities, fairs, civic activities, carnivals or holiday decorative purposes, provided that the lighting is temporary, and is discontinued within seven (7) days upon completion of the activity, project or holiday for which the lighting was used, and does not begin before twenty-one (21) days prior to the activity, project or holiday.
- 3) Security lighting controlled by sensors which provides illumination for ten (10) minutes or less
- 4) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the date of adoption of this Ordinance
- 5) Public airport lighting

## **Sec. 4-9-3     Lighting Plan Required**

### 1. Required Plan Submission

The applicant for any permit required by any provision of the Nottoway County Code which involves any proposed work affecting or involving outdoor lighting fixtures shall submit, as part of the application for such permit, a lighting plan that provides evidence that the proposed work will comply with all aspects of the outdoor lighting requirements of this Code.

Even if no other such permit be required, the installation or modification of any exterior lighting shall require submission of the information described herein, except for cases of routine servicing and same-type lamp replacement. Should any outdoor light fixture or the type of light source therein be changed after any such permit has been issued, a written change request must be submitted to the Zoning Administrator for written approval, together with adequate information to assure compliance with this Code, which must be received and approved prior to substitution of the light fixture or source.

All such required lighting plans shall include the following:

- 1) Plans indicating the location, type, intensity and design of all outdoor lighting fixtures on the site
  - 2) Description of all lighting fixtures, both proposed and existing, including lamp types, wattages and initial lumen outputs, glare control devices, switching devices, and proposed placement of fixtures
  - 3) Data showing the angle cut-off of light emissions and glare-control devices
  - 4) Mounting heights and methods proposed hours of operation
  - 5) The provision for adequate measures to mitigate nuisance from light pollution and disabling glare to both on-site and off-site uses
2. Plan Approval

If the Zoning Administrator determines that the proposed lighting plan does not comply with the Nottoway County Code, the permit shall not be issued nor the plan approved. The Zoning Administrator shall provide the applicant with a written description of the deficiencies of the plan, and the applicant may submit a revised plan for review and approval.

#### **Sec. 4-9-4 Lighting Standards**

1. Control of Nuisance and Disabling Glare
  - 1) All outdoor lighting on residential, commercial, industrial, municipal, recreational or institutional property shall be aimed, located, designed, fitted and maintained so as not to present a significant amount of glare to drivers, pedestrians, or users of neighboring properties.
  - 2) Directional fixtures such as flood lights, spot lights and sign lights shall be installed or aimed so that they do not shine directly into the window of a neighboring residence, directly into a roadway, or skyward.
  - 3) All outdoor lighting fixtures, including display lighting, shall be turned off after close-of-business, unless needed for safety and security, in which case the lighting shall be reduced to the minimum level necessary for such purpose.

- 4) Vegetation screens shall not be the primary means for controlling glare. Rather, such control shall be achieved primarily through the use of full cut-off fixtures, the appropriate application of mounting height, wattage, aiming angle, fixture placement and fixture design, and the addition of louvers, shields and baffles as necessary.
- 5) Externally illuminated signs shall be lighted by fixtures mounted at the top of the sign, shielded and aimed down or by fixtures mounted at the bottom of the sign and aimed and shielded such that the light falls only on the sign surface so as to limit sky-lighting impacts, and that no glare is created off of the sign face.
- 6) No lighting shall be permitted which shines directly into neighboring residential units or buildings on adjacent properties or on the public right-of-way.
- 7) Light fixtures, including mounting base, shall not exceed twenty-five (25) feet in height above finished grade.
- 8) Illuminated signs shall have an indirect lighting source or shielded source. Fixtures used for architectural lighting, such as façade, feature and landscape lighting, shall be aimed or directed so as to preclude light projection beyond the immediate objects intended to be illuminated.
- 9) The Zoning Administrator may require that lighting be controlled by automatic timing devices to extinguish light sources during specific periods to mitigate the adverse impacts on adjacent properties.
- 10) Backlit signs shall be prohibited.
- 11) For auto/truck service stations and convenience retail uses, lighting in island canopy ceilings shall be recessed, full cut-off fixtures with flat lenses.

## 2. Installation

- 1) Lighting fixtures shall not be mounted in excess of twenty-five (25) feet above grade.
- 2) Electrical feeds to lighting standards shall run underground, not overhead.

## 3. Maintenance

Lighting fixtures shall be maintained so as to always meet the requirements of this Ordinance.

## 4. Required Cut-Off

All light fixtures that have lamps of more than 160 watts are required to be full cut-off fixtures and shall be installed and maintained so that the shielding is effective.

#### **Sec. 4-9-5      Waivers and Modifications**

The Board of Supervisors may modify or waive one or more of the standards set forth in this section in a particular case, and may impose conditions on such a modification or waiver which it deems appropriate to further the purposes of these outdoor lighting regulations, in the following circumstances:

1. Upon finding that strict application of the standard would not forward the purposes of this chapter or otherwise serve the public interest, or that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree.
2. Upon finding that an outdoor luminaire, or system of outdoor luminaries, required for a publicly owned baseball, softball, football or soccer field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use, as determined by recommended practices adopted by the Illuminating Engineering Society of North America (IESNA) for that type of field and activity or other evidence if a recommended practice is not applicable.

## **DIVISION 10 PARKING**

### **Sec. 4-10-1 Location**

All required off-street parking spaces required herein shall be located on the same lot as the structure or use to which they are accessory, or on a lot contiguous thereto which has the same zoning classification and is under the same ownership, except that the Zoning Administrator may authorize an alternative location provided that the required parking spaces are located within 500 feet walking distance of a building entrance to the use that such space serves, and that ownership arrangements are made so as to assure the permanent availability of such spaces to the satisfaction of the Administrator. The Zoning Administrator may also authorize some portion of the off-street parking requirement to be satisfied by on-street spaces in developments that use the traditional development provisions as provided in this Ordinance.

### **Sec. 4-10-2 Shared Parking**

Required off-street parking spaces may be provided cooperatively for two or more uses, subject to arrangements that will assure the permanent availability of such spaces to the satisfaction of the Administrator. The amount of such combined space shall equal the sum of the amounts required for the separate uses, provided, however, that the Administrator may reduce the total number of spaces if the Administrator determines that some or all of the spaces may serve two or more uses by reason of the daily hours of operation or seasonal activity of such uses.

### **Sec. 4-10-3 For Operable Vehicles Only**

All required off-street parking spaces shall be used solely for the parking of operable vehicles. No vehicle repair work except emergency service shall be permitted on any required off-street parking facility.

### **Sec. 4-10-4 Access**

Driveway openings through the curb shall be a maximum of two (2) per parking lot, excluding shopping center parking lots. There shall be not less than twenty-five (25) feet between driveway openings and there shall be not less than twelve and one-half (12 1/2) feet from any driveway opening to any property line. No driveway opening shall be less than twelve (12) feet in width if designed for one-way traffic, nor eighteen (18) if designed for two-way traffic. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians. All driveway openings shall comply with all applicable state regulations including, but not limited to, those of the State Department of Transportation.

#### **Sec. 4-10-5 Surfacing**

Any public off-street parking area shall be surfaced so as to provide a durable and dustless surface, shall be graded so as to dispose of all surface water accumulation within the area, unless such surface water accumulation is part of a designed storm water runoff control measure, and shall be arranged and marked to provide safe and orderly loading, unloading, movement, parking and storage of vehicles. At a minimum, surface treatment shall be equal to a prime and double seal.

Parking areas for all commercial and industrial uses in the GB and LI Districts shall be paved with hard surface asphalt or concrete. The Zoning Administrator may grant a waiver of the paving requirement if the applicant submits sufficient written and graphic evidence that the paving requirement is not appropriate to the specific site and use due to the location, size, intensity of use or other unique, site-specific conditions. Parking areas shall have appropriate bumper guards where needed, as determined by the Zoning Administrator.

#### **Sec. 4-10-6 Additional Requirements**

There shall be the following additional requirements for parking lots with ten (10) or more parking spaces:

1. **Marking.** Parking spaces in lots of ten (10) or more spaces shall be delineated by painted lines, curbs, bumper blocks, vertical lines on continuous curbing or other appropriate means of marking.
2. **Lighting.** Any lights used to illuminate any parking area shall be so arranged and shielded as to confine all direct light entirely within the boundary lines of the parking area. Further, parking areas shall be lighted in accord with the requirements for outdoor lighting in Article 4.
3. **Parking in setback or yard.** No parking, fence or wall shall be less than eight (8) feet from an abutting lot or right-of-way.
4. **Minimum size of all parking and maneuvering space.** All individual parking spaces shall be a minimum of nine (9) feet by eighteen (18) feet. The minimum aisle space for ninety-degree parking shall be twenty-four (24) feet in width. The minimum aisle space for sixty-degree parking shall be twenty-three (23) feet in width. The minimum aisle space for thirty-degree parking shall be seventeen (17) feet in width. For any parking area in which the degree of angular parking varies from the specifications above, the aisle width shall be calculated by using a ratio of the above specifications; however, in no case shall the aisle width be less than sixteen (16) feet.
5. **Landscaping.** Parking areas shall be landscaped in accord with the requirements of Article 4.

**Sec. 4-10-7 Parking, Storage, or Use of Recreational or Commercial Vehicles**

1. Use

No Recreational or Commercial Vehicles as defined herein shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot.

2. Parking of Recreational or Commercial Vehicles in Residential Districts

In all residential districts, all boats, boat trailers, camping trailers, utility trailers, camping cars, vacation trailers, recreational vehicles and all vehicles, other than automobiles, which are used exclusively for commercial purposes, shall be parked behind the front line of the main building or principal structure, or in a completely enclosed garage or carport; and no tractor truck or semi-trailer shall be parked in any of these districts.

**Sec. 4-10-8 Minimum Off-Street Parking**

1. Uses not listed.

The Zoning Administrator shall determine the required parking and loading requirements for any uses not specifically listed, based upon the most similar uses that are listed.

2. Computation.

The computation of the minimum off-street parking and loading requirements for each permitted use shall be based upon the standards in Article 2, subject to the adjustments and/or minimum required or allowed in this section, and to the definitions of Gross Floor Area in accord with Article 6.

3. Loading space not computed as off-street parking space.

Sufficient off-street space shall be provided for the loading and unloading of trucks and commercial vehicles serving multi-family, commercial, industrial and public uses. Such spaces shall not be computed as meeting the off-street parking space requirements specified herein.

4. Required off-street spaces

There shall be provided at the time of erection of any main building or at the time any main building is enlarged or structurally altered and converted to another use, adequate minimum off-street parking spaces as follows:

Use	Number of Spaces Required
Dwelling	
One-family	2 per dwelling unit
Two-family	2 per dwelling unit
Multi-family	2.5 per dwelling unit
Mobile homes in mobile home parks	2.5 per dwelling unit
Mobile homes on lots in subdivisions or in agricultural zoned areas	2 per dwelling unit
Tourist court, motel, motor hotel, motor lodge or hotel	1 per employee, plus 1 per sleeping room or suite
Rooming, boarding or lodging house	1 per sleeping room
Theaters, churches, auditorium and other places of public assembly with fixed seats	1 per 4 seats or bench seating spaces/seats in main auditorium
Hospital	1 per patient bed
Nursing home or similar institution	1 per 3 patient beds
Funeral home	1 per 50 square feet of floor area excluding storage and work areas
Medical offices or clinics	1 per 200 square feet of floor area; 3 spaces minimum
Office or office building	1 per 400 square feet of floor area; 3 spaces minimum
Restaurants	1 per 100 square feet of floor area
Retail store or personal service establishment and banks	1 per 200 square feet of floor area
Country club, golf club, or private club	1 per 5 members or 1 for each 400 square feet of floor area whichever greater
Dance hall, skating rink, swimming pool, or similar entertainment facility	1 per 100 square feet of floor area
General service or repair establishment	2 per employee on the premises
Automobile type repair	1 per employee and 2 per bay (working station)

Animal Hospital	1 per 400 square feet of floor area
Shopping center	1 per 200 square feet of rental floor area for shopping centers with less than 25,000 square feet; 1 per 100 square feet of rental floor area for shopping centers with 25,000 or more square feet
Manufacturing or industrial establishment, research or testing laboratory, wholesale warehouse or similar establishment	1 per each employee on maximum working shift plus space for storage of trucks or other vehicles used in connection with business or industry
Any other commercial building not specifically listed above hereafter erected, converted, or structurally altered shall provide	1 parking space for each 200 square feet of business floor space in the building

## **DIVISION 11 RECYCLING FACILITIES**

1. Recycling Collection Points shall be subject to the following restrictions:
  - 1) The facility shall be set back a minimum of 50 feet from the right-of-way of any public street or any lot zoned, used or planned for residential purposes.
  - 2) Collection sites shall be maintained free of litter, shall be cleaned of debris on a daily basis.
  - 3) Operation hours for collection sites may be established by the Board of Supervisors.
  - 4) All facilities shall be screened from the view of abutting residential uses or districts by fences and landscaping in conformance with the requirements of this Ordinance for light industrial uses abutting a residential use.
  - 5) Containers shall be at least 200 feet from any residential dwelling.
  - 6) No hazardous or toxic materials shall be accepted or permitted at such sites.
  - 7) No noxious odors shall be emitted beyond the boundaries of the facility.
2. Other Recycling Collection Facilities shall be subject to additional conditions as may be imposed by the County through the Special Exception Permit process

## **DIVISION 12 SIGNS**

### **Sec. 4-12-1 Purpose**

The following sign regulations are established to assure compatibility of signs with surrounding land usage, to enhance the economy of the County, to protect the public investment in streets and highways, to promote the safety and recreational value of public travel, to preserve natural beauty and to protect tax revenues by promoting the reasonable, orderly and effective display of outdoor advertising. No sign shall be permitted, erected, or used in Nottoway County, except as permitted in this article.

### **Sec. 4-12-2 Sign Definitions**

**Sign:** Any display of any letters, writing, words, numerals, figures, devices, emblems, flags, model, street clocks, temperature announcement, insignia, pictures, or any parts of combinations thereof, by any means whereby the same are made on, attached to, or as a part of a structure, surface or any other thing, including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is located.

**Business Sign:** A sign which directs attention to a product, commodity, or service available on the premises including professional offices or institutional use.

**Directional Sign:** A sign (one end of which may be pointed, or on which an arrow may be painted, indicating the direction to which attention is called), giving the name only of the firm, business, residence or farm responsible for the erection of same.

**Freestanding Sign:** Any non-movable sign supported by a fence, retaining wall, or by upright structural members or braces on or in the ground and not attached to nor printed on a building.

**General Advertising Sign:** A sign which directs attention to a product, commodity, or service not necessarily conducted, sold, or offered upon the same lot where such sign is located, referred to as a "billboard".

**Ground Mounted Sign:** Any sign which is supported by structures or supports in or upon the ground and independent of any support from any building, not a pole sign.

**Home Occupation Sign:** A sign directing attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling.

**Location Sign:** A sign which directs attention to the approximate location of an establishment from which the product may be obtained.

**Pole Sign or Pole-Mounted Sign:** A sign that is mounted on one or more freestanding poles or similar columnar supports.

Temporary Sign: A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse shows, auctions, or sale of land.

### **Sec. 4-12-3 General Provisions**

1. Signs may be illuminated provided the illumination shall be properly focused upon the sign itself as to prevent glare upon the surrounding area.
2. Signs with flashing, animated, or intermittent illumination or a mobile type shall not be permitted.
3. Red and green lighted signs shall not be permitted
4. No sign will be permitted which would extend above the building line.
5. Size, Configuration and Height of Signs

On stores and other permitted commercial or industrial uses, exterior signs pertaining to the use permitted are not to exceed one square foot per lineal foot of property frontage and shall be attached flat against the wall of the building and must be limited to the storefront portion of the facade not projecting above the roof line or coping nor face the side lot of an adjoining residential property, and be in general conformity to the structure, and the surrounding architecture.

Projecting or free-standing signs (including signs 6 feet or less) not more than fifty (50) square feet in area may, in addition, be approved by the Planning Commission in commercial or industrial areas. Such signs shall not exceed the height limit of buildings in the district.

6. Measurement of Sign Area and Height
  - 1) Determination of Sign Area.

The area of a sign shall be computed as the entire surface area within a single, continuous rectilinear perimeter enclosing all parts of the sign face, including the extreme limits of all of the letters, numbers, figures and/or symbols comprising the sign. The sign supports or support structure shall not be included in determining the sign area unless they are designed to form an integral background of the display. However, when a sign is placed within a wall, planter or other similar structure that is designed to serve a separate purpose other than sign support, the area of such structure shall not be counted.

2) Area of Signs with Two or More Sign Faces

The area of a sign with two or more sign faces shall be computed as follows:

1. Sign faces separated by an interior angle of 45 degrees or greater: Both sign faces shall be included
2. Sign faces separated by an interior angle of less than 45 degrees: One sign face shall be included; provided, however, the area of the largest sign face shall be used when two faces are unequal in area.

3) Calculation of Allowable Sign Area for Freestanding & Building-Mounted Signs.

For freestanding and building-mounted signs, the following rules shall govern the determination of building frontage and allowable sign area:

1. Buildings with One (1) Tenant or Multiple Tenants with access via Common Outside Entrance(s): Building frontage shall be the one building face or wall architecturally designed as the front of the building and containing the main public entrance. Where more than one building wall meets this description, an average of the linear feet of those walls in question shall be used in calculating allowable sign area.
2. Multiple-Tenant Buildings with Individual Outside Entrances: Building frontage for each tenant shall be the portion of the frontage on the building wall that contains the tenant's main public entrance. Where a tenant space includes more than one outside building wall, only the one wall containing the primary public entrance shall be used in calculating allowable sign area. Where more than one building wall meets this description, an average of the linear feet of those walls in question shall be used in calculating allowable sign area.
3. Regardless of the number of stories in a building, building frontage shall be determined by one measurement of the linear feet of the wall(s) at a height not greater than ten (10) feet above grade.

4) Determination of Sign Height.

The height of a sign shall be calculated as the maximum vertical distance from the uppermost extremity of a sign or sign support and structure to the ground level at the base of the sign. For the purposes of this subsection, "ground level" shall not include any fill placed under or around the sign that has the effect of artificially raising the effective height of the sign.

## Sec. 4-12-4 Regulations

### 1. Signs are regulated

No person except a public officer or employee in performance of a public duty, shall paste, post, paint, print, nail, tack, erect, place, maintain, or fasten any sign, pennant, outdoor advertising sign, billboard (general advertising sign), or notice of any kind, or cause the same to be done, facing or visible from any public street or public open space, except as provided herein.

### 2. Excluded Signs

The following shall not be deemed to be included within the definition of "sign":

- 1) Signs of a duly-constituted governmental body, including traffic or similar regulatory devices, legal devices, or warnings at railroad crossings.
- 2) Memorial tablets or signs, grave stones.
- 3) Signs required to be maintained by law or governmental order, rule or regulation, with a total surface area not exceeding ten (10) square feet on any lot or parcel.
- 4) Signs which are within a ball park or other similar private recreational use and which cannot be seen from a public street or adjacent properties.
- 5) Flags or emblems of a civic, philanthropic, educational or religious organization, temporary in nature of not more than fifty (50) square feet.
- 6) Signs displayed for the direction or convenience of the public including signs which identify restrooms, location of public telephone, freight entrances or the like.
- 7) Signs placed by a public utility showing the location of underground facilities.

### 3. Prohibited Signs.

- 1) Unauthorized signs at the intersection of any streets in such a manner as to create a traffic hazard by obstructing vision between heights of two and one-half (2-1/2) and eight (8) feet; or at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.
- 2) Signs which produce noise or sound capable of being heard even though the sounds produced are not undesirable sounds.
- 3) Signs which emit visible smoke, vapor, particles, or odor.

- 4) Signs erected, constructed, or maintained so as to obstruct, or be attached to any fire-fighting equipment, window, door, or opening used as a means of ingress or egress of for fire-fighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
- 5) Signs with any lighting or control mechanism which causes radio or television or other communication interference.
- 6) Those which imitate or resemble any official traffic sign, signal or devise or use the words "Stop" or "Danger" prominently displayed or present or imply the need of requirement of stopping or the existence of danger on any highway.
- 7) Those which are not effectively shielded so as to prevent beams or rays of light from being directed on any portion of the traveled ways of a street or highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any vehicle.
- 8) Signs which advertise any activities which are illegal under state or federal law or regulations in effect at the location of such sign or at the location of such activities.
- 9) Signs which are inconsistent with State law or the provisions of this Ordinance.

#### **Sec. 4-12-5 Signs Permitted**

Signs will be permitted in the various districts as follows:

1. Agricultural A-1 and Conservation C-1
  - 1) Business signs not to exceed thirty-two (32) square feet.
  - 2) Church bulletin boards and identification signs not to exceed sixteen (16) square feet.
  - 3) Directional signs not to exceed sixteen (16) square feet.
  - 4) Home occupation signs not to exceed twelve (12) square feet.
  - 5) Location signs not to exceed twenty (20) square feet.
  - 6) Temporary signs not to exceed twenty (20) square feet.
  - 7) General advertising signs by Special Exception Permit, not to exceed 36 square feet

2. Rural Residential RR and Urban Residential UR
  - 1) Business signs, only to advertise the sale or rent of the premises upon which erected, with a total surface area not exceeding nine (9) square feet per sign.
  - 2) Church bulletin boards and identification signs, with a total surface area not exceeding sixteen (16) square feet per sign.
  - 3) Directional signs, with a total surface area not exceeding sixteen (16) square feet per sign.
  - 4) Home occupation signs, with a total surface area not exceeding two (2) square feet.
  - 5) Temporary signs with written approval from the Zoning Administrator, not to exceed 30 days in duration.
3. General Business GB
  - 1) Business signs not to exceed twenty-four (24) square feet.
  - 2) Church bulletin boards and identification signs not to exceed sixteen (16) square feet.
  - 3) Directional signs not to exceed sixteen (16) square feet.
  - 4) Home occupation signs not to exceed twelve (12) square feet.
  - 5) Location signs not to exceed twenty (20) square feet.
  - 6) Temporary signs not to exceed twenty (20) square feet.
  - 7) General advertising signs by Special Exception Permit, not to exceed 36 square feet.
4. Light Industrial LI and General Industrial GI
  - 1) Business signs not to exceed thirty-six (36) square feet.
  - 2) Church bulletin boards and identification signs not to exceed sixteen (16) square feet.
  - 3) Directional signs not to exceed twenty (20) square feet.
  - 4) Location signs not to exceed twenty (20) square feet.
  - 5) Temporary signs not to exceed twenty (20) square feet.

5. Floodplain FP

- 1) Directional signs not to exceed twelve (12) square feet.
- 2) Temporary signs not to exceed twenty (20) square feet.

**Sec. 4-12-6 Sign Setback Requirements**

Signs shall be located thirty-five (35) feet or more from any street right-of-way, and this will be known as the "setback line". There shall be exception from the setback for business signs and signs advertising the sale or rent of the premises, which signs may be erected up to the property line. No sign shall be required to set back from the street a distance greater than the setback line observed by the one or two existing structures on the immediately adjoining lots on either side.

**Sec. 4-12-7 Construction and Conformance**

1. Maintenance

Every sign permitted by this article must be constructed of durable materials and must be kept in good condition and repair. The Zoning Administrator shall notify the appropriate person that such sign or outdoor advertising matter shall be repaired or removed within a specified time period, and if not repaired or removed, the County shall remove the sign or take other action to require prompt compliance with this code.

All signs must be registered with the Zoning Administrator, except temporary signs such as "For Sale" signs. Existing signs not conforming to all conditions of this Article shall not be repaired, altered, or rebuilt unless same are made to conform with these conditions set forth in this Article.

2. Nonconforming Signs

Any sign lawfully in existence at the time of the effective date of this Ordinance may be maintained although it does not conform with the provisions of this Ordinance. Such nonconforming sign shall comply in all respects with the requirements of Article 20 which pertains to nonconforming uses. All signs must conform to the Basic BOCA Code and other county codes. All signs shall require a zoning permit in any district, except signs mounted flat against buildings, not protruding over side or building, conforming to requirements of this Ordinance, temporary signs, and business signs not exceeding nine (9) square feet. No fee will be required for such a zoning permit for a sign.

If a nonconforming use or structure pertaining to a sign expires, the nonconforming status of the associated sign expires as well, and the sign must be removed or otherwise made to conform to these regulations.

## **DIVISION 13 TELECOMMUNICATIONS FACILITIES**

### **Sec. 4-13-1 Use Regulations for Telecommunications Towers**

The purpose of this division is to establish requirements for the siting of towers and antennas. The goals of this division are to: (i) encourage the location of towers in nonresidential areas and minimize the total number of towers and tower sites throughout the community, (ii) encourage strongly the joint use of new and existing tower sites, (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal, (iv) encourage users of towers and antennas to configure or camouflage them in a way that minimizes adverse visual impact of the towers and antennas, and (v) to determine adequate sites for the provision of telecommunication services with minimal negative impact on the resources of the County.

### **Sec. 4-13-2 Applicability**

1. District height limitations. The requirements set forth in this division shall govern the location of all telecommunications towers and antennas and amateur radio antennas, constructed to a height greater than twenty (20) feet in height from ground level. Any such towers or antennas shall also comply with all applicable federal and state regulations.
2. Existing structures and towers. The placement of an antenna on an existing structure such as a building, sign, light pole, water tank, or other free-standing nonresidential structure or existing municipal, utility or commercially owned tower or pole shall be permitted so long as the height of the tower or structure is not increased and the addition of said antenna shall not add more than twenty (20) feet in height to said structure or tower. If such permitted use shall include the placement of additional buildings or other supporting equipment used in connection with said antennas, such building or equipment shall be placed within the existing structure or property and shall be necessary for such use and properly screened. Existing or proposed structures shall not be intentionally altered to circumvent this division.

### **Sec. 4-13-3 General Requirements**

1. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses when considering area requirements on a given parcel of land. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or towers on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this division shall not be deemed to constitute the expansion of a nonconforming use or structure.

2. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the planning and zoning department an inventory of its existing and potential future facilities that are either within the jurisdiction of the governing authority or within five (5) miles of the border thereof, including specific information about the location, height, and design of each tower and/or antenna. Such information submitted to the County is public information, and thus the planning and zoning department may share such information with other applicants applying for approvals or Special Exception Permits under this division or other organizations seeking to locate antennas within the jurisdiction of the governing authority; provided, however that the planning and zoning department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
3. A Commission Permit in accord with Section 15.2-2232 of the Code of Virginia shall be required prior to or in conjunction with any Special Exception approvals that may be required by the District regulations of this Ordinance.

#### **Sec. 4-13-4 Appearance; Lighting**

The guidelines set forth in this section shall govern the location of all towers and the installation of all antennas governed by this division; provided, however, that the governing authority may waive any of these requirements if it determines that the goals of this division are better served thereby.

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of FAA, be painted a neutral color, as to reduce visual obtrusiveness. Dish antennas and covers will be of a neutral, nonreflective color with no logos or other markings.
2. At a facility site, the design of the buildings and related structures shall, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and the surrounding built environment to the maximum extent possible.
3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
4. Towers shall not be artificially lighted, unless required by the FAA or other applicable governing authority. If lighting is required, the governing authority shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views and properties.
5. No advertising of any type may be placed on the tower or accompanying facility unless as part of retrofitting pre-existing sign structure.

#### **Sec. 4-13-5 Federal and State Requirements**

All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal or state governments with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this division shall bring such towers and antennas into compliance with such revised standards as required. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. All towers and antennas constructed on property owned or leased by the federal or state government must also meet all Nottoway County tower requirements of the Nottoway County Zoning Ordinance.

#### **Sec. 4-13-6 Building Codes**

To ensure the structural integrity of towers, the owner of a tower shall ensure that it is constructed and maintained in compliance with standards contained in applicable federal, state and local buildings codes and regulations.

#### **Sec. 4-13-7 Information Required**

Each applicant requesting a Special Exception Permit under this division shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate licensed professionals in the Commonwealth of Virginia, showing the location and dimensions of all improvements, including information concerning topography, existing vegetation, proposed clearing and grading, radio frequency coverage, tower height and antenna location requirements, setbacks, ingress/egress, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this division. Additionally, the applicant shall provide actual photographs of the site from designated relevant views that include a simulated photographic image of the proposed tower and antennas. The photograph with the simulated image shall include the foreground, the mid-ground and the background of the site.

1. An engineering report, certifying that the proposed tower is compatible for co-location with a minimum of three (3) compatible users including the primary user, must be submitted by the applicant.
2. The applicant shall pay all costs associated with notifying adjoining property owners and other nearby residents by certified letter concerning the project prior to public hearings before the Planning Commission and Board of Supervisors.
3. The applicant shall provide copies of their co-location policy. The applicant shall provide copies of propagation maps using proposed antenna tilt demonstrating that antennas and sites for possible co-locator antennas are no higher in elevation than necessary to serve the intended area.

#### **Sec. 4-13-8 Factors to be Considered in Granting Special Exception Permits for New Towers or Poles**

The governing authority shall consider the following factors, in addition to the requirements of this section, in determining whether to issue a Special Exception Permit, although the governing authority may waive or reduce the burden on the applicant of one (1) or more of these criteria if the governing authority concludes that the goals of this division are better served thereby.

1. Height of the proposed tower (towers shall not exceed 199 feet)
2. Proximity of the tower or pole to residential structures and residential district boundaries, historic structures and districts, or other manmade or unique natural areas within the County
3. Nature of the adjacent uses and nearby properties
4. Surrounding topography
5. Impact on surrounding tree coverage and foliage; such impacts shall be kept to the minimum for the installation of the facility
6. Design of tower or pole, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness
7. Proposed ingress and egress
8. Co-location policy. A written policy for permitting future co-locations of telecommunications facilities shall be provided and maintained to the satisfaction of the Zoning Administrator
9. Language of the lease agreement
10. Consistency with the Comprehensive Plan and the purposes to be served by zoning; and
11. Availability of suitable existing towers and other structures as provided for herein.

#### **Sec. 4-13-9 Availability of Suitable Existing Towers or Other Structures**

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment and cannot be made or reconstructed to support additional antennas.

4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing tower or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share or to adapt an existing tower or structure are unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

#### **Sec. 4-13-10 Setbacks**

The following setback requirements shall apply to all towers and antennas for which a Special Exception Permit is required; provided, however, that the governing authority may reduce the standard setback requirements if the goals of this division would be better served thereby.

1. Towers must be set back a distance equal to two hundred (200) percent of the height of the tower from any off-site residential structure. Towers must be set back one hundred (100) percent of the height of the tower from the boundaries of the property on which the tower is located.
2. Towers, guys, and accessory facilities must satisfy the minimum zoning district setback requirements for primary structures.

#### **Sec. 4-13-11 Security Fencing**

Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the governing authority may waive such requirements, as it deems appropriate.

#### **Sec. 4-13-12 Landscaping**

The following requirements shall govern the landscaping surrounding towers for which a Special Exception Permit is required; provided, however, that the governing body may waive such requirements if the goals of this division would be better served thereby.

1. Tower facilities shall be landscaped with a mix of deciduous and evergreen trees that effectively screens the view of the support buildings from adjacent property. The standard buffer shall consist of a landscaped strip of at least ten (10) feet wide outside the perimeter of the compound.
2. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

#### **Sec. 4-13-13 Local Government Access**

Owners of towers shall provide the County co-location opportunities without compensation as a community benefit to improve radio communications for county departments and emergency services provided it does not conflict with the co-location requirements of this section.

#### **Sec. 4-13-14 Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of twenty-four (24) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such removal requirement. Removal includes the removal of the tower, all tower and fence footers, underground cables and support buildings. The buildings may remain with the property owner's approval. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower. If the tower is not removed per this section, the County may require the landowner to have it removed. A written agreement assuring prompt removal of the tower upon abandonment, at the responsibility and cost of the tower owner or landowner shall be provided to the County at the time of approval and shall be maintained to the satisfaction of the Zoning Administrator. The County may, at its discretion, require a bond to cover potential future costs of timely removal of such tower or antenna.

#### **Sec. 4-13-15 Special Review Fees**

Any costs associated with the review of the Special Exception Permit for the County by a licensed engineer shall be paid by the applicant. Any payment of such fees would in no way be a substitute of payment for any other application review fees otherwise required by this chapter.

## **DIVISION 14 TEMPORARY USES AND PERMITS**

Temporary activities, subject to the conditions and restrictions set forth herein, may be approved by the Zoning Administrator in any zoning district through the issuance of a temporary commercial activity permit when, in the sole judgment of the Zoning Administrator, the public health, safety and welfare will not be impaired, and when the use is not so recurring in nature as to constitute a permanent use requiring an approved site plan.

### **Sec. 4-14-1 General Standards**

All temporary uses shall meet the following restrictions:

1. Structures shall not exceed four hundred square feet in floor area nor be closer than thirty-feet to a public road right-of-way.
2. Entrances and exits to public roads shall be clearly marked, and located so as to provide safe access to the site.
3. Adequate on-site parking is provided for the activity intended.
4. Removal of temporary structures and all signs, materials and debris shall be guaranteed in writing and such structures shall be removed immediately upon termination of the activity, including adequate bond to ensure such removal.
5. Permits shall be valid for a period not to exceed thirty consecutive (30) days unless extended by the Zoning Administrator, and each event or activity on a site shall be separated by a period of not less than thirty (30) consecutive days.

### **Sec. 4-14-2 Other Conditions**

The Zoning Administrator may impose additional conditions on any temporary use or activity if the Administrator deems such conditions necessary to alleviate or prevent any adverse impacts, including but not limited to limitations or requirements regarding noise, hours of operation, wastewater disposal, outdoor lighting and security measures.

### **Sec. 4-14-3 Construction Activities**

Temporary buildings and storage of materials necessary to support on-site activities for constructing buildings and structures are permitted when located on the same parcel where the construction is taking place and when limited to the duration of the construction. However, the erection and occupancy of a temporary dwelling for up to twelve months during construction of a permanent dwelling on the same site requires a zoning permit, to be issued concurrently or after the issuance of the building permit for the permanent dwelling.

## **DIVISION 15 FLEX INDUSTRIAL USES**

1. No Flex Industrial building shall exceed two (2) stories in height.
2. All buildings shall have a minimum of two (2) loading bays.
3. All loading bays shall be screened from the public street.
4. At least fifty (50) percent of the total gross floor area of any building shall have a floor load capacity of at least 125 pounds per square live foot load.
5. No more than fifty (50) percent of the gross floor areas of each building shall be used for non-accessory office uses.
6. No outdoor storage is permitted.

## **DIVISION 16 FLAG LOTS**

For the purposes of this Zoning Ordinance, an approved flag lot is intended to utilize the remaining, noncompliant portion of a parcel subsequent to the division of all possible compliant lots from that parcel.

A flag lot is any lot that does not have the required minimum frontage and/or does not have the required lot width at all points within the lot (staff) but does have the minimum required width at some point(s) (flag) within the lot.

Such lots do not comply with the requirements of the Nottoway County Zoning Ordinance for the construction of permitted use structures.

For a flag lot to be used for the establishment of permitted use structures, it must be approved by obtaining a variance.

Flag lots are exempt from length / width ratio requirements.

### **Sec. 4-16-1 Number of Flag Lots per Parcel**

Only one approved flag lot per parent parcel is allowed. Multiple flag lots shall not be allowed to increase or maximize the number of newly created lots in a new parcel division.

### **Sec. 4-16-2 Flag Lot Divisions**

Subsequent divisions of an approved, original flag lot will be deemed a subdivision and subject to the requirements of a subdivision. In such instances, the original flag lot's 'staff' shall be utilized as the subdivision's entrance and shall be built to Virginia Department of Transportation current specifications for subdivision streets.

### **Sec. 4-16-3 Flag Lot Variances**

An exception to the zoning requirements for flag lots may be granted by a variance obtained from the Nottoway County Board of Zoning Appeals or an administrative variance obtained from the Nottoway County Zoning Administrator or their designee.

A variance for a flag lot is permitted solely for the purpose of utilizing a parcel otherwise unable to meet width compliance. No lot shall be considered for an administrative variance until all possible compliant lots have been established.

#### **1. Board of Zoning Appeals**

Procedures for a variance from the Nottoway County Board of Zoning Appeals are discussed in Article 5, Division 3 – Board of Zoning Appeals and Procedures.

## 2. Administrative

The Zoning Administrator or their designee shall have the authority to grant administrative variances for flag lots. The Zoning Administrator or their designee has the authority to require additional requirements be met as a condition of approval based upon the circumstances of the situation.

No administrative variance may be considered unless the following conditions are met:

- 1) Parcel must be in zoning districts designated either A-1 or C-1.
- 2) At no point does the lot have less than a width of fifty (50) feet (staff portion of the lot). The 'staff' portion of the lot must be topographically appropriate for road construction to the building site on the 'flag' portion of the lot.
- 3) Lot must have at least fifty (50) feet of frontage on a state-maintained road or a road considered public by use.
- 4) At some point(s) the lot must have a minimum of two hundred (200) feet of width (flag portion of the lot).
- 5) Construction of any permitted use structure must:
  1. Be established where the width of the lot is two hundred (200) feet or more, and
  2. Have a minimum front setback of nine hundred twenty-five feet from the front lot line of the property that adjoins the state-maintained road or a road considered public by use.

## 3. Notification of Administrative Variance

The Board of Supervisors and the Board of Zoning Appeals shall be informed by the Zoning Administrator of all approved administrative variances at their next regular scheduled meeting.

## 4. Appeal of an Administrative Variance Request

The Zoning Administrator or their designee may, at their discretion, withhold approval of an administrative variance request. The variance applicant may then petition the Board of Zoning Appeals for a hearing and decision of their request.

## **DIVISION 17 MINING**

### **Sec. 4-17-1 Hours of Operation**

Sunrise to sunset, Monday through Friday.

### **Sec. 4-17-2 Permitted Blasting**

Between the hours of 9:00 AM to 5:00 PM, Monday through Friday.

### **Sec. 4-17-3 Setbacks**

(from any disturbed soil associated with mining activity)

- |   |          |
|---|----------|
| 1. From Property Lines:                                 | 100 feet |
| 2. From Existing Residences:                            | 400 feet |
| 3. Processing Equipment from Property Lines:            | 600 feet |
| 4. Transportation Related Equipment from Property Line: | 150 feet |

### **Sec. 4-17-4 Buffers**

1. As required by Virginia Department of Mines, Minerals, and Energy (VDMME).
2. Operation must be hidden from view of existing, occupied dwellings by berms, vegetative screens or other approved methods.

### **Sec. 4-17-5 Roads**

(from state-maintained road into mining operation):

Minimum Width: 25 feet

### **Sec. 4-17-6 Signs**

(e.g. Warning, No Trespassing, Danger, others as appropriate):  
Located at regular intervals along perimeter of mine property.

### **Sec. 4-17-7 Expiration of Special Exception**

From the date of approval by the Nottoway County Board of Supervisors, significant progress as outlined in the plan must occur within one year or special exception approval shall be voided.

## **Sec. 4-17-8 Required Attachments**

For the purposes of this Zoning Ordinance, a special exception application for a mining operation shall require the following attachments to be submitted with the special exception application:

1. The mining operation plan that is to be submitted to the VDMME.
2. The mine reclamation plan that is to be submitted to the VDMME.
3. An environmental impact plan that is to be submitted to the Virginia Department of Environmental Quality. (Such a plan is to include a description of local watercourse protection and monitoring, wetlands protection, etc.)
4. A soil and sediment control plan.
5. A completed traffic study identifying:
  - 1) Roads to be used by mine related vehicles such as dump trucks and tractor trailers, the existing condition of those roads,
  - 2) The ability of those roads to withstand typical heavy loads resulting from mine operation,
  - 3) The routes to be used by haulers of the mine's products,
  - 4) The effect of increased traffic of mine related vehicles on road safety and the safety of residents along the routes of ingress and egress,
  - 5) Comments and recommendations from the Virginia Department of Transportation.
6. A completed hydrology study identifying:
  - 1) Location and depth of existing wells on adjoining property,
  - 2) Existing drainage areas and waterways,
  - 3) Expected impact of mining operation on surface and groundwater quantity and quality,
  - 4) Disposal plan for excess water on mining site including necessary filtration.
7. Map of area to be mined, including a topography map and location of existing dwellings on adjoining parcels.
8. The plan to minimize dust on all mining property, roads, etc., by using methods such as sprinkler systems and water trucks.

## **DIVISION 18 NONTRADITIONAL ACCESSORY STRUCTURES**

### **Sec. 4-18-1 Location**

Nontraditional Accessory Structures are allowed as a Permitted Use (by right) in A-1, Agricultural Districts for the first two (2) units and as a Special Exception for any additional unit. Nontraditional Accessory Structures shall be allowed as a Special Exception Use in C-1, Conservation Districts.

### **Sec. 4-18-2 Exemptions**

Farmers shall be given exemptions when the units are used for agricultural purposes.

### **Sec. 4-18-3 Additional Requirements**

1. Building permits are required.
2. Structures are required to be placed on a solid surface (concrete) or piers, columns, etc.
3. Structures are required to be painted to cover rust, graffiti, advertising, lettering, etc.
4. Structures cannot be used for a dwelling, but can be used for accessory type uses.
5. Screening may be required as a possible condition of a Special Exception approval.

## **ARTICLE 5. ADMINISTRATION AND ENFORCEMENT**

### **DIVISION 1 ADMINISTRATIVE PROCEDURES**

#### **Sec. 5-1-1 Who May Apply**

All applications for a change in zoning or zoning permits presented to the County must be signed by the property owner, the property owner's Power of Attorney or legal guardian or in the case of an estate the executor of said estate. The property owner or his/her legal benefactor as named herein above may designate an agent to represent the zoning/rezoning request before the Planning Commission and Board of Supervisors.

#### **Sec. 5-1-2 Administration and Enforcement**

The Zoning Administrator designated by the Supervisors shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as needed. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

#### **Sec. 5-1-3 Building Permit Requirements**

No building permit shall be issued without written confirmation from the Zoning Administrator that all zoning requirements have been met and that all county codes have been met (a zoning permit).

#### **Sec. 5-1-4 Zoning Permits**

Land may not be used or occupied in violation of this Ordinance. Applications for a zoning permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. All existing buildings on the lot must be included in the scale drawing. Any other information which the administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this Ordinance a permit shall be issued to the applicant by the administrator. One copy of the drawing shall be returned to the applicant with the permit.

## **DIVISION 2 VIOLATIONS**

### **Sec. 5-2-1 Complaints**

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state full the cause and basis thereof and shall be filed with the Zoning Administrator. He shall record such complaint properly, immediately investigate, and take action thereon as provided by this Ordinance.

### **Sec. 5-2-2 Penalties**

Violations of the provisions of this Ordinance or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants or variances or special exceptions, shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000, and in addition shall pay all costs and expenses involved in the case. Each day such violation occurs shall constitute a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and may suffer the penalties herein provided.

Nothing contained herein shall prevent the County from taking other lawful action as is necessary to prevent or remedy any violation.

## **DIVISION 3 BOARD OF ZONING APPEALS AND PROCEDURES**

### **Sec. 5-3-1 Board of Zoning Appeals (BZA)**

A board consisting of five (5) members shall be appointed by the Circuit Court of Nottoway County. The Board shall serve without pay other than for traveling expenses and members shall be removable for cause upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. The term of office shall be for five (5) years. One of the five appointed members shall be an active member of the Planning Commission. The Board shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman.

### **Sec. 5-3-2 Proceedings**

The proceedings and operations of the Board shall be in conformity with Va. Code §15.2-2308 (as amended), and the Board shall make no decisions on any petition or appeal unless and until it has conducted a public hearing thereon, with due public notice given as required by Va. Code §15.2-2204 - 2205 (as amended).

### **Sec. 5-3-3 Powers and Duties of BZA**

1. The Board of Zoning Appeals shall have the following powers and duties:
  - 1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this article or of any ordinance adopted pursuant thereto;
  - 2) To authorize upon appeal in specific cases such a variance (as defined in this Ordinance) from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance. No such variance shall be authorized by the Board unless it finds:

1. That the strict application of the ordinance would produce undue hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

- 3) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners required by §15.2-2204 - 2205, the Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power, however, to rezone property or change the locations of district boundaries as established by ordinance.

#### **Sec. 5-3-4 Appeals to the BZA**

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the County or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board all the papers constituting any record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

The Board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within sixty days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination appealed from. The concurring vote of three members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to

decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to affect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions.

### **Sec. 5-3-5 Appeals of BZA Decisions to the Circuit Court**

All decisions and findings of the BZA shall be final decisions, and shall, in all decisions and findings of the instances, be subject to judicial review in the following manner:

1. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board or bureau of the County, may present to the Circuit Court of Nottoway County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the BZA.
2. Upon the presentation of such petition, the court shall allow a Writ of Certiorari to review the decision of the BZA and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the BZA and on due cause shown, grant a restraining order.
3. The BZA shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
4. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with the commissioner's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
5. Costs shall not be allowed against the BZA, unless it shall appear to the court that the BZA acted in bad faith or with malice in making the decision appealed from. In the event the decision of the BZA is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the Writ of Certiorari.

## **DIVISION 4 NONCONFORMING USES AND STRUCTURES**

### **Sec. 5-4-1 Purpose**

Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, structures, uses of land and structures and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival; however, advertising structures that become nonconforming because of an amendment to this Ordinance have 24 months within which to relocate to a permitted district.

It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

1. Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, of additional signs intended to be seen from off the premises or by the addition of other uses, of a nature which would be prohibited generally in the district involved.
2. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried out diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.
3. Temporary seasonal nonconforming uses that have been in continuous use for a period of 2 years or more prior to the effective date of this Ordinance are excluded.

### **Sec. 5-4-2 Nonconforming Lots of Record**

In any district in which one-family dwellings are permitted, a one-family dwelling and customary accessory buildings may be erected on any lot of record at the effective date of adoption or amendment of this Ordinance notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district,

provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

### **Sec. 5-4-3 Nonconforming Uses of Land**

Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance
3. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land
4. It conforms with the provisions of Sec. 5-4-5-5.

### **Sec. 5-4-4 Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity
2. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
3. Should such structure be removed for any reason, it may be replaced by another structure of similar use provided the newer structure is confined to the original structure's building footprint or less.

#### **Sec. 5-4-5 Nonconforming Uses of Structures or of Structures and Premises**

If lawful use involving individual structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months or for 24 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

#### **Sec. 5-4-6 Accessory Uses**

Accessory uses to a nonconforming use shall not continue after such principal use is extinguished.

#### **Sec. 5-4-7 Nonconforming Status Runs with the Land and/or Structure**

Nonconforming status is not associated with the ownership of the property, but rather is based upon the use of the property itself and the application of the provisions of this Ordinance.

#### **Sec. 5-4-8 Use or Structure Established Illegally**

A use or structure established illegally is not afforded protection of nonconforming status.

#### **Sec. 5-4-9 Repairs and Maintenance**

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding 25 percent of the value of the nonconforming structure as appraised by the County Assessing Officer.

1. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **Sec. 5-4-10 Uses Under Special Exception Provisions Not Nonconforming Uses**

Any such use which was established prior to the designation of such use as being permitted by special exception shall be deemed to have received a special exception of indefinite duration authorizing the continuation, enlargement, expansion, modification, relocation and extension of such use: (1) within the overall boundary of the zoning district permitting such use by right prior to the adoption of the requirement for a special exception, or (2) on any adjacent property on which such use is permitted either by right or by special exception, all without further zoning approval or action.

#### **Sec. 5-4-11 Calculation of Time**

Calculation of the time periods herein imposed shall begin as of the adoption of the original Zoning Ordinance on July 21, 2005.

## **DIVISION 5 DEVELOPMENT APPLICATIONS AND APPROVALS**

### **Sec. 5-5-1 Amendment or Repeal of Regulations or Map**

#### 1. Definition and Initiation

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Board of Supervisors may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the Supervisors, or by motion of the Planning Commission, or by petition of any property owner addressed to the Supervisors.

#### 2. Public Hearing Required

Before approving and adopting any zoning amendment, the Supervisors shall hold at least one public hearing thereon, pursuant to public notice as required by §15.2-2204 - 2205, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing after notice required by §15.2-2204 - 2205. An affirmative vote of at least a majority of the members of the governing body shall be required to adopt, amend or re-enact a Zoning Ordinance.

#### 3. Review of Application

An application for a zoning map amendment shall be filed, contain such material and be reviewed pursuant to the following:

- 1) Pre-Application Conference. Prior to filing an application, an applicant may meet with the Zoning Administrator and discuss the intentions with regard to a given application and questions regarding the procedures or substantive requirements of this Ordinance. No matters discussed at said meeting shall be binding on either the applicant or the County.
- 2) Review of Application for Completeness. No application shall be accepted and reviewed unless determined by the Zoning Administrator to be complete. A complete application is one which meets such minimum submission requirements as may be established by the County, including a rezoning plat. Each application shall be reviewed to determine if it includes the minimum submission requirements.
- 3) Acceptance of Complete Application. The Zoning Administrator shall either accept the application if it is complete and forward to the applicant a notice of acceptance or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying those areas of additional information necessary for acceptance and review.

1. If notice of incompleteness is sent, the applicant may resubmit the application with the additional data required, in which event the Planning Director shall review the resubmitted application in the manner provided in this Section for the application.
2. If the application is not resubmitted, the Planning Director shall notify the applicant that the original application has been rejected as incomplete.

#### 4. Staff Review of Application

- 1) Referrals. Upon acceptance of the application for zoning amendment, the Zoning Administrator shall forward a copy of the application to any town, county or state agencies whose comments are necessary or desirable for full and appropriate review of the merits of the application.
- 2) Review of Referrals. Referral comments shall be obtained and reviewed by the Zoning Administrator within thirty (30) calendar days after a final application has been accepted. The Zoning Administrator shall forward to the applicant a written review of the issues raised by the application.
- 3) Applicant Response. Upon receipt of the written review, an applicant may request a meeting with the Zoning Administrator to discuss the matters contained in the written review and the application generally. Such request shall be in writing and shall include a response to the matters raised in the written review received.
- 4) Report and Notice to Applicant. The Zoning Administrator shall compile the referrals and any other necessary information, prepare a written staff report with proposed findings and a recommendation, and notify the applicant that the report is complete and the application is ready to be presented to the Board of Supervisors or Planning Commission, as appropriate, for hearing.

#### 5. Amendment to Application

An application may be amended by the submission of additional information or proposed changes to the application after it has been accepted. If the additional information or proposed changes submitted are to conform with recommendations made by County staff, commissions or boards, then it shall not be deemed an amendment and the application shall continue to be processed on its original time line.

However, if the additional information or proposed changes submitted by the applicant are at the applicant's request, then the Zoning Administrator shall review the information within fifteen (15) calendar days of receipt and render a finding as to whether the submitted information necessitates repeating any portion of the reviewing process including public hearings. If any portion must be repeated, the Zoning Administrator will notify the applicant in writing within the fifteen (15) calendar day period that the additional information or proposed changes will require an extension of the time limits prescribed in this Section and such notice shall specify the required extension. The applicant will then have fifteen (15) calendar days to provide the

Zoning Administrator with a written response either granting the necessary extension or withdrawing the additional information or proposed changes which necessitated the extension. If the applicant chooses to withdraw the information, then the application will proceed based on its original timeline.

#### 6. Withdrawal of Application

An application for rezoning may be withdrawn at any time upon written request by the applicant and with the consent of either the Planning Commission or the Board of Supervisors, whichever body has advertised the hearing; provided, that if the request for withdrawal is made after publication of the notice of public hearing, no application for the reclassification of all or any part of the same property shall be filed within three (3) months of the withdrawal date. There shall be no refund of rezoning fees in the case of withdrawal either before or after advertising. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action.

#### 7. Limitation on Applications After Denial

Upon the denial of any application filed to change a zoning district, no further application concerning any or all of the same property shall be filed for rezoning to the same use in less than twelve (12) months from the time of denial by the Board of Supervisors.

#### 8. Conditional Zoning

In accord with Article 1 of this chapter, as part of a petition to rezone property and amend the official zoning maps, the property owner may include a voluntary proffering in writing placing certain conditions and restrictions on the use and development of such property, such conditions being in addition to, or modification of, the regulations provided for a particular zone or zoning district by this Ordinance. The Zoning Administrator shall be vested with all necessary authority to administer and enforce such conditions and restrictions, all in accordance with sections 15.2-2296-2302 of the Code of Virginia, and such sections are incorporated herein as a part hereof to the same extent and purpose as though such sections were herein fully set out at length.

As part of an application for a rezoning, a property owner may proffer in writing the provision of reasonable conditions to apply and be part of the rezoning sought to be approved by said application. Proffered conditions may include written statements, development plans, profiles, elevations, or other demonstrative materials and shall be subject to the following procedures and regulations:

- 1) It is the intent of this Ordinance that any proffered conditions be submitted for staff review as part of an initial application for rezoning. Further, it is the intent of this Ordinance that revised proffers be publicly available prior to the Planning Commission public hearing on the application.

- 2) In no event shall the applicant's proposed statement of proffered conditions be submitted later than forty-five (45) calendar days prior to the scheduled public hearing before the Board of Supervisors.
- 3) Nothing in this paragraph shall prevent the Board of Supervisors from approving an application subject to changes in proffers agreed to by an applicant at the public hearing so long as the change imposes a more restrictive standard and the ordinance adopted accurately reflects such changes.
- 4) Contents of Proffer. Proffered conditions shall be signed by all persons having an ownership interest in the property and shall be notarized. Proffered conditions shall contain a statement that the owners voluntarily enter into the conditions contained therein.
- 5) Filing and Notice of Accepted Proffers. If the amendment to the Zoning Map is adopted subject to proffered conditions, then the property in question shall be appropriately annotated on the Zoning Map and the proffers shall be placed in the Zoning Administrator's official proffer file.
- 6) Proffers Govern Development. Upon final approval by the Board of Supervisors proffered conditions shall become a part of the zoning regulations applicable to the property unless subsequently changed by an amendment to the Zoning Map, which amendment is not part of a comprehensive implementation of a new or substantially revised Zoning Ordinance, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.
- 7) Substantial Conformance Required. Upon approval of a rezoning with proffers, any site plan, subdivision plat, development plan or other application for development thereafter submitted shall be in substantial conformance with all proffered conditions. No development shall be approved by any County official in the absence of said substantial conformance.
- 8) Substantial Conformance Defined. For the purpose of this Section, substantial conformance shall be determined by the Zoning Administrator and shall mean that conformance which leaves a reasonable margin for adjustment due to final design or engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials proffered by the applicant.
- 9) Enforcement of Proffers. The Zoning Administrator shall be vested with all necessary authority on behalf of the Board of Supervisors to administer and enforce proffered conditions. Such authority shall include the ability to order, in writing, the remedy of any noncompliance with a proffered condition and the ability to bring legal action to ensure compliance including injunction, abatement, or other appropriate action or proceedings, as provided for in this Ordinance. Any person, group, company, or organization aggrieved by an interpretation of the Zoning Administrator may appeal such interpretation as defined by this Ordinance.

- 10) Guarantee for Construction of Improvements. A guarantee, satisfactory to the Board, may be required in an amount sufficient for and conditioned upon the construction of any public improvements required by the proffered conditions. This guarantee may be reduced or released by the Board or agent thereof, upon the submission of satisfactory evidence that the construction of such improvements has been completed in whole or in part. Said guarantee shall be required no later than final site plan or subdivision approval.
- 11) No Permits Shall Be Issued Not In Compliance With Proffers. Failure to meet or comply with any proffered conditions shall be sufficient cause to deny the issuance of any site plan or subdivision approvals, grading permits, zoning permits, building permits, or certificates of occupancy as may be determined appropriate by the Zoning Administrator. In addition to the other penalties appropriate for violations of this Ordinance, failure to meet or comply with any proffered condition shall be sufficient cause to deny the issuance of any development approvals or permits relating to the land area which was the subject of the conditional zoning. To this end, each application for a development approval or permit shall include an affidavit by the applicant that all applicable proffers have or will be complied with as agreed upon at the time of rezoning. The burden shall be on the applicant to verify that proposed development complies with any and all proffered conditions.
- 12) Appeal of Proffer Decision. Any person aggrieved by a decision of the Zoning Administrator regarding any proffered condition may appeal such decision to the Board of Supervisors. Such appeal shall be filed within thirty (30) calendar days from the date of the decision appealed by filing a notice of appeal with the Zoning Administrator. Such notice shall be a written statement specifying the grounds on which aggrieved and the basis for the appeal. Upon receipt of the appeal notice, the Board of Supervisors shall take such testimony as it deems appropriate and shall render its decision within sixty (60) calendar days after receipt of the appeal notice. The Board of Supervisors may reverse or affirm wholly or partly or may modify the decision of the Zoning Administrator.

#### 9. Planning Commission Hearing

No later than forty-five (45) calendar days after an application has been accepted, the Planning Commission shall hold a duly noticed public hearing on an application for a zoning amendment. A descriptive summary of proposed action must be added to the amendment advertisements. Planned usage must be stated in the public notice of rezoning if specifically dealt within the Comprehensive Plan.

## 10. Report by Planning Commission

The Planning Commission shall report to the Board of Supervisors its recommendation with respect to the proposed amendment.

- 1) The Planning Commission need not confine its recommendation to the proposed amendment as set forth in the application. If the proposed amendment consists of a change in the text of this Ordinance, it may recommend a revision to the proposal. If the proposed amendment consists of a change in zoning district boundaries, it may reduce or enlarge the extent of land that it recommends be rezoned; or it may recommend that the land be rezoned to a different zoning district classification than that requested if, in either case, the Commission is of the opinion that such revision is in accordance with sound zoning practice and the adopted Comprehensive Plan, and is in furtherance of the purposes of this Ordinance. Before recommending a larger extent of land or a rezoning to a more intensive classification than was set forth in the application, the Commission shall hold an additional duly noticed public hearing on the matter.
- 2) In recommending the adoption of any proposed amendment to this Ordinance, the Planning Commission may state its reason for such recommendation, describing any changes in conditions, if any, that it believes make the proposed amendment advisable and specifically setting forth the manner in which, in its opinion, the proposed amendment would be in harmony with the adopted Comprehensive Plan and would be in furtherance of the purpose of this Ordinance.
- 3) Text Amendments. If the request is for an amendment of the text of this Ordinance, the Planning Commission shall consider the following matters:
  1. Whether the proposed text amendment is consistent with the Comprehensive Plan.
  2. Whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.
  3. Zoning Map Amendments. If the application is for a reclassification of property to a different zoning district classification on the Zoning Map, the applicant shall address all the following in its statement of justification or plat unless not applicable. The Planning Commission shall give reasonable consideration to the following matters:
    4. Whether the proposed zoning district classification is consistent with the Comprehensive Plan.
    5. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.

6. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.
7. Whether adequate utility, sewer and water, transportation, school and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.
8. The effect of the proposed rezoning on the County's ground water supply.
9. The effect of uses allowed by the proposed rezoning on the structural capacity of the soils.
10. The impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic and traffic safety in the vicinity and whether the proposed rezoning uses sufficient measures to mitigate the impact of through construction traffic on existing neighborhoods and school areas.
11. Whether a reasonably viable economic use of the subject property exists under the current zoning.
12. The effect of the proposed rezoning on environmentally sensitive land or natural features, wildlife habitat, vegetation, water quality and air quality.
13. Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.
14. Whether the proposed rezoning considers the needs of agriculture, industry, and businesses in future growth.
15. Whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes as determined by population and economic studies.
16. Whether the proposed rezoning encourages the conservation of properties and their values and the encouragement of the most appropriate use of land throughout the County.
17. Whether the proposed rezoning considers trends of growth or changes, employment, and economic factors, the need for housing, probable future economic and population growth of the County.
18. The effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of Nottoway County.

19. The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.

The Planning Commission shall make its recommendation to the Board within sixty (60) calendar days after the public hearing of the Commission. Tabling an application for rezoning on the grounds of inadequate data may be requested by the applicant, for a period of no longer than ninety (90) days after which the application would be considered to be automatically withdrawn. The Planning Commission may also table a request on the grounds of inadequate data, but for no longer than ninety (90) days. Inaction by the Planning Commission beyond ninety (90) days would constitute an automatic recommendation to the Board of Supervisors for approval of the request. All cost involved in re-advertisement must be paid by the applicant.

11. Board of Supervisors Hearing

No later than one hundred (100) calendar days after an application has been accepted, the Board shall then hold its own public hearing in conformity with all notice requirements under the Code of Virginia, Section 15.2-2204 and 2205, and make the final determination on the rezoning request.

12. Action by Board of Supervisors

After the conclusion of its public hearing, the Board of Supervisors shall act on the application for rezoning. Changes shall be made by the Board of Supervisors in this chapter or the zoning map only after such changes have been referred to the Planning Commission for a recommendation. Action shall be taken by the Board only after a favorable/unfavorable recommendation has been received from the Commission, unless a period of ninety (90) days has elapsed after the date of referral to the Commission, after which time it may be assumed that the Commission has approved the change or amendment.

The Board of Supervisors need not confine its action to the proposed amendment as set forth in the application. If the proposed amendment consists of a change in the text of this Ordinance, it may act on a revision to the application. If the proposed amendment consists of a change in zoning district boundaries, it may reduce or enlarge the extent of land that it rezones or it may rezone the land to a different zoning district classification than that requested if, in either case, it is of the opinion that such revision is in accordance with sound zoning practice and the adopted Comprehensive Plan and is in furtherance of the purposes of this Ordinance. Before rezoning a larger extent of land or rezoning the land to a more intensive classification than was set forth in the application, the Board shall hold a further duly noticed public hearing on the matter.

13. Evidentiary Matters Before Board of Supervisors

All information, testimony or other evidence presented by an applicant for zoning amendment shall be presented to the Planning Commission in conjunction with its review and hearing on the application. If the Board of Supervisors determines that an applicant is presenting evidence which is substantially or materially different from that

presented to the Commission, the Board may refer the application back to the Commission for such additional consideration and action as the Board may deem appropriate.

#### 14. Special Provisions

Every action contesting a decision of the Board of Supervisors for failing to adopt a proposed Zoning Ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within thirty (30) days of such decision with the Circuit Court.

At such time as the Comprehensive Plan may be amended and officially reviewed in accordance with the Code of Virginia, section 15.2-2230, the Planning Commission shall review such document and prepare recommendations that would consider changes in future land use areas. Corresponding amendments to this chapter may be proposed, if made necessary by the character of the amendments or changes in the Comprehensive Plan.

## **Sec. 5-5-2 Special Exceptions**

### **1. Definition and Initiation**

A special exception is a use that would not be appropriate generally or without restrictions throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provisions for such special exceptions are made in this Ordinance.

### **2. Applications**

Applications for special exceptions may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the Board of Supervisors in accordance with rules adopted by the Board. The application and accompanying maps, plans or other information shall be transmitted promptly to the Secretary of the Board who shall place the matter on the docket, advertise a public hearing thereon which shall be held not less than ten days after such advertising, and give written notice of such hearing to the parties in interest. The Zoning Administrator shall also transmit a copy of the application to the local commission which may send a recommendation to the Board or appear as a party at the hearing.

### **3. Conditions**

The Board of Supervisors may grant such special exceptions as are authorized by this Ordinance. The Board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

### **4. Review of Application**

Wherever a use of structure is listed either as a permissible use or structure or is listed as a special exception, application shall be made to the Zoning Administrator who shall refer such application to the Planning Commission. A written application for a special exception shall be submitted with satisfactory evidence that any delinquent real estate taxes owed to the County which have been properly assessed against the subject property have been paid and with indication of the section of this chapter under which the special exception or use is sought, and statement of the grounds on which it is requested.

Special exception requests will be reviewed by the Planning Commission upon referral by the Zoning Administrator.

An application for a Special Exception Permit shall be filed, containing such material and be processed in the same general fashion as detailed for zoning amendments as provided for herein.

The Board of Supervisors may permit a Special Exception Permit as part of a zoning map amendment, or by Special Exception Permit procedures at any time after a zoning map amendment.

5. Planning Commission Hearing

A public hearing shall be held. Any party may appear in person or by agent or attorney.

6. Report by Planning Commission

The Commission shall make a recommendation on the subject use after a public hearing is held.

7. Board of Supervisors Hearing

The final determination on the request will be made by the Board of Supervisors, after the following procedure is completed:

8. Issues for Consideration

In considering a Special Exception Permit application, the following factors shall be given reasonable consideration. The applicant shall address all the following in its statement of justification or Special Exception Permit plat unless not applicable, in addition to any other standards imposed by this Ordinance:

- 1) Whether the proposed Special Exception Permit is consistent with the Comprehensive Plan.
- 2) Whether the proposed Special Exception Permit will adequately provide for safety from fire hazards and have effective measures of fire control.
- 3) The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
- 4) The glare or light that may be generated by the proposed use in relation to uses in the immediate area.
- 5) The proposed location, lighting and type of signs in relation to the proposed use, uses in the area, and the sign requirements of this Ordinance.
- 6) The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.

- 7) The location and area footprint with dimensions (all drawn to scale), nature and height of existing or proposed buildings, structures, walls, and fences on the site and in the neighborhood.
- 8) The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
- 9) The timing and phasing of the proposed development and the duration of the proposed use.
- 10) Whether the proposed Special Exception Permit will result in the preservation or destruction, loss or damage of any topographic or physical, natural, scenic, archaeological or historic feature of significant importance.
- 11) Whether the proposed Special Exception Permit at the specified location will contribute to or promote the welfare or convenience of the public.
- 12) The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety, efficient traffic movement and access in case of fire or catastrophe.
- 13) Whether, in the case of existing structures proposed to be converted to uses requiring a Special Exception Permit, the structures meet all code requirements of Nottoway County.
- 14) Whether the proposed Special Exception Permit will be served adequately by essential public facilities and services.
- 15) The effect of the proposed Special Exception Permit on groundwater supply.
- 16) The effect of the proposed Special Exception Permit on the structural capacity of the soils.
- 17) Whether the proposed use will facilitate orderly and safe road development and transportation.
- 18) The effect of the proposed Special Exception Permit on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
- 19) Whether the proposed Special Exception Permit use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.
- 20) Whether the proposed Special Exception Permit considers the needs of agriculture, industry, and businesses in future growth.

- 21) The effect of the proposed Special Exception Permit use in enhancing affordable shelter opportunities for residents of the County.
- 22) The location, character, and size of any outdoor storage.
- 23) The proposed use of open space.
- 24) The location of any major floodplain and steep slopes.
- 25) The location and use of any existing nonconforming uses and structures.
- 26) The location and type of any fuel and fuel storage.
- 27) The location and use of any anticipated accessory uses and structures.
- 28) The area of each use; if appropriate.
- 29) The proposed days/hours of operation.
- 30) The location and screening of parking and loading spaces and/or areas.
- 31) The location and nature of any proposed security features and provisions.
- 32) The number of employees.
- 33) The location of any existing and/or proposed adequate on- and off-site infrastructure.
- 34) Any anticipated odors which may be generated by the uses on-site.
- 35) Whether the proposed Special Exception Permit uses sufficient measure to mitigate the impact of construction traffic on existing neighborhoods and school areas.
- 36) Refuse and service areas, with particular reference to the items in (1) and (2) of this subsection.
- 37) Utilities, with reference to location, availability and compatibility.

#### 9. Conditions and Restrictions

In approving a Special Exception Permit, the Board of Supervisors may impose such conditions, safeguards and restrictions upon the premises benefited by the Special Exception Permit as may be necessary to avoid, minimize or mitigate any potentially adverse or injurious effect of such Special Exception Permits upon other property in the neighborhood, and to carry out the general purpose and intent of this Ordinance. Conditions and restrictions may include, but are not limited to, those related to fencing, planting or other landscaping, additional setbacks from property lines, location and arrangement of lighting, setting of reasonable time limitations and other reasonable

requirements deemed necessary to safeguard the interest of the general public. The Board may require a guarantee or bond to ensure that conditions imposed will be complied with. All required conditions shall be set out in the documentation approving the Special Exception Permit.

1) Effect of Issuance of Permit for a Special Exception

The issuance of a permit for a Special Exception Permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the County, including, but not limited to, a building permit, a certificate of occupancy, site plan and subdivision approval and a zoning permit.

2) Period of Validity

1. Unless a longer period of validity is specifically approved as a part of such application, no Special Exception Permit shall be valid for a period longer than five (5) years from the date on which the Special Exception Permit was granted, unless within such five (5) year period: (1) a building permit is obtained and the erection or alteration of a structure is started and diligently pursued, or (2) an occupancy permit is obtained and a use commenced; or 3) issuance of a zoning permit. Such period of validity may be extended for good cause shown, by application to the body that approved the Special Exception Permit.
2. As a condition of approval, a Special Exception Permit may be granted for a specific period of time less than five (5) years with expiration of the approval to occur at the termination of said period. In such case, an extension may be granted prior to expiration by the original approving body, upon written application, without notice or hearing. After expiration, no extension may be granted without complying with the requirements for an initial application for a Special Exception Permit.

10. Rehearing

A request for rehearing shall be made in writing, filed with the Zoning Administrator within fifteen (15) calendar days after the date of the decision, and shall cite the reasons for the request. A rehearing may be granted only upon the affirmative vote of a majority of the Board of Supervisors. No amendment to an application shall be permitted in the rehearing process. Any amendment to an application after decision by the Board constitutes a new application.

11. Exception for Emergencies

When there is an urgent and immediate need for housing for persons who have been displaced by a natural or man-made disaster, the requirements of this chapter may be

waived by the Zoning Administrator for a period not to exceed twelve (12) months when, in the exercise of his discretion, he feels that the imposition of such requirements would create a hardship for such displaced persons.

## 12. Revocation

Unless a time limit is specified for a permit, the same shall be valid for an indefinite period of time but shall be revocable on the order of the Nottoway County Board of Supervisors at any time on the failure of the owner or operator of the use to observe all requirements of law and all conditions in connection with the permit.

Before revoking any permit, the Board of Supervisors shall give the holder thereof at least ten days' written notice of violation. If within such ten days the permit holder so requests, the Board of Supervisors shall hold a hearing on the revocation.

### **Sec. 5-5-3 Commission Permit ("2232 Review")**

#### 1. Permit Required

In accord with the Code of Virginia, Section 15.2-2232, no street, park or other public area or public structure, public utility, public building or public service corporation facility other than railroads, whether publicly or privately owned, shall be constructed, established or authorized unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted Comprehensive Plan or part thereof.

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

#### 2. Application

An application for a commission permit shall be filed with the Zoning Administrator and shall meet the minimum submission requirements as prescribed herein.

Application is not necessary for features already specifically shown on the Comprehensive Plan.

#### 3. Planning Commission Action

In connection with any such determination, the Commission may, and at the direction of the Board of Supervisors shall, hold a public hearing, after notice as required by section 15.2-2204 and 2205 of the Code of Virginia.

The Commission shall communicate its findings pursuant to this section to the Board of Supervisors, indicating its approval or disapproval, with written reasons therefore. Failure of the Commission to act within sixty (60) days of such submission, unless such time shall be extended by the Board, shall be deemed approval.

4. Board of Supervisors

The Zoning Administrator shall issue a commission permit following approval by the Planning Commission pursuant to this section. Such approval shall be subject to ratification by the Board of Supervisors pursuant to provisions of section 15.2-2232 of the Code of Virginia.

The Board may overrule the action of the Commission by a vote of a majority of the membership thereof; provided that failure of the Board to act within sixty (60) days of the date of transmittal of approving action of the Commission shall constitute ratification.

5. Appeal

In case of disapproval, the owners or their agents may appeal the decision of the Commission to the Board within ten (10) days after the decision of the Commission. The appeal shall be by written petition to the Board setting forth the reasons for the appeal. A majority vote of the Board shall overrule the Commission.

## ARTICLE 6. DEFINITIONS

### Sec. 6-1-1 Interpretation of Words

For the purposes of this Zoning Ordinance, certain words shall be interpreted as follows:

1. The word "Person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
3. The word "shall" is mandatory; the word "may" is permissive.
4. The words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied."
5. The word "lot" includes the words "plot" or "parcel".

### Sec. 6-1-2 List of Definitions

**Abattoir:** A place where livestock is killed and prepared (butchered) for distribution; to include the preparation of game animals.

**Abutting:** Contiguous, adjoining; having property or district lines in common or being separated only by a public right-of-way, or access easement.

**Access:** A means of approaching or entering, including ingress and egress.

**Accessory Building or Use:** A use, building, lot or portion thereof which is customarily incidental and subordinate to the principal use of the main building or lot. (also see dwelling, accessory)

**Accessory Dwelling:** (see Dwelling, Accessory)

**Acreage:** The area of land within a parcel or tract, expressed in number of acres.

**Addition:** Any construction which increases the area or cubic content of the building or structure.

**Adjacent:** Nearby and not necessarily contiguous.

**Administrator, Zoning:** The official charged with the enforcement of the Zoning Ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

**Agricultural District:** Any district zoned A-1

**Agricultural and Forestal District:** Any such district created in accord with the provisions of the Virginia Code for such districts; not a zoning district.

**Agriculture:** The use of land for purposes of raising plants and animals useful to humans, including field crops, pasture, fruits, vegetables, floral and greenhouse products, sod, viticulture, silviculture, aquaculture, apiculture, poultry and other fowl, horses and other livestock, including owning, breeding, leasing, training and recreational usage of livestock, and the necessary accessory uses, materials and equipment for packing, storing and treating of agricultural goods produced on the premises for distribution to final processing plants and markets; provided, however, that the necessary accessory uses shall be secondary to that of the main agricultural activities.

The term does not include processing plants, livestock markets, commercial stables, kennels, slaughter houses or “intensive agriculture” uses as defined herein.

The term does include “limited agriculture” activities.

**Agriculture, Intensive:** The raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep and other animals; livestock markets and pet farms.

Additional definitions related to intensive agriculture provisions:

**Agriculture, Intensive Facility (also “intensive livestock facility”; also “intensive livestock structure”):** Any enclosed field, range, pen or building where 300 or more total animal units are confined or housed for more than forty-five (45) consecutive days or more than ninety (90) total days in any part of any twelve-month period, and crops, vegetation, forage growth or post-harvest residues are not sustained over any significant portion of such field, range, pen, or building, and/or any poultry or swine operation containing five (5) or more animal units in a single enclosed field, range, pen or building, or ten (10) or more animal units on a single tract of less than ten (10) acres.

Such facilities include, but are not limited to, feed storage bins, litter storage sites, incinerators, manure storage sites, swine or poultry house, livestock or poultry disposal pits and dead livestock or poultry cold storage chests.

Equivalent of 300 animal units:

- 300 slaughter or feeder cattle (1 animal unit = 1.0 feeder cattle)
- 750 swine (1 animal unit = 2.5 swine)
- 150 horses (1 animal unit = 0.5 horses)
- 3,000 sheep or lambs (1 animal unit = 10.0 sheep)
- 200 mature dairy cattle (1 animal unit = 0.67 mature dairy cattle)
- 16,500 turkeys (1 animal unit = 55.0 turkeys)
- 30,000 laying hens or broilers (1 animal unit = 100.0 broilers)

**Existing dwelling:** A residential dwelling which is occupied or suitable for occupancy or which has been issued a building permit on or before the date a zoning permit for an intensive agricultural facility has been approved by the Zoning Administrator

**Existing Livestock, Dairy, Poultry Facility:** An intensive agriculture facility which has been in operation for a one-year period within the five years immediately preceding the date on which a zoning permit is sought for a dwelling.

**Airport (also airpark, flight strip, airfield and heliport):** A place where aircraft may take off and land, discharge or receive cargo or passengers, be repaired, take on fuel or be stored.

**Alley:** Passage or way open to the public or for private travel, generally affording a secondary vehicular access to abutting lots or upon which service entrances or building abut, and not intended for general traffic.

**Alteration:** Any change in the total floor area, use, adaptability or external appearance of any existing structure.

**Amend or Amendment:** Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape boundary or area of a district; or any repeal or abolition of any map, part thereof or addition thereto.

**Animal Confinement:** The keeping or raising of livestock under cover for a total of forty-five days or more in any twelve-month period. Examples of animal confinement may include but are not limited to: dairies, poultry houses, swine operations and similar uses.

**Animal Hospital:** A facility for the provision of surgical or other medical treatment to animals. Such animals may be kept in the facility during the recovery period or while under medical treatment only.

**Animal Unit:** A unit of measurement for general & intensive livestock operations. An animal unit (A.U.) is approximately equivalent to one thousand pounds (1,000#) of live animal weight. The following scale will be used to calculate total animal units:

- |                                 |                          |
|---------------------------------|--------------------------|
| a) Brood cows, slaughter cattle | each multiplied by 1.00  |
| b) Feeder cattle:               | each multiplied by 0.50  |
| c) Milking dairy cows:          | each multiplied by 1.40  |
| d) Young dairy stock:           | each multiplied by 0.60  |
| e) Swine, over 55 pounds:       | each multiplied by 0.40  |
| f) Swine, under 55 pounds:      | each multiplied by 0.03  |
| g) Sheep, lambs and goats:      | each multiplied by 0.10  |
| h) Horses:                      | each multiplied by 2.00  |
| i) Turkeys:                     | each multiplied by 0.02  |
| j) Laying hens and broilers:    | each multiplied by 0.005 |

**Antenna:** Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves that is one (1) meter or less in diameter; or an antenna that is designed to receive video programming services via multipoint distribution services; including multi-channel, multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or an antenna that is designed to receive television broadcast signals, provided that this definition shall not be interpreted to include an antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services.

**Antique Shop:** A retail or wholesale enterprise in which old furniture and household implements are sold.

**Apartment House:** A building used or intended to be used as the residence of three (3) or more families living independently of each other.

**Approved Plot Plan:** A plat of an entire parcel of land with the location of all existing and proposed structures, signed by the land owner certifying that the structures meet all applicable setback requirements of this Ordinance, and showing the direction and distances to adjoining property owners, nearest residences and churches, public use areas including commercial enterprises.

**Asphalt Mixing:** The mixing, manufacture or storage of asphalt paving materials.

**Assisted Living Facility:** (see Senior Living Facilities)

**Attic:** The part of structure which is immediately below and wholly or partly within the roof framing; where there are dormers greater than 50 percent of the length of the roof, then this area is not an attic.

**Auto Body Repair and Refinishing:** The repair, refinishing or painting of the surface materials of autos, trucks, boats or other vehicles.

**Automobile Graveyard:** Any lot or place which is exposed to the weather and upon which three (3) or more inoperative vehicles are placed, located or found, including automobiles, motorcycles, boats, buses, trucks, campers, and similar vehicles. For purposes of regulation, an automobile graveyard is considered to be a junkyard.

**Automobile Sales and Service:** The sale and/or long-term leasing of automobiles, light trucks and similar motor vehicles; may include the servicing of the mechanical and electronic systems of such vehicles as an accessory but not principal use.

**Automobile Service Station:** Automobile service stations shall be considered as business uses having buildings (including accessory buildings) which are designed and used to service or repair automotive vehicles. The extent of service performed may include body and fender repair, painting and engine overhaul. Noise, glare, fumes and smoke are common characteristics of automobile service stations. [see Service Station]

**Base District:** A type of Zoning District established in this Ordinance that requires a generally uniform group of land uses and lot requirements and does not require a concept development plan in advance of zoning approval, in contrast to the Special and Overlay Districts

**Basement:** A story partly underground and having at least one-half of its floor to ceiling height above the average grade of the adjoining ground.

**Bay:** A principal compartment of the walls, roof, or other part of a building or of the whole building.

**Bed and Breakfast Inn:** A single-family dwelling, or portion thereof, where short-term lodging is provided for compensation to transient guests only. The operator lives on the premises. Meals may be provided to guests only.

**Berm:** A landscaped earthen mound intended to screen, buffer, mitigate noise and generally enhance views of parking areas, storage areas or required yards, particularly from public streets and adjacent properties.

**Block:** That property abutting one side of a street and lying between the two (2) nearest intersecting streets or the nearest intersecting or intercepting street and railroad right-of-way, unsubdivided acreage, river or live stream or between any of the foregoing and any other barrier to the continuity of development.

**Board of Supervisors:** The Nottoway County Board of Supervisors, also known as the governing body.

**Board of Zoning Appeals:** The Nottoway County Board of Zoning Appeals.

**Boarding House:** A dwelling used for the purpose of providing lodging or meals or both to persons other than the family occupying the dwelling. (includes rooming house)

**Book Binding:** The assembly and fastening of books or magazines.

**Bottling and Packaging:** Placing nonflammable liquid or solid goods in bottles, boxes or similar containers for shipping or distribution.

**Buffer (also buffer yard, buffer area):** A yard or area improved with screening and/or landscaping materials as required between abutting uses or districts of differing intensities for the purpose of decreasing the adverse impacts of one differing use on another.

**Building:** Any structure except a tent or trailer, having a roof supported by columns or walls built for the support, shelter or enclosure of persons, animals or property of any kind.

**Building Area:** The portion of a lot that remains after required yards have been provided.

**Building, Height of:** The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof, if a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

**Building Official:** An appointed official of the County who is responsible for certifying building inspections.

**Building, Principal:** The principal or main structure or one (1) of the principal buildings on a lot or the building or one (1) of the principal buildings containing the principal use on the lot. The terms main and principal have the same meaning in this Ordinance when referring to structures, buildings and uses.

**Building, Use or Structure, Accessory:** A building, use, or structure, including satellite receptors or dishes, on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Bulk Storage of Oil, Gasoline, Combustibles:** The storage of quantities of oil, gasoline or other flammable materials for wholesale or distribution.

**Business Storage Yard:** An outdoor area used for the storage of materials or equipment associated with contracting, manufacturing or similar activities.

**Camp, Boarding:** As for campground, except that uses and structures shall be permitted for the lodging of guests engaged in outdoor recreation activities. Boarding Camp does not mean Mobile Home Park as defined herein.

**Camp, Day:** A lot, tract or parcel of land operated as either a commercial or noncommercial enterprise in which seasonal facilities are provided for all or any of the following: Camping, picnicking, boating, fishing, swimming, outdoor games and sports and activities incidental and relating to the foregoing, but not including miniature golf grounds, golf driving ranges, mechanical amusement devices or permanent structures for the housing of guests.

**Campground:** A lot, or tract of land operated either as a commercial or noncommercial enterprise in which seasonal facilities are provided for all or any of the following: camping in tents, picnicking, boating, fishing, swimming, outdoor games and sports, and activities incidental and related to the foregoing, but not including golf, golf driving ranges, miniature golf, mechanical amusement devices or permanent housing facilities for guests. Campground does not mean Recreational Vehicle Park nor Mobile Home Park as defined herein.

**Cellar:** A story entirely or partly underground, with at least one-half of its floor to ceiling height below the average grade of the adjoining ground.

**Cemetery:** Property used for the interring of the dead, in which columbariums and mausoleums may be used. Includes pet cemeteries.

**Child Care Center:** Any place, however designated, operated for the purpose of providing care, protection and guidance to four (4) or more children under seven years of age separated from their parents or guardians during a part of the day only between the hours of 6:00 a.m. and 7:00 p.m.

**Chipmill:** (see Sawmill)

**Church:** A place of worship, an institution that people regularly attend to participate in or hold religious services, meetings and other related activities. The term “church” shall not carry a secular connotation and shall include any building used for religious services by any denomination. Day care or educational activities uses, other than those conducted in conjunction with worship services, are not part of the definition of a church.

**Club:** An organization catering exclusively to members and their guests, including premises and buildings, for recreational or athletic purposes which are not conducted primarily for gain; provided, there are not conducted any vending stands, merchandising or commercial activities, except as required generally for membership and purposes of such clubs; includes Civic Clubs and Country Clubs.

**Code of Virginia:** includes "as amended."

**Commercial:** Any wholesale, retail or service business activity established to carry on trade for a profit. (also see “retail” and “wholesale”)

**Commercial Fish Production:** The raising of fish, shellfish or similar species for harvesting, sale, breeding or other commercial purposes.

**Commercial, Light:** Retail or personal service business establishment

**Commission:** Planning Commission of Nottoway County, Virginia.

**Common Open Space:** (see Open Space, Common)

**Community Center:** A place, structure, area or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public and designed to accommodate and serve significant population segments of the community.

**Conditional Zoning:** A zoning re-classification allowed subject to conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned as set forth in Section 15.1-491 Code of Virginia, 1950, as amended.

**Condominium:** A building or group of buildings in which dwelling units or floor area are owned individually and the structure, common areas and facilities are owned by all owners on a proportional, undivided basis.

**Conservation Easement:** An easement granting a right or interest in real property that retains land or water areas predominately in their natural, scenic, open, or wooded condition, preserving such areas as suitable habitat for fish, plants, or wildlife, or maintaining existing land uses.

**Construction Standards:** Those construction standards approved by the Board of Supervisors and County Building Official and included in the Uniform Statewide Building Code.

**Construction Trailer:** A mobile home unit placed temporarily for the use of contractors during the time period when initial construction and development occur on a building site.

**Contiguous:** (see Abutting)

**Contractor's Service Establishment, Storage Yard:** (see Storage Yard)

**Convenience Store, Convenience Retail Sales:** Any retail establishment offering for sale a relatively limited selection of prepackaged food products, household items, and other related goods, not including gasoline or fuel sales, characterized by a rapid turnover of customers and high traffic generation. Includes General Store, as defined herein.

**Correctional Facility:** Public or private facility providing for the confinement of offenders, for the incarceration, confinement or detention of individuals arrested for or convicted of a crime, or for the punishment, correction and/or rehabilitation of individuals convicted of crimes whose freedom is restricted.

**Country Club:** (see Club)

**Country Inn:** A business which offers accommodations and dining in a rural area. Overnight lodging of up to thirty (30) rooms is available and a full-service restaurant may provide meals to guests and the general public. (also see Bed and Breakfast Inn)

**County:** The County of Nottoway, Virginia.

**Court:** An open, unoccupied space, other than a yard, with a building or group of buildings which is bounded on two (2) or more sides by such building or buildings and every part of which is clear and unobstructed from its lowest point to the sky.

**Coverage:** (see Lot, Coverage)

**Creamery:** A facility that manufactures cream and similar finished dairy products for distribution from raw dairy products delivered to the site.

**Crushed Stone Operation:** The crushing of stone or gravel for distribution; does not include quarrying or mining.

**Dairy:** A commercial establishment for the manufacture and sale of dairy products.

**Day Care Center (Child or Adult):** A licensed establishment operated as a commercial enterprise or public facility which is operated only during a part of any twenty-four hour day for the purpose of providing care, protection and supervision for compensation to more than nine (9) children or more than four (4) aged, infirm, or disabled adults who reside elsewhere, at a time during any twenty-four hour period.

**Density:** The allowable number of dwelling units per acre. The types of density are:

- 1) Net density: The number of dwelling units per acre of land on-site that is devoted to residential buildings and accessory uses within the site including roads and permanent open space, but excluding land devoted to other public facilities, storm water detention facilities, 100-year floodplain, wetlands, slopes greater than 25% and nonresidential development.
- 2) Gross density: The ratio of the total number of lots or dwellings on a tract to the total number of acres within the tract.

**Detention Facility:** (see Correctional Facility)

**Development:** Any manmade change to improved or unimproved real estate including, but not limited to, construction or alteration of buildings or other structures, the placement of mobile homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging or drilling operations.

**Development Plan:** A plan outlining projected business expansion, including existing and proposed structures, their design, use and location to serve as a nonbinding guide to future growth.

**District:** "Districts" as referred to in section 15.2-2280 and 15.2-2281, et seq. of the Code of Virginia.

**Driveway:** A space or area specifically designated and reserved on a lot for the movement of vehicles from one lot to another or from a lot to a public street.

**Drug Manufacturing:** The manufacture of pharmaceutical goods for distribution.

**Duplex:** A two-family residential structure. The residential units may be arranged one (1) above the other or be semidetached. The structure may be in a single ownership or each unit may be owned separately. The structure may be on a single lot, or the lot line may split the dwelling as with single-family attached units.

**Dwelling:** Any structure which is designed for use for residential purposes, except hotels, boarding house, tourist cabins, apartments, and automobile trailers.

**Dwelling, Accessory:** A dwelling unit that is clearly subordinate to the principal dwelling and which conforms to all of the limits for accessory buildings and structures in a district.

**Dwelling, Attached; Single-Family Attached:** One of three or more residential buildings, each having separate ground floor access, and having a common or party wall separating the dwelling units, such party walls having no openings. For purposes of this definition, living space on the ground floor may include a garage or porch. Includes triplex, quadraplex and townhouse units.

**Dwelling, Duplex:** A dwelling with not more than two units, designed for two families living independently.

**Dwelling, Multi-Family, Apartment:** A building or portion thereof used for occupancy by three (3) or more families living independently of each other in separate dwelling units, which may be located one over the other, including apartment buildings, but not including row or town houses.

**Dwelling, Single-Family; Single-Family Detached:** A residential dwelling unit designed and constructed in conformity with the Virginia Uniform Statewide Building Code\* and occupied by one (1) family only and which is entirely surrounded by open space or yards on the same lot. Except as otherwise specified in this Ordinance, the term does not include mobile homes.

**Dwelling, Single-Family Reconstruction:** The construction of a single-family dwelling on a site formerly occupied by a dwelling that was destroyed or demolished.

**Dwelling, Temporary:** A portable dwelling, but not necessarily attached to a permanent foundation.

**Dwelling Unit:** One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Easement:** A grant by a property owner of the use of his land by another party for a specific purpose.

**Erected:** Constructed, reconstructed, moved or structurally altered.

**Exploration for Gas, Oil and Other Minerals:** Includes, but is not limited to, drilling, excavation of pits, shafts, or other openings in the ground and the removal of materials there from; the conduct of any seismic surveys requiring the drilling of holes and/or detonation of explosives; and the conducting of any other surveys or investigations that change the ground surface on a temporary, exploratory basis in search of underground natural resources.

**FAA:** The Federal Aviation Administration.

**FCC:** The Federal Communications Commission.

**FEMA:** The Federal Emergency Management Agency

**FIA:** The Federal Insurance Administration

**Family:** One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain more than five persons.

**Fire and Rescue Facility:** A place in which fire-fighting equipment, emergency medical and rescue equipment is stored and maintained and in which quarters for fire and rescue personnel that operate that equipment may be provided.

**Flea Market:** An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

**Flex Industrial:** Light industrial activities that occur in buildings of no more than two stories in height, with one or more loading docks, and not more than half of the gross floor area used for offices.

**Floor Area Ratio (FAR):** A number or percentage, derived by dividing the gross floor area of the buildings on any lot by the total net lot area, as defined herein. The maximum permitted floor area ratio multiplied by the net lot area produces the maximum amount of gross floor area that may be constructed on a lot.

**Footprint, Building:** The area on a project site that is used by the building structure and is defined by the perimeter of the building plan. Parking lots, landscapes, and other nonbuilding facilities are not included in the building footprint.

**Forestry:** The use of land for the control and cultivation of trees, conservation and management of the harvesting of trees and the operation of commercial sawmills, loading equipment and administrative offices to transfer the timber product from the field to wood products industries.

**Frontage:** The width of a lot measured from one side line to the other along a line on the street right-of-way upon which it fronts; or the minimum width of a lot measured from one side line to the other along a straight line on which no point shall be farther away from the street upon which the lot fronts than the building setback line as defined and required herein

**Funeral Home or Parlor:** An establishment used primarily for human funeral services, which may include such facilities on the premises as embalming, performance of autopsies or other surgical procedures and cremation, unless otherwise specified herein.

**Garage, Private:** Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple unit dwelling, the private garage may be designed and used for the storage of one and one-half (1 1/2) times as many automobiles as there are dwelling units.

**Garage, Public:** A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

**General Store:** A single store, the ground floor area of which is four thousand (4,000) square feet or less and which offers for sale primarily most of the following articles: Bread, milk, cheese, fresh produce, canned and bottled foods and drinks, tobacco products, candy, papers, magazines and general hardware articles. Does not include sales of gasoline or other fuels.

**Golf Course:** Any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf-driving ranges, as defined herein.

**Golf Driving Range:** A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.

**Governing Body:** The Board of Supervisors of Nottoway County, Virginia.

**Government Structures and Uses:** Administrative office, post offices, recycling activities, voter registration, etc.

**Gross Floor Area (GFA):** The total floor area contained within the building measured to the external face of the external walls.

**Gross Leasable Area (GLA):** The total area designated for tenant occupancy and exclusive use in a shopping center or commercial building, including storage, retail area, offices, shipping, basements, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

**Group Home:** A building used as a family care home, foster home, or group home serving not more than eight (8) mentally ill, intellectually disabled or developmentally disabled persons, not related by blood or marriage, pursuant to section 15.2-2291 of the Code of Virginia, as amended. Excluded from this definition are drug or alcohol rehabilitation centers, halfway houses and similar uses.

**Guest House:** A dwelling or lodging unit for temporary nonpaying guests in an accessory building. No such quarters shall be occupied by the same guests for a period of more than three (3) months in any twelve-month period, and no such quarters shall be rented, leased or otherwise made available for compensation of any kind.

**Health Official; Health Officer:** The director of the County Department of Health or his designated deputy.

**Heavy Equipment Sales and Service:** The sales and/or service of machinery and vehicles used for construction activities, including tractors, graders, bulldozers, dump trucks, flatbed trucks with boom mechanism, backhoes, front-end loaders, asphalt rollers, boom cranes, and other associated equipment utilized in the construction of roads, highways and other heavy construction-type uses, including trailers used for transporting such equipment. It does not include pick-up trucks or lawn and garden equipment such as riding mowers.

**Height, Building:** The vertical distance measured from the adjoining grade at the front entrance of the building to the top of the building. The top of the building shall be defined as the highest point for flat roofs, and the average height between eaves and the ridge for gable, hip, gambrel and other pitched roofs. For corner lots, the building height shall be the average of the front height defined above and the building side height adjacent to the street. The building side height shall be defined as the vertical distance measured from the lowest adjoining grade on the side adjacent to the

**Height, Structure:** When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**Historic Area:** As indicated on the zoning map to which the provisions of the ordinance apply for protection of a historical heritage.

**Home Appliance Services:** The servicing, repair and maintenance of appliances and small machines commonly used in household settings.

**Home Business:** A small scale business that functions within the home or accessory structure of the tenant. Such businesses may consist of personal or business services, and the sale of goods or items produced on the premises.

**Home Business, Rural:** A business activity in a rural area, carried on by the resident(s) of a dwelling and up to three (3) nonresident employees on-site, as a clearly incidental and subordinate use of the residential dwelling, in which the on-site business activity is conducted wholly within the dwelling or in accessory buildings and may include the storage of materials and heavy equipment for use off-site, in accord with the provisions of Article 4.

**Home Garden:** A garden in a residential district for the production of vegetables, fruits and flowers primarily for use or consumption by the occupants of the premises.

**Home Occupation:** An occupation carried on by the occupant of a dwelling as a secondary use in connection with which there is no display and no one is employed other than members of the family residing on the premises, such as the rental of rooms to tourists, the preparation of food products for sale, and similar activities, as well as professional offices, such as medical, dental, legal, engineering, and architectural conducted within a dwelling by the occupant.

**Homeowners Association:** A formally constituted, private, nonprofit association or corporation of property owners for the purpose of owning, operating and maintaining various common properties and/or facilities.

**Horse Racing Facility:** A facility used for holding public competitions among horses, whether or not for commercial purposes.

**Horse Training and Boarding Facility:** A facility for the training and boarding of horses for commercial purposes, may include indoor or outdoor facilities.

**Hospital:** Hospital includes "sanitarium", "preventorium", "clinic" or "rest home", and is deemed to mean a place for the treatment of human disorders and ailments; an institution providing health services, for inpatient medical or surgical care, care of sick or injured, and related laboratories, offices, and outpatient facilities and services.

**Hotel:** A building having six or more rental rooms, without cooking facilities, designated for transient guests.

**Hunting Lodge/Game Preserve:** An area of land, with or without limited overnight accommodations, upon which a fee is charged for public or private hunting or fishing and/or upon which game or fish are grown or stocked specifically for hunting or fishing thereon, or for transport to other sites for similar purposes.

**Indoor Game Room:** A facility used for indoor games which may include video and electronic games, billiards, table games and the like.

**Inoperative Motor Vehicle:** Any motor vehicle which is not in operating condition or which for a period of ninety (90) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, battery or other essential parts required for operation of the vehicle. This definition shall not apply to vehicles exempted under the provisions of Sections 46.1-42 through 46.1-49, 46.1-119 and 46.1-120 of the Code of Virginia. This definition shall also not apply to vehicles in a public landfill.

**Junkyard:** A lot on which junk material and/or inoperable vehicles are collected, stored, salvaged, exchanged or sold. The term shall include garbage dumps, non-sanitary landfills and automobile grave yards. The term shall not include facilities for the disposal or storage of fuel, chemicals or other hazardous wastes.

**kennel:** A place prepared to house, board, breed, handle, or otherwise keep or care for dogs for sale or in return for compensation.

**Laboratory, Pharmaceutical and Medical Uses:** A facility used for the research and testing of pharmaceutical and related medical products.

**Landfill:** A facility for disposing of nonhazardous debris, trash or waste on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, to protect the underlying soil and groundwater from contamination and to cover it with a layer of earth at the conclusion of each day's operation, or at such more frequent intervals as may be necessary, and which meets all standards of, and is licensed by, the Virginia State Department of Health. This definition excludes hazardous waste landfills, as defined by the State Department of Health, but includes landfills that dispose of construction debris, tree stumps and rubble. (refer also to "Junkyard")

**Landscaping:** Grass, shrubbery and trees, flowers, walkways, landscaping gravel and appropriate grading, such as to render an aesthetic appearance to the viewer.

**Laundry/Cleaning Establishment:** Large scale, dry-cleaning or laundry facility; does not pertain to storefront laundries which are included in the definition of retail stores.

**Length/Width Ratio:** The ratio of the length of a lot to the width of the lot.

**Library:** A facility used for the storage, cataloging, loaning or renting of books, tapes, magazines and similar information materials.

**Light Processing:** Part of a wholesale commercial storage and distribution operation involving the assembling and packing of dry goods or light equipment that does not involve chemical processes nor cause high levels of noise, odor or other impacts associated with industrial uses.

**Livestock Auction and/or Market, Commercial:** A commercial establishment wherein livestock is collected for sale and auctioned off.

**Livestock Market:** A commercial establishment wherein livestock is collected for sale and auctioned off.

**Livestock Operation, General:** Any animal confinement consisting of a total of 15 to 350 animal units. A Nutrient Management Plan is required as well as a description of the animal waste disposal systems to be used.

**Livestock Operation, Intensive:** Any animal confinement consisting of a total of 351 or more animal units. A Nutrient Management Plan is required as well as a description of the animal waste disposal systems to be used. An approved plot plan is required to be on file with the County Zoning Administrator. A Development Plan submitted to the Zoning Administrator is recommended.

**Loading Space:** Any off-street space available for the loading or unloading of goods, not less than fifteen (15) feet wide, twenty-five (25) feet long and fourteen (14) feet high, and having direct usable access to a street or alley, except that, where one (1) such loading space has been provided, any additional loading space lying alongside, continuous to and not separated from the first such loading space need not be wider than twelve (12) feet.

**Lodge:** (see Club)

**Lot:** For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and shall be also subject to the following definitions:

**Corner:** A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

**Depth of:** The average distance measured from the front lot line to the rear lot line.

Note: For lots where the front and rear lot lines are not parallel, the lot depth may be measured by drawing several evenly separated lines from the front to rear lot lines (at right angles to the front lot line) and averaging the lengths of these lines.

**Lot of Record:** A lot which has been recorded in the Clerk's Office of the Circuit Court.

**Interior:** Any lot other than a corner lot.

**Width of:** The average distance between side lot lines at the front lot line.

Note: For lots where the side lot lines are not parallel, the lot width may be measured by drawing several evenly separated lines from one of the side lot lines to the other (at right angles to one of the side lot lines) and averaging the lengths of these lines.

**Lot Area:** The total horizontal area included within the rear, side and front lot lines or proposed street lines of the lot, excluding any streets or highways, whether or not dedicated to public use, but including off-street automobile parking areas and other accessory uses.

**Lot, Coverage:** The percentage of a lot area occupied by the ground floor area of principal and accessory buildings on such lot.

**Lot, Through:** An interior lot fronting on two (2) parallel or approximately parallel streets.

**Lumber, Building, Landscape Supply:** A commercial establishment in which building, construction and landscaping supplies and hand tools are sold.

**Machinery Sales and Service:** The sales and/or service of machinery and tools used for construction and landscaping such as power tools, residential lawn mowers and the like. It does not include heavy equipment as defined herein.

**Major Road:** A collector or arterial road, as defined herein.

**Manufacture and/or Manufacturing:** The processing and/or converting of raw, unfinished materials, or products, or either of them, into articles or substances of different character, or for use for a different purpose (also see Light Processing)

**Medical Clinic:** A building or portion of a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities; includes physician's and other medical offices.

**Mineral Processing Operations:** (see Crushed Stone Operation)

**Mining:** The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. Mining activities may also include, but not limited to soil removal, water diversion, on-site processing, and other activities and structures customarily associated with a mine site. (added 10/19/2006)

**Mini-Warehouse:** A "self-storage" warehouse facility containing multiple individual storage units, which can be sold or rented to individual users for storage purposes.

**Mobile Home:** An industrialized building unit constructed on a chassis for towing to the point of use and designed to be used with or without a foundation for occupancy as a dwelling.

For the purpose of this Zoning Ordinance, a mobile home is generally considered a single wide unit. (Added 7/19/2007)

**Mobile (Manufactured) Home, Class A:** A multi-sectional manufactured home constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. Manufactured homes are also commonly referred to as “mobile homes” and differ from Modular Homes as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

**Mobile (Manufactured) Home, Class B:** A traditional single manufactured home (“mobile home”) constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. Manufactured homes are also commonly referred to as “mobile homes” and differ from Modular Homes as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

**Mobile (Manufactured) Home, Class C:** A manufactured home (“mobile home”) constructed before July 1, 1976 and consequently does not meet the criteria of a Class A or Class B manufactured home. Manufactured homes are also commonly referred to as “mobile homes” and differ from Modular Homes as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

**Mobile Home Park:** Lots and parcels of land designed for the temporary or permanent parking and occupancy of two (2) or more mobile homes used for human habitation.

**Mobile Home Sales Lot:** A lot arranged, designed or used for the storage and display for sale of any type of trailer or mobile home, provided the trailer is unoccupied, and where no repair work is done except minor and incidental repair of trailers displayed and sold on the premises.

**Mobile Home Storage Unit:** A mobile home that is rendered nonhabitable and used only for storage of private residential goods and not occupied by any person.

**Mobile Home Subdivision:** Lots and parcels of land which have been planned and improved for the exclusive use of mobile homes. These lots will be individually owned by the mobile home dweller and the subdivision shall be planned, designed and approved in accordance with all County ordinances.

**Modular Home; Modular Dwelling:** A residential dwelling unit for which the walls, floor and roof structure are built in a manufacturing plant and transported to the site for final assembly on a permanent foundation, and which meets the BOCA and Virginia Uniform Statewide Building Code standards.

**Motel or Motor Hotel:** A structure or structures with overnight accommodations for automobile travelers, with separate sleeping units, each with separate entrance, separate toilet facilities, and off-street parking.

**Motor and Engine Assembly:** The manufacture and/or assembly of motors or engines for vehicles. It does not include sales or retail service.

**Nonconforming Activities or Use:** The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the ordinance.

**Nonconforming Lot:** An otherwise legally platted lot that does not conform to the minimum area or width requirements of the ordinance for the district in which it is located either at the effective date of this Ordinance or as a result of subsequent amendments to the ordinance.

**Nonconforming Structure:** An otherwise legal building or structure that does not conform with the lot area, yard, height, lot, coverage, or other area regulations of this Ordinance, or is designed or intended for a use that does not conform to the use regulations of this Ordinance, for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments to the ordinance.

**Nontraditional Accessory Structure:** A structure whose original use(s) did not include those typical for accessory buildings as defined by this Ordinance but has been modified in order to be used as an accessory building.

**Nursing Home:** A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any person suffering from illnesses, diseases, deformities or injuries, not requiring extensive or intensive care that is normally provided in a general hospital or other specialized hospital.

**Nutrient Management Plan:** The nutrient management plan shall provide an outline for the safe disposal or use of all manure or animal waste. Disposal or use shall be accomplished by means of land application at approved locations and agronomic rates, as established by the Virginia Cooperative Extension Service and other appropriate agencies. Alternate methods of disposal may be used as approved by appropriate state and local agencies. The nutrient management plan shall take into account, among other things, the presence of rivers, streams, public and private wells, springs and sinkholes, and slopes and geological formations that indicate a high susceptibility to ground or surface water pollution. Each nutrient management plan shall be subject to review by an agent of the Virginia Cooperative Extension Service or other appropriate agency and shall be approved by the County Zoning Administrator. The nutrient management plan shall be reviewed and updated every five (5) years by an agent of the Virginia Cooperative Extension Service or other appropriate agency and by the County Zoning Administrator. Changes in management practices or when deemed necessary by the Virginia Cooperative Extension Service, other appropriate agency or the County may require more frequent review.

**Office:** The facility in which the administrative activities, record-keeping, clerical work and other similar functions of a business, professional service, industry, or government are conducted, and in the case of professions such as dentists, lawyers or engineers, the facility where such professional services are rendered. It includes Professional Offices.

**Office, Local Government:** Office facilities of a local government agency.

**Office, Professional:** (see Office)

**Off-site:** "Off-site" describes a location on an area of land which is proximate to a parcel of land defined as "on-site."

**On-site:** "On-site" shall be construed to be describing location on all or a portion of a parcel of land which is the subject of an application for approval by the Board of Supervisors, Planning Commission or Board of Zoning Appeals, and which parcel of land is in single ownership or under unified control.

**Open Space, Common:** An open tract or parcel of land owned in undivided interest by a property owners association or similar entity, or the public, not devoted to residential uses or structures, but directly related and adjunct to a cluster development, planned development or other use requiring open space, as provided for herein. Common open space shall be open for use by all members of the property owner's association and may be open to the public.

**Open Space, Natural:** An open tract, parcel or portion of such land which is owned in undivided interest by a property owners association or similar entity, or the public, and which consists mainly of natural, undisturbed land, with structures, grading and impervious only to the minimal extent necessary for accessing the land for purposes of passive recreational use. Land restricted by a permanent open space conservation easement meets the definition of natural open space for the purposes of this Ordinance.

**Orchard and Fruit Storage Structure:** A structure used to store fruit for transshipment; not a retail facility.

**Outdoor Events:** An occasional or periodic outdoor activity in an open area where persons gather to participate or spectate in activities that are recreational or entertaining in nature. Such uses may include, but are not limited to, truck/tractor pulls, mud bogging, motocross courses, racetracks, paint ball parks, sports fields, amphitheaters and similar uses. Accessory uses subordinate to the event may be allowed.

**Outdoor Retail Sales:** The display and sale of products and services primarily outside a building or structure, including vehicles, garden supplies, gas, tires, and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yards.

**Paper Products Manufacturing:** The manufacture and/or assembly of paper products including paper, cardboard, packaging and the like.

**Park and Ride Lot:** A public automobile parking lot which is served by public transit.

**Park or recreation area:** Land used for either or both active and/or passive recreational use. Parks may contain landscaped or naturally vegetated areas, recreational buildings and facilities and parking for vehicles. Public parks are open to the public; access to private parks is controlled by the owners. A private recreation area does not include miniature golf grounds, golf driving ranges, mechanical amusement devices or accessory uses such as refreshment stands and equipment sales or rentals.

**Park, Unlighted:** Park that does not have illuminated courts or playing fields. Lighted parks have some areas that are illuminated for nighttime use, subject to special exception conditions as provided in this Ordinance.

**Parking Area, Off-Street:** Space provided for vehicular parking outside the dedicated street right-of-way.

**Personal Service Establishment:** Commercial establishment that provide personal services such as barbers, beauty salons, laundries, and the like.

**Playfield:** A recreational area which is graded and planted in grass, designed for active field games such as soccer, football and the like, which may be lighted or unlighted in accord with the provisions of this Ordinance; a ballfield.

**Playground:** A recreational area which is graded and either planted in grass or paved, or a combination of both, which may have play equipment, and which may be lighted or unlighted in accord with the provisions of this Ordinance.

**Playground, Unlighted:** A recreational area which is graded and either planted in grass or paved, or a combination of both, which may have play equipment, of which the playing fields and courts are not lighted for night time use.

**Plumbing and Electrical Supply:** A commercial enterprise which sells plumbing and electrical supplies, materials and related tools.

**Processing Plant for Agriculture/Forest Products:** A facility that processes or manufactures agricultural or forest products, including feed, fertilizer, paper, or poultry.

**Professional Office:** An office for the conduct of a profession, including but not limited to law, medicine, theology, architecture, accounting.

**Public Access Rights:** The right and authorization of the public to go onto a property.

**Public Amusement Facility:** Commercial indoor or outdoor amusements such as bowling, billiards, miniature golf, water slides and the like.

**Public Buildings:** A building owned or leased and occupied and used by an agency or political subdivision of the United States of America or the Commonwealth of Virginia.

**Public Entity:** An organization or agency controlled by a local, state, regional or federal agency.

**Public Facilities:** Any public works supplied generally by a governmental organization. Such public works shall include, but not be limited to: Public roads, schools, water supply and sewer facilities and police and fire protection facilities.

**Public Utilities:** A group of uses which provide essential energy and communication services to the general public. These include, but are not limited to: Electric, natural gas, water and sewer and telephone companies; their distribution and transmission lines; poles and towers; substations, pumping stations and storage facilities. By definition, some of these activities are industrial in nature, although local distribution facilities usually are compatible uses in residential areas.

**Public Utility, Other:** Any public utility other than water or sewer systems.

**Public Utility Plant:** A plant which treats water or wastewater.

**Public Utility, Water or Sewer (public water or sewer system):** Any part of a system of pipes, pumps and collection or distribution lines for public water supply or wastewater treatment and disposal.

**Public Water and Sewer Systems:** A water or sewer system owned and operated by a municipality or county.

**Quarry:** The extraction of sand, gravel, rock or other similar minerals from the ground.

**Reconstruction of Single-Family Dwelling:** (see Dwelling, single family reconstruction)

**Recreation Area or Park:** Land used for either or both active and/or passive recreational use. Parks may contain landscaped or naturally vegetated areas, recreational buildings and facilities and parking for vehicles. Public parks are open to the public; access to private parks is controlled by the owners. Unlighted parks do not have illuminated courts, fields, parking areas or other facilities. Lighted parks have some areas that are illuminated for nighttime use, subject to special exception conditions as provided in this Ordinance. A private recreation area does not include miniature golf grounds, golf driving ranges, mechanical amusement devices or accessory uses such as refreshment stands and equipment sales or rentals.

**Recreational Equipment:** Play equipment, including swings, slides, see-saws, sandboxes and the like.

**Recreational Vehicle:** Boats and boat trailers, travel trailers, pick-up campers or coaches, (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting equipment, whether occupied by such equipment or not. A vehicle which is:

- Built on a single chassis
- 400 square feet or less when measured at the largest horizontal projection
- Designed to be self-propelled or permanently towable by a light duty truck, and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

**Recycling Center:** An enclosed building in which used material such as newspapers, glassware and metal cans is separated and processed prior to shipment to another facility where the materials will be used to manufacture new products. Such a facility is not a junkyard.

**Recycling Collection Point (Transfer Station, Solid Waste Collection Point):** An incidental use that serves as a neighborhood drop-off point for temporary storage of recyclable materials such as newspapers, glassware and metal cans, including the temporary storage of domestic waste materials. No processing of such items occurs at such facility.

**Required Open Space:** Any space required in any front, side or rear yard.

**Residentially Zoned District:** A zoning district as provided in this Ordinance that permits dwelling units as a principal use.

**Restaurant:** Any building in which, for compensation, food or beverages are dispensed for consumption within the structure, including, among other establishments, cafes, tea rooms, confectionery shops and refreshment stands, including:

**Restaurant, full-service:** A restaurant with table service (order placement and delivery on-site) provided to patrons, also including cafeterias; carry-out service, if any, shall be a limited portion of the facility and activity.

**Restaurant, limited-service:** A restaurant without table service provided to patrons but which may include tables for customers within the building; walk-up counter and carryout trade is a primary portion of the facility; includes fast-food, food delivery, carryout, public snack bars and delicatessens, but not specialty food stores.

**Restaurant, drive-in:** A restaurant where customers are either served in their vehicles or at a drive through or walk up window or service unit and may or may not also include tables for customers within the building.

Food service provided as part of a Bed and Breakfast use is not considered a restaurant.

**Retail Stores and Shops:** Buildings for display and sale of merchandise at retail or for the rendering of personal service such as the following which will serve as illustration: Drugstore, news stand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio

store, tailor shop, barbershop and beauty shop, but not convenience store or coal, wood or lumber yards.

**Road, Arterial:** A publicly owned and maintained road, designed to carry high volumes of motor vehicles at high speeds, usually requiring four lanes for through traffic and generally planned for restricted or controlled access.

**Road, Collector:** A publicly owned and maintained road generally serving an intra-county and, in some cases, an inter-county function. Collector roads carry traffic from local streets to arterial roads. Collector roads may be four lanes but are often two lanes.

**Road, Local Access:** A public or privately owned and maintained road with a limited function for through traffic, predominantly providing access to individual lots, and in some cases linking neighborhoods, designed for moderate to low traffic volumes and speeds.

**Rural:** Areas not served by public water or sewer and characterized by a predominance of fields and forests rather than development.

**Rural Resort:** A private establishment consisting of a detached structure or structures located in a rural setting in which lodging of greater than thirty (30) rooms is available to transient guests for compensation as the principal use, and which may include conference and meeting facilities, restaurant and/or banquet facilities and/or recreational amenities of a rural nature

**Sawmill:** A milling machine permanently located used for the processing of timber into wood products; includes chipmills.

**Sawmill, Commercial:** A milling machine permanently located used for the processing of timber into

**School, Dancing:** A commercial dance studio.

**School, Private:** A facility owned by a private entity that provides a curriculum of elementary, secondary and/or collegiate academic instruction, including kindergartens, elementary schools, junior high or middle schools, high schools and colleges.

**School, Public:** A facility owned or controlled by a governmental entity that provides a curriculum of elementary, secondary and/or collegiate academic instruction, including kindergartens, elementary schools, junior high or middle schools, high schools and colleges.

**Senior Living Facilities:** This broad category of housing accommodation includes the following types of facilities:

**Senior Housing Facility:** A residential facility for independent living, containing dwellings where the occupancy is restricted to persons 55 years of age or older or couples where either the husband or wife is 55 years of age or older. This does not include a development that contains convalescent or nursing facilities.

**Assisted Living Facility:** A residential facility for semi-dependent living, containing two or more dwelling units for four or more persons 55 years of age or older or couples where either the husband or wife is 55 years of age or older, within which are provided living and sleeping facilities, as well as various other services such as meal preparation, laundry services and the like.

**Life Care Facility:** A facility which may include a full range of living arrangements, for elderly and/or disabled persons, progressing from independent living in single-family units to congregate apartment living where semi-dependent residents share various common facilities and services, to a nursing home facility for dependent residents providing a full range of support services and nursing care. (also see Nursing Home)

**Service Station:** Buildings and premises, including but not more than three (3) interior service stalls, wherein the primary use is the supply and dispensation at retail of motor vehicle fuel, oil, batteries, tires and motor vehicle accessories, and where, in addition, the minor maintenance services may be rendered and sales made, such as lubrication, brake repair, muffler replacement, washing and polishing and the like; and sales of cold drinks, packaged foods and similar convenience items, but only when such sales are conducted inside the principal building as accessory and incidental to the primary use. Permissible uses do not include major mechanical and body work, painting, welding or other work involving noise, glare, fumes, smoke or other impacts to an extent greater than normally found at service stations.

**Setback:** The minimum distance by which any building or structure must be separated from the front lot line or other lot lines as may be specified; yard.

**Setback Line:** A line parallel to a street and extending the full width of the lot for a specified distance at all points from the front lot line, street center line or street right-of-way line, and thus defining an area in which no building or structures or portions thereof may be constructed

**Shooting Range:** An establishment at which patrons may use firearms for target practice or competitions, at fixed targets in a protected area, either indoors or outdoors.

**Shooting Range, Commercial:** An establishment at which patrons may use firearms for target practice or competitions, at fixed targets in a protected area, either indoors or outdoors.

**Shopping Center:** A group of commercial establishments planned, developed, owned and managed as a unit and related in location, size and type of shops to the trade area that the unit serves. It provides shared on-site parking in definite relationship to the types of stores. The shopping center may be of three (3) types:

- 1) **Neighborhood center:** Provides for the sale of convenience goods (food, drugs, sundries, etc.) and personal services (laundry and dry cleaning, barbering, shoe repairing, etc.) for day-to-day living needs of the immediate neighborhood.
- 2) **Community center:** In addition to the convenience goods and personal services of the neighborhood center, provides a wider range of facilities for the sale of soft lines (wearing apparel, etc.) and hard lines (hardware, appliances, etc.). It makes more depth of merchandise available, variety in sizes, styles, colors and prices.
- 3) **Regional center:** Provides for general merchandise, apparel, furniture and home furnishings in full depth and variety. It is built around one (1) or more full-line department stores as the major drawing power.

**Site Plan:** A plan of development meeting the requirements as set forth in this Ordinance and the Nottoway Subdivision Ordinance.

**Slaughterhouse:** A place where livestock is slaughtered and cut into pieces and/or packed for shipping off-site.

**Solid Waste Collection Point:** (see Recycling Collection Point)

**Stable, Commercial:** An establishment where horses or ponies are kept, maintained and/or boarded for a fee, or in connection with which saddle horse or ponies are rented to the general public, made available to members of a private club, or boarded for the convenience of their absentee owners. Exercise rings and show rings shall be considered accessory uses to a stable.

**Storage Yard:** A yard area in which materials, equipment and/or vehicles used for construction, excavating or similar activities are stored, kept and/or maintained. Storage yards may be partially covered, enclosed or screened.

**Store:** (see Retail Store)

**Story:** That portion of a building other than the basement included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

**Story, Half:** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

**Street:** A strip of land comprising the entire area with the right-of-way intended for possible use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The word "street" includes road, thoroughfare, parkway, avenue, lane, boulevard, expressway, highway, place, throughway, square, alley, or however designated within the above-mentioned right-of-way.

**Street Line:** The right-of-way line of a street.

**Structural Alteration:** Any change, modification, addition or deletion to an existing structure.

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc. Fences are not considered to be structures in this Ordinance.

**Structures, General Livestock Operations:** Any structure designed to house, contain or store livestock, livestock feeds or livestock wastes on a general livestock operation.

**Structures, Intensive Livestock Operations:** Any structure designed to house, contain or store livestock, livestock feeds or livestock wastes on an intensive livestock operation.

**Telecommunication Facility:** Any structure used for the purpose of supporting one (1) or more antennas or microwave dishes, including self-supporting lattice towers, guy towers, or pole towers. The term includes radio and television transmission towers, alternative antenna support structures such as buildings and rooftops, and other existing support structures. Additional definitions include:

- 1) Alternative tower structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- 2) Antenna: Any exterior apparatus designed for telephone, radio, or television communications through the sending and/or receiving of electromagnetic waves, provided that this definition shall not be interpreted to include an antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one (1) meter or less in diameter; or an antenna that is designed to receive video programming services via multipoint distribution services; including multichannel, multipoint distribution services, instructional television fixed services, and local multipoint distribution services, and that is one (1) meter or less in diameter or diagonal measurement; or an antenna that is designed to receive television broadcast signals.
- 3) FAA: The Federal Aviation Administration.
- 4) FCC: The Federal Communications Commission.
- 5) Height: When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

- 6) Telecommunication facility: Any structure used for the purpose of supporting one (1) or more antennas or microwave dishes, including self-supporting lattice towers, guy towers, or pole towers. The term includes radio and television transmission towers, alternative antenna support structures such as buildings and rooftops, and other existing support structures.
- 7) Telecommunication facility, freestanding: A structure that stands alone for the sole purpose of supporting antennas, dishes and other such telecommunications equipment.
- 8) Telecommunication facility, attached: A structure or building whose main purpose is to support or house other uses, and to which antennas, dishes and other such telecommunications equipment is attached so as to avoid constructing a freestanding tower.

**Theater:** A building or structure designed or used primarily for the commercial exhibition of motion pictures to the general public or used for the performance of plays, acts and dramas by actors and actresses; may include outdoor theatres, subject to lighting requirements in Article 4.

**Tourist Home:** (see Motel)

**Townhouse:** Attached single-family dwelling

**Transportation Services:** Establishments primarily engaged in furnishing local passenger transportation services, such as taxicabs, charter services and nonemergency medical transportation and to include terminal and service facilities for motor vehicles based on-site that provide passenger transportation services. [2/21/08]

**Travel Trailer, Motor Home or Camper:** A vehicular, portable structure, built on a chassis, with or without complete kitchen, toilet, bath or shower facilities, designed to be used for temporary human habitation, for travel, recreational and vacation uses. Use of these vehicles as permanent dwelling units is expressly prohibited by this Ordinance.

The unit of land used or intended to be used by one (1) trailer, whether in a trailer park or not in a trailer park.

**Travel Trailer Park or Camp:** A lot, parcel or tract of land used, designed or maintained to accommodate one (1) or more travel trailers, including all structures, vehicles, accessories and appurtenances used or intended as equipment of such trailer camp, whether or not a charge is made for use of the camp or facilities. A travel trailer camp does not include automobile, trailer or mobile home sales lots on which unoccupied travel trailers are parked for inspection and sale.

**Tree:** A single perennial woody stem plant attaining a height of ten (10) feet or more at maturity, including the following:

**Tree, Canopy:** A deciduous tree, usually single trunked, with a definitely formed crown of foliage and which attains a mature height of at least thirty (30) feet

**Tree, Understory:** A deciduous or evergreen tree, which attains a mature height of no greater than thirty (30) feet. Understory trees usually prefer shade and grow naturally under the canopy of larger trees.

**Tree, Evergreen:** A non-deciduous or coniferous tree, with dense foliage, often used for the purposes of screening, wind break or accent planting.

**Tree, Deciduous:** Trees that shed their leaves annually, usually in autumn.

**Truck Complex:** An intensive use of such nature that is best located in an industrial use district. This use is characterized by numerous facilities for the personal convenience and comfort of truckers, such as room accommodations, full restaurant facilities and game rooms, as well as facilities for refueling and major truck repair. Other characteristics include: Twenty-four (24) hour operations, noise, glare and heavy traffic volume.

**Truck Stop:** A heavy commercial activity located in proximity to major highway routes or interchanges. This use is characterized by restaurant facilities and facilities for refueling and minor repair.

**Truck Terminal:** An industrial premises which is used for loading or unloading trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of five (5) or more trucks.

**Urban:** Areas served by public water and sewer and characterized by a generally developed character rather than fields and forests.

**Use, Accessory:** A use that is clearly incidental and subordinate to and customarily found in connection with the principal use; and serves a principal structure or use; and is located on the same lot as the principal use; except as may be provided for under the provisions for off-street parking.

**Use, Principal:** The primary use, activity and purpose for which a lot or main building thereon is designed, arranged or intended and for which it is or may be used, occupied or maintained. The terms main and principal have the same meaning in this Ordinance when referring to structures, buildings and uses. Only one principal use is permitted per lot.

**Use, Temporary:** A use or activity that occurs for a period of no more than 30 consecutive days, such as fairs, carnivals and weddings.

**Used:** Includes "erected," "reconstructed," "altered," "placed" or "moved."

**Variance:** Means, in the application of Zoning Ordinance, a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land, or in the size, area, bulk or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done. It shall not include a change in use which change shall be accomplished by a rezoning or by a conditional zoning.

**Warehouse:** A structure used for the storage of goods for future distribution.

**Warehouse, Mini:** (see Mini-warehouse)

**Wayside Stand:** A commercial enterprise located adjacent to a roadway in which the merchandise sold is limited to farm and garden products grown by the owner/operator or accessory products produced by the owner/operator such as pottery, baskets and other craft items, with clearly delineated and safe access to the site from the adjacent road.

**Wholesale Processing:** A commercial facility in which goods are collected and stored for transshipment and distribution to retail establishments.

**Wildlife Refuge, Conservation Area:** A largely natural area reserved primarily for the purpose of protecting wildlife habitat.

**Yard:** An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

**Front:** An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line and extending across the full width of the lot

**Rear:** An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot

**Side:** An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot and extending from the front yard line to the rear yard line.

