

ALBEMARLE COUNTY CODE

CHAPTER 18

ZONING

SECTION 5

SUPPLEMENTARY REGULATIONS

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5.1 SUPPLEMENTARY REGULATIONS

The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right or by special use permit. These supplementary regulations are in addition to all other requirements of this chapter, the Code, and all other applicable laws. Unless a

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waiver or modification is expressly prohibited, any requirement of section 5 may be modified or waived in an individual case, as provided herein:

- a. The commission may modify or waive any such requirement upon a finding that such requirement would not forward the purposes of this chapter or otherwise serve the public health, safety, or welfare or that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement; and upon making any finding expressly required for the modification or waiver of a specific requirement; except that, in no case, shall such action constitute a modification or waiver of any applicable general regulation set forth in section 4 or any district regulation. In granting a modification or waiver, the commission may impose conditions as it deems necessary to protect the public health, safety, or welfare.
- b. The board of supervisors shall consider a modification or waiver of any requirement of section 5 only as follows:
 1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
 2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (a), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (a).

(12-10-80; 9-9-92; Ord. 01-18(4), 5-9-01; Ord. 11-18(1), 1-12-11)

5.1.01 AIRPORTS; HELIPORTS; HELISTOPS

- a. In review of a special use permit petition for an airport or heliport, the board of supervisors shall be mindful of the substantial public investment in the Charlottesville-Albemarle Airport, and shall only approve such petition upon a finding that:
 1. Equivalent or better service is not available at the Charlottesville-Albemarle Airport;
 2. Operation of the proposed airport or heliport will in no fashion interfere or compete with the physical operations of the Charlottesville-Albemarle Airport.
- b. No application shall be considered unless it is accompanied by five (5) copies of a plan drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of owners of abutting properties; proposed layout of runways, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings and other structures and facilities; the location and height of all buildings, structures, trees and overhead wires falling within the airport approach zones and less than five hundred (500) feet horizontally and one thousand (1,000) feet longitudinally from the proposed runway; other pertinent data, such as topography and grading plan, drainage, water and sewerage, etc. Copies of the plan shall be forwarded to the Federal Aviation Administration and the Virginia Department of Aviation for comment and recommendation on the following:
 1. The area shall be sufficient to meet requirements of the Federal Aviation Administration and Virginia Department of Aviation for the class of airport proposed;
 2. There are no existing flight obstructions such as towers, chimneys or other tall structures, or natural obstructions outside the proposed airport which fall within the airport imaginary surfaces or instrument approach zones to any of the proposed runways or landing strips of the airport;
 3. There is sufficient distance between the end of each usable landing strip and the airport boundary to satisfy the requirements above. In cases where air rights or easements have

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been acquired from the owners of abutting properties in which the approach zones may fall, satisfactory evidence thereof shall be submitted with the application.

- c. In addition to the foregoing, the following requirements shall be met:
 1. No runway or heliport area shall be located nearer than five hundred (500) feet horizontally or one thousand (1,000) feet longitudinally to any residential structure on any adjoining property. No hangar or aircraft storage shall be located nearer than five hundred (500) feet to any residential structure on an adjoining property. Within any agricultural or residential district, commercial activities and private clubs located on the premises with a private airport, flight strip, or helipad, are expressly prohibited;
 2. Any roof top surface or touchdown pad which will be utilized as an elevated heliport shall be designed and erected in a manner sufficient to withstand the anticipated additional stress;
 3. All maintenance, repair and mechanical work, except that of an emergency nature, shall be performed in enclosed buildings;
 4. All facilities shall be located and designed so that operation thereof will not seriously affect adjacent residential areas, particularly with respect to noise levels;
 5. Except for elevated helistops, no area used by aircraft under its own power shall be located within a distance of five hundred (500) feet of any residential structure on any adjoining property. Elevated helistops shall be located in accordance with the bulk regulations of the zoning district in which located;
 6. All areas used by aircraft under its own power shall be provided with a reasonably dust free surface.

5.1.02 CLUBS, LODGES

Each club or lodge shall be subject to the following:

- a. Regardless of any zoning district regulations, gun clubs and shooting ranges shall be permitted by special use permit only; (Amended 10-3-01)
- b. Subordinate uses and fund-raising activities such as bingo, raffles and auctions—may be conducted outdoors during daylight hours and shall be conducted in an enclosed building at all other times. (Amended 6-14-00; 10-3-01)

(§ 5.1.0.2, 12-10-80, 6-14-00; Ord. 01-18(6), 10-3-01)

5.1.03 COMMERCIAL STABLE

- a. Riding rings and other riding surfaces shall be covered and maintained with a material to minimize dust and erosion; (Amended 11-15-95)
- b. Fencing and other means of animal confinement shall be maintained at all times.

5.1.04 COMMUNITY CENTER

Any such use seeking public funding shall be reviewed by the commission in accordance with section 31.2.5. Specifically, the commission shall find that the proposed service area is not already adequately served by another such facility. In addition, the commission shall be mindful that such use is appropriate to villages, communities and the urban area of the comprehensive plan.

5.1.05 DAY CAMP, BOARDING CAMP

- a. Provisions for outdoor cooking, campfires, cooking pits, etc., shall be subject to Albemarle County fire official approval whether or not a site development plan is required;

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- b. All such uses shall conform to the requirements of the Virginia Department of Health Bureau of Tourist Establishment Sanitation and other applicable requirements.

5.1.06 DAY CARE CENTERS

Each day care center shall be subject to the following:

- a. *State licensure.* Each day care center shall acquire and maintain the required licensure from the Virginia Department of Social Services. The owner or operator of the day care center shall provide a copy of the license to the zoning administrator. The owner or operator's failure to provide a copy of the license to the zoning administrator shall be deemed to be willful noncompliance with the provisions of this chapter.
- b. *Inspections by fire official.* The Albemarle County fire official is authorized to conduct periodic inspections of the day care center. The owner or operator's failure to promptly admit the fire official onto the premises to conduct an inspection in a manner authorized by law shall be deemed to be willful noncompliance with the provisions of this chapter.
- c. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 13-18(5), 9-11-13)

5.1.07 GROUP HOMES

Each group home shall be subject to the following:

- a. Conditions may be imposed on such homes to insure their compatibility with other permitted uses, but such conditions shall not be more restrictive than those imposed on other dwellings in the same districts unless such additional conditions are necessary to protect the health and safety of the residents of such homes;
- b. Each group home shall be subject to Albemarle County fire official review.

(§ 5.1.07, 12-10-80; Ord. 01-18(6), 10-3-01)

5.1.08 DRIVE-IN THEATRE

- a. Minimum area of site shall be five (5) acres;
- b. The site shall be adjacent to a major road or roads and entrances and exits shall be from said roads;
- c. Off-street parking or storage lanes for waiting patrons shall be available to accommodate not less than thirty (30) percent of the vehicular capacity of the theatre unless at least six (6) entrance lanes, each with a ticket dispenser, are provided, in which case the amount may be reduced to not less than ten (10) percent;
- d. The screen shall be located as to be reasonably unobtrusive to view from any major street, public area or scenic look-out;
- e. A wall or fence of adequate height shall be provided to screen the patrons and cars in attendance at said theatre from the view of the surrounding property. The perimeter of said fence shall be landscaped with suitable plants and shrubbery to preserve as far as possible harmony with the appearance of the surrounding property;
- f. Individual loud speakers for each car shall be provided and no central loud speaker shall be permitted;

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- g. Exits and aisles and passageways shall be kept adequately lighted at all times when open to the public. Artificial lights shall be provided whenever natural light is inadequate.

5.1.09 FIRE, AMBULANCE, RESCUE SQUAD STATION (VOLUNTEER)

Each fire, ambulance or rescue squad station (volunteer) shall be subject to the following:

- a. Any such use seeking public funding shall be reviewed by the commission in accordance with section 31.2.5. Specifically, the commission shall find that the proposed service area is not already adequately served by another such facility. In addition, the commission shall consider: growth potential for the area; relationship to centers of population and to high-value property concentrations; and access to and adequacy of public roads in the area for such use. The commission may request recommendation from the Albemarle County fire official and other appropriate agencies in its review;
- b. Subordinate uses and fund-raising activities such as bingo, raffles and auctions may be conducted outdoors during daylight hours and shall be conducted in an enclosed building at all other times.

(§ 5.1.09, 12-10-80, 6-14-00; Ord. 01-18(6), 10-3-01)

5.1.10 JUNK YARDS

Each junk yard shall be subject to the following:

- a. All storage and operational areas shall be enclosed by a solid, light-tight, sightly fence not less than eight (8) feet in height or alternative screening and/or fencing satisfactory to the zoning administrator;
- b. Any storage area and the site's access to a public road shall be maintained in a dust-free surface.

(§ 5.1.10, 12-10-80; Ord. 13-18(1), 4-3-13)

5.1.11 COMMERCIAL KENNEL, VETERINARY SERVICE, OFFICE OR HOSPITAL, ANIMAL HOSPITAL, ANIMAL SHELTER

Each commercial kennel, veterinary and animal hospital shall be subject to the following:

Each commercial kennel, veterinary service, office or hospital, animal hospital and animal shelter shall be subject to the following:

- a. Except where animals are confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals shall be closer than five hundred (500) feet to any agricultural or residential lot line. For non-soundproofed animal confinements, an external solid fence not less than six (6) feet in height shall be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator;
- b. For soundproofed confinements, no such structure shall be located closer than two hundred (200) feet to any agricultural or residential lot line. For soundproofed confinements, noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels;
- c. In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m.
- d. In areas where such uses may be in proximity to other uses involving intensive activity such as shopping centers or other urban density locations, special attention is required to protect the

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public health and welfare. To these ends the commission and board may require among other things:

- Separate building entrance and exit to avoid animal conflicts;
- Area for outside exercise to be exclusive from access by the public by fencing or other means.

(§ 4.1.11, 12-10-80; 11-15-89; 6-14-00)

5.1.12 PUBLIC UTILITY STRUCTURES/USES

- a. The proposed use at the location selected will not endanger the health and safety of workers and/or residents in the community and will not impair or prove detrimental to neighboring properties or the development of same;
- b. Public utility buildings and structures in any residential zone shall, wherever practical, have the exterior appearance of residential buildings and shall have landscaping, screen planting and/or fencing, whenever these are deemed necessary by the commission;

In addition, trespass fencing and other safety measures may be required as deemed necessary to reasonably protect the public welfare;

In cases of earth-disturbing activity, immediate erosion control and reseeding shall be required to the satisfaction of the zoning administrator;

- c. Such structures as towers, transmission lines, transformers, etc., which are abandoned, damaged or otherwise in a state of disrepair, which in the opinion of the zoning administrator pose a hazard to the public safety, shall be repaired/removed to the satisfaction of the zoning administrator within a reasonable time prescribed by the zoning administrator;
- d. In approval of a public utility use, the commission shall be mindful of the desirability of use by more than one utility company of such features as utility easements and river crossings, particularly in areas of historic, visual or scenic value, and it shall, insofar as practical, condition such approvals so as to minimize the proliferation of such easements or crossings, as described by the comprehensive plan.

(§5.1.12, 12-10-80)

5.1.13 REST HOME, NURSING HOME, CONVALESCENT HOME, ORPHANAGE

- a. Such uses shall be provided in locations where the physical surroundings are compatible to the particular area;
- b. No such use shall be established in any area either by right or by special use permit until the Albemarle County fire official has determined that adequate fire protection is available to such use;
- c. Generally such uses should be located in proximity to or in short response time to emergency medical and fire protection facilities. Uses for the elderly and handicapped should be convenient to shopping, social, education and cultural uses;
- d. No such use shall be operated without approval and, where appropriate, licensing by such agencies as the Virginia Department of Welfare, the Virginia Department of Health, and other such appropriate local, state and federal agencies as may have authority in a particular case.

(§ 5.1.13, 12-10-80)

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5.1.14 SANITARY LANDFILL

- a. The site plan review committee, as provided for in section 32.0, shall review each application for a landfill and shall furnish a report to the commission and board of supervisors;
- b. No special use permit for a landfill shall be issued unless the same has been approved by the county engineer, the State Water Control Board, the Virginia Department of Health and other appropriate agencies with respect to the suitability of the site for such use;

Every special use permit for a landfill shall be deemed to incorporate as specific conditions all other provisions of law related to such use;

Upon completion of operations, the land shall be left in a safe condition and in such a state that it can be used for development of a use permitted in the district in which such land is located. Further, sufficient drainage improvements shall be provided so as to prevent water pockets or erosion, and such improvements shall be so designed that both natural and stormwater leaves the entire property at the original natural drainage points, and the area draining to any one point is not increased;

Except for improvements necessary for the operation of a landfill, no improvements shall be constructed in or upon any landfill for a period of twenty (20) years after the termination of the landfill operation without the prior approval of the board of supervisors. No such approval shall be granted unless the applicant demonstrates that:

1. Any residual post-construction settlement will not affect the appearance or structural integrity of the proposed improvement;
2. The nature and extent of corrosion-producing properties, the generation and escape of combustible gases and potential fire hazards of the constituent material, considering its state of decomposition, has been provided for adequately and will not create an unsafe or hazardous condition in or around any of said proposed improvements;
3. There shall be an annual inspection of each landfill by the county engineer who shall report his findings to the board of supervisors. In making such report, the county engineer may request information from any appropriate governmental agency he deems necessary. Every landfill shall be subject to such additional regulations as may be required by the board of supervisors including type of debris and materials to be deposited and soil compaction adequate to support ultimate use of the property.

(§ 5.1.14, 12-10-80)

5.1.15 SAWMILL, TEMPORARY OR PERMANENT, PLANING MILLS AND WOOD YARDS

Each temporary or permanent sawmill, planing mill and wood yard shall be subject to the following:

- a. No structure and no storage of lumber, logs, chips or timber shall be located closer than one hundred (100) feet to any lot line. Trees and vegetation within the one hundred (100) foot setback shall be maintained as a buffer to abutting properties and uses, provided that during the last three months of operation the trees may be removed.
- b. No saw, planer, chipper, conveyor, chute or other similar machinery shall be located closer than six hundred (600) feet from any dwelling on any lot other than the lot on which the sawmill, planing mill or wood yard is located.

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- c. No machinery used for sawing, planing, chipping or other wood processing shall operate between 7:00 p.m. and 7:00 a.m. No wood or wood products shall be loaded or unloaded between 12:00 midnight and 7:00 a.m.
- d. All timbering and milling operations, including reforestation/restoration and the disposal of snags, sawdust and other debris, shall be conducted in accordance with Title 10.1 of the Virginia Code and the regulations of the Virginia Department of Forestry.

(§ 5.1.15, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 13-18(1), 4-3-13)

5.1.16 SWIMMING, GOLF, TENNIS CLUBS

Each swimming, golf or tennis club shall be subject to the following:

- a. The swimming pool, including the apron, filtering and pumping equipment, and any buildings, shall be at least seventy-five (75) feet from the nearest property line and at least one hundred twenty-five (125) feet from any existing dwelling on an adjoining property, except that, where the lot upon which it is located abuts land in a commercial or industrial district, the pool may be constructed no less than twenty-five (25) feet from the nearest property line of such land in a commercial or industrial district;
- b. When the lot on which any such pool is located abuts the rear or side line of, or is across the street from, any residential district, a substantial, sightly wall, fence, or shrubbery shall be erected or planted, so as to screen effectively said pool from view from the nearest property in such residential district;
- c. **(Repealed 6-14-00)**
- d. The board of supervisors may, for the protection of the health, safety, morals and general welfare of the community, require such additional conditions as it deems necessary, including but not limited to provisions for additional fencing and/or planting or other landscaping, additional setback from property lines, additional parking space, location and arrangement of lighting, and other reasonable requirements;
- e. Provision for concessions for the serving of food, refreshments or entertainment for club members and guests may be permitted under special use permit procedures.

(§ 5.1.16, 12-10-80; 6-14-00)

5.1.17 TOURIST LODGING

Before the zoning administrator approves a zoning clearance for a tourist lodging use under section 31.5, the owner of the parcel shall obtain approvals of the use from the building official, the fire official and the Virginia Department of Health, and shall satisfy all other applicable requirements of this chapter.

(§ 5.1.17, 12-10-80; Ord. 01-18(6), 10-3-01; Ord. 12-18(3), 6-6-12)

5.1.18 TEMPORARY CONSTRUCTION HEADQUARTERS AND TEMPORARY CONSTRUCTION YARDS

Temporary construction headquarters and temporary construction yards are permitted as follows:

- a. *Temporary construction headquarters.* The zoning administrator is authorized to issue a zoning clearance allowing temporary construction headquarters serving a construction project, subject to the following:
 - 1. *Duration.* The headquarters shall be authorized on the site for a period beginning no earlier than thirty (30) days prior to the commencement of actual construction and ending

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no later than thirty (30) days after completion of the last building to be constructed in the project or thirty (30) days after active construction on the site is suspended or abandoned, whichever occurs first (hereinafter, the “ending date”). Construction shall be deemed to be suspended or abandoned if no substantive progress, characterized by approved building inspections or other evidence that substantial work has been performed in the prior thirty (30) day period. The zoning administrator may extend the ending date, upon the written request of the owner, if the suspension or abandonment of active construction is the result of inclement weather. The headquarters shall be removed from the site by the ending date.

2. *Location.* The headquarters shall be located within the same site where the construction project is located.
 3. *Maintenance.* The area in the vicinity of the headquarters and the access roads thereto shall be treated or maintained to prevent dust and debris from blowing or spreading onto adjacent properties and public street rights-of-way.
- b. *Temporary construction yards.* The zoning administrator may issue a zoning clearance allowing temporary construction yards serving a construction project, subject to the following:
1. *Duration.* The yard shall be authorized on the site for a period beginning no earlier than thirty (30) days prior to the commencement of actual construction and ending on the ending date. All materials, supplies, equipment, debris and other items composing the yard shall be removed from the site by the ending date. The zoning administrator may extend the ending date, upon the written request of the owner, if the suspension or abandonment of active construction is the result of inclement weather.;
 2. *Location.* The yard shall be located within the same site where the construction project is located. In addition, no portion of a yard shall be located: (i) closer than fifty (50) feet to any public street right-of-way existing prior to the recording of the subdivision plat served by the yard or existing prior to the commencement of the construction project; and (ii) closer than one hundred fifty (150) feet to any preexisting dwelling not owned or leased by the owner of the subdivision or construction project served by the yard.
 3. *Maintenance.* The area in the vicinity of the yard and the access roads thereto shall be treated or maintained to prevent dust and debris from blowing or spreading onto adjacent properties and public street rights-of-way. All yards shall be maintained in a clean and orderly manner, and building material and construction residue and debris shall not be permitted to accumulate.
 4. *Screening.* The zoning administrator may require appropriate screening or fencing around a yard if the yard will be located in or adjacent to a residential zoning district.

(§ 5.1.18, 12-10-80; § 5.1.18.1, 12-10-80; § 5.1.18.2, 12-10-80; Ord. 09-18(4), 7-1-09)

5.1.19 WAYSIDE STAND (Repealed 5-5-10)

5.1.20 SALE OR STORAGE OF PETROLEUM PRODUCTS INCLUDING KEROSENE, GASOLINE, AND HEATING OIL

The sale or storage of petroleum products, including kerosene, gasoline, and heating oil, in excess of six hundred (600) gallons shall be subject to the following:

- a. The sale or storage of the petroleum products shall satisfy the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the

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“Flammable and Combustible Liquids Code, NEPA 30” of the National Fire Prevention Association,

- b. No storage tanks and loading facilities shall be located closer than one hundred (100) feet from any lot line.

(§ 5.1.20, 12-10-80; Ord. 13-18(1), 4-3-13)

5.1.21 ON-SITE DWELLINGS AND SLEEPING QUARTERS ACCESSORY TO COMMERCIAL AND INDUSTRIAL USES

Each on-site dwelling or sleeping quarters that is accessory to a commercial or industrial use shall be subject to the following:

- a. Dwellings and sleeping quarters may be occupied only by owners or employees of the establishments, including on-site security officers, scientists and lab technicians.
- b. Any dwelling may be detached from the establishment to which it pertains or within the same structure as the establishment, subject to Albemarle County building official and fire official approvals.
- c. Any sleeping quarters shall be located within the primary structure and shall be subordinate to the primary use.
- d. Not more than one (1) dwelling unit or sleeping quarters shall be permitted per establishment.
- e. No manufactured home shall be permitted as a dwelling unit for a period in excess of six (6) months.

(§ 5.1.21, 12-10-80; 3-17-82; 4-17-85: Ord. 13-18(1), 4-3-13)

5.1.22 FEED AND SEED STORE

- a. All loose bulk storage of seed, grains and feed shall be in enclosed buildings;
- b. Provision shall be made for the control of dust during handling of loose bulk storage materials;
- c. No such use shall be established without Albemarle County fire official approval.

(§ 5.1.22, 12-10-80)

5.1.23 (Repealed 9-9-92)

5.1.24 SUBORDINATE RETAIL SALES

This provision is intended to permit retail sales as subordinate to the main use. To this end, the following regulations shall apply:

- a. Retail sales area, including but not limited to showroom and outdoor display area, shall not exceed fifteen (15) percent of the floor area of the main use except as provided for in section 27.2.2.13;
- b. Retail sales shall not precede establishment of the main use. Retail sales shall be permitted only after or simultaneously with the establishment of the main use and shall not continue after discontinuance of the main use;

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- c. In approval of any retail sales area the board and/or the commission may limit the areas for retail sales in both size and location;
- d. Retail sales area exceeding fifteen (15) percent of the floor area of the main use pursuant to section 27.2.2.13 is intended to allow for uses which by their nature are bulky and require nonintensive use of the land. The board and/or the commission in approval of such increased sales area shall be mindful of the intent of this section to provide for only subordinate retail sales and avoid incompatible land uses.

(§ 5.1.24, 12-2-81; 2-20-91)

5.1.25 FARM WINERIES

Each farm winery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm winery:
 - 1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine including, but not limited to, activities related to the production of the agricultural products used in wine, including but not limited to, growing, planting and harvesting the agricultural products and the use of equipment for those activities.
 - 2. The sale, tasting, including barrel tastings, or consumption of wine within the normal course of business of the farm winery.
 - 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
 - 4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 - 6. The sale of wine-related items that are incidental to the sale of wine including, but not limited to, the sale of incidental gifts such as cork screws, wine glasses and t-shirts.
 - 7. Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents.
- b. *Agritourism uses or wine sales related uses permitted by right.* The following uses are permitted at a farm winery by right, provided they are related to agritourism or wine sales:
 - 1. Exhibits, museums, and historical segments related to wine or to the farm winery.
 - 2. Guest winemakers and trade accommodations of invited guests at a farm winery owner’s private residence at the farm winery.
 - 3. Hayrides.
 - 4. Kitchen and catering activities related to a use at the farm winery.

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5. Picnics, either self-provided or available to be purchased at the farm winery.
 6. Providing finger foods, soups and appetizers for visitors.
 7. Tours of the farm winery, including the vineyard.
 8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm winery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm winery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm winery, provided that they are related to agritourism or wine sales, as follows:
1. *Eligibility.* Any farm winery use established in the county before January 18, 2017, is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm winery use established in the county on and after January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) on-site fermentation and bottling processes; (ii) an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. The eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.
 2. *By right.* Farm winery events, weddings, wedding receptions, and other events are permitted by right at a farm winery provided that not more than two hundred (200) persons are in attendance at the farm winery at any time and the events are related to agritourism or wine sales, subject to the following:
 - (a) *Zoning clearance.* For each farm winery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day; and
 - (b) *Notice.* The farm winery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the farm winery during each event or activity. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.

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3. *By special use permit.* Farm winery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm winery at any time are permitted by special use permit at a farm winery, provided that they are related to agritourism or wine sales.
 4. *Determining attendance at the farm winery at any time.* The attendance at the farm winery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
 5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are wine sales related events, which are determined by the zoning administrator to be usual and customary at farm wineries throughout the Commonwealth, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm winery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.25(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm winery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm winery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm winery licensed on and after November 12, 2014 shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm winery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm winery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.

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3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning.
- f. *Yards.* Notwithstanding any other provisions of this chapter, the following shall apply to each farm winery in the Rural Areas (RA) district:
1. *Permanent structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010.
 2. *Tents and portable toilets.* The minimum front, side, and rear yard shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm winery for tents and portable toilets used in whole or in part to serve any permitted use at a farm winery.
 3. *Off-street parking areas.* Off-street parking areas established on or after January 18, 2017 shall comply with the minimum front yard requirements in section 10.4 and the minimum side and rear yards shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm winery.
 4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.
- g. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides.

(§ 5.1.25, 12-16-81, 1-1-84; Ord. 98-20(1), 4-1-98; Ord. 01-18(6), 10-3-01; Ord. 10-18(3), 5-5-10; Ord. 11-18(3), 3-9-11; Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15; Ord. 17-18(1), 1-18-17)

5.1.26 HYDROELECTRIC POWER GENERATION

- a. These provisions are intended to encourage the use of water power as a natural and replenishable resource for the generation of electrical power. While serving energy conservation and natural resource goals, these provisions are also intended to limit such use so as: not to be objectionable in the area in which it is located; not to unreasonably interfere with the passage of boats, canoes, fish and other aquatic life; not to unreasonably degrade the riverine and aquatic habitat or water quality, in general;
- b. The applicant shall submit with his application for special use permit, plans, profiles, studies and other supporting information addressing the issues in (a) above. No such application shall be approved until comment and recommendation has been received from the State Water Control Board, the Commission of Game and Inland Fisheries, and other appropriate federal, state and local agencies;
- c. Whether or not a site development plan is required, the applicant shall submit to the county engineer a certified engineer's report as described in section 4.14.8. In review of such report,

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the county engineer shall be particularly mindful of the requirements of section 4.14.1, noise, and section 4.14.7, electrical interference;

- d. Except as specifically permitted in a particular case, no auxiliary or accessory method of power generation shall be permitted nor shall any pump storage or rechannelization be permitted.

(§ 5.1.26, 4-28-82)

5.1.27 TEMPORARY EVENTS SPONSORED BY LOCAL NONPROFIT ORGANIZATIONS

This provision is intended to regulate for purposes of public health, safety and welfare, major events such as agricultural expositions, concerts, craft fairs, and similar activities which generally: attract large numbers of patrons; may be disruptive of the area; and occasion the need for planning in regard to traffic control, emergency vehicular access, health concerns and the like. The provision is not intended to regulate such minor events as church bazaars, yard sales, bake sales, car washes, picnics and the like which generally are not disruptive of the area and require only minimal logistical planning; nor is it intended to permit permanent amusement facilities. Each such event shall be sponsored by one or more not-for-profit organizations operating primarily in the county and/or the city of Charlottesville.

No event shall extend for a period longer than that provided by the board of supervisors in the conditions of the special use permit. A separate special use permit shall be required for each event.

Special use permits may be issued by the board of supervisors pursuant to this section, upon finding:

- a. That the public roads serving the site are adequate to accommodate the traffic which would be expected to be generated by such event;
- b. That the character of such use will be in harmony with the public health, safety and welfare, and uses permitted by right in the district and will not be of substantial detriment to adjacent property in terms of smoke, dust, noise, hours of operation, artificial lighting or other specific identifiable conditions which may be deleterious to the existing uses of such property.

Except as the board of supervisors may expressly add or delete conditions in a particular case, each such permit shall be subject to the following conditions:

- a. A preliminary plan showing access, parking, vehicular and pedestrian circulation, and method of separation of the same shall be approved by the director of planning;
- b. Such organization shall have made adequate arrangements with the county sheriff, fire and rescue squads, and the local office of the Virginia Department of Health for the conduct of such event;
- c. Adequate arrangements have been made for the removal of trash and debris, reseeding and general restoration of the site following the event. The board of supervisors may establish and require the posting of a bond in an amount deemed by the zoning administrator to be sufficient for such purpose.

(§ 5.1.27, 7-7-82)

5.1.28 BORROW, FILL OR WASTE AREAS

- a. Each borrow, fill or waste area shall be subject to the following:

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1. Each active borrow, fill or waste area shall be shaped and sloped so that no undrained pockets or stagnant pools of water are created to the maximum extent reasonably practicable as determined by the program authority. All undrained pockets and stagnant pools of water resulting from drainage shall be treated as required by the Virginia Department of Health to eliminate breeding places for mosquitoes and other insects.
 2. No fill or waste area shall be located either within the flood hazard overlay district, except as authorized by section 30.3 of this chapter, or in any stream buffer area as defined by Chapter 17 of the Code of Albemarle. (Amended 10-3-01; 7-3-02)
 3. Each fill or waste area shall be only for the disposal of soil or inert materials. The disposal of any other materials in a fill or waste area is prohibited.
 4. Each borrow, fill or waste area shall be reclaimed within seven (7) days of completion of the borrow, fill or waste activity, or such later time authorized by the program authority for reclamation activities of a seasonal nature. Reclamation shall include, but not be limited to, restoring the area so that it approximates natural contours; shaping and sloping the area to satisfy the requirements of subsection (a)(1); covering the area with clean fill to a minimum depth of two (2) feet in order to allow for permanent stabilization and reclamation; and establishing a permanent vegetative ground cover; provided that the program authority may reduce the minimum depth of clean fill to one (1) foot if the area is unlikely to be redeveloped.
 5. The zoning administrator, or the program authority for those borrow, fill or waste areas subject to subsection (b), may require the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the county attorney, to ensure that measures could be taken by the county or the program authority at the owner's expense should he fail, after notice is given to perform required reclamation work specified in the notice. The amount of the bond or other surety shall be based on unit pricing for new public or private sector construction in Albemarle County, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five (25) percent of the estimated cost to initiate and complete the reclamation of the borrow, fill or waste area, and to comply with all other terms and conditions of the plan or narrative required by subsection (b). If reclamation work is required to be taken by the county or the program authority upon the failure of the owner to do so, the county or the program authority may collect the reasonable cost of the work directly from the owner, to the extent that the cost exceeds the unexpended or unobligated amount of the surety. Within sixty (60) days after the reclamation work is completed and inspected and approved by the county engineer, the bond or other surety, or any unexpended or unobligated portion thereof, shall be refunded to the owner.
- b. If the aggregate area of a borrow, fill or waste activity will be greater than ten thousand (10,000) square feet, then, as part of any permit issued pursuant to section 17-207 of the Code of Albemarle, the program authority shall first approve a plan or a narrative for such activity that satisfies the requirements of subsection (a) and the following:
1. All inert materials shall be transported in compliance with section 13-301 of the Code of Albemarle. Before a transporting vehicle leaves the parcel or parcels on which the borrow, fill or waste area is located, it shall be cleaned so that no inert materials outside of the vehicle's load-bed can be deposited on a public street.
 2. The borrow, fill or waste area and the access roads thereto shall be treated or maintained to prevent dust or debris from blowing or spreading onto adjacent properties or public streets. Depending on the anticipated intensity and duration of the activity and the character of the development of adjoining properties, the program authority may require setback, fencing and

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landscaping requirements as deemed appropriate, but which shall not exceed the requirements of sections 30.4.6, 30.4.7 and 30.4.9 of this chapter.

3. Borrow, fill or waste activity involving industrial-type power equipment shall be limited to the hours of 7:00 a.m. to 9:00 p.m., except in cases of a public emergency declared pursuant to section 2-1003 of the Code of Albemarle.
4. Borrow, fill or waste activity shall be conducted in a safe manner that maintains lateral support, in order to minimize any hazard to persons, physical damage to adjacent land and improvements, and damage to any public street because of slides, sinking, or collapse.
5. The placement of fill or waste shall be completed within one (1) year of its commencement, except for reclamation activities and any other activities associated with the final stabilization of the area. The program authority may extend the date of completion upon the written request of the applicant, demonstrating that factors beyond the control of the applicant prevented the completion within the one-year period. The program authority may then extend the permit for a period of time that, in its sole discretion, is determined adequate to complete the work.
6. In lieu of a plan or narrative, the program authority may accept a contractual agreement between the Virginia Department of Transportation and its contractor for a public road project; provided that the program authority determines that the agreement satisfies at least to an equivalent extent the requirements and intent of this section.

(§ 5.1.28, 7-6-83; Ord. 01-18(6), 10-3-01; Ord. 02-18(5), 7-3-02)

5.1.29 CONVENT, MONASTERY

- a. The ownership of the convent/monastery shall conform in all respects to the provisions of Chapter 2 of Title 57 of the Code of Virginia, as the same may be amended from time to time, or any successor statute;
- b. This provision is intended to accommodate the long term residency of nuns, monks or friars in a communal setting as opposed to transient occupancy as may be experienced in other religious retreats; provided that nothing contained herein shall be deemed to preclude temporary lodging of guests as an accessory use to the convent or monastery.

(§ 5.1.29, 7-6-83)

5.1.30 AGRICULTURAL MUSEUM

- a. Items for display in such museum shall be directly related to past or present agricultural/forestal uses in Albemarle County;
- b. Activities may include: passive display; active demonstration including tours of processing areas; and public participation in such agricultural activity;
- c. Sale of display items and accessory items may be permitted only upon expressed approval by the board of supervisors.

(§ 5.1.30, 12-2-87)

5.1.31 AUTOMOBILE OR TRUCK REPAIR SHOPS, BODY SHOPS, MOTORCYCLE AND OFF-ROAD VEHICLE SALES AND SERVICE SHOPS, AND PUBLIC GARAGES

Each automobile or truck repair shop, body shop, motorcycle and off-road vehicle sales and service shop, and public garage shall be subject to the following:

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- a. All parts, materials and equipment shall be stored within an enclosed building.
- b. No vehicle awaiting repair shall be located on any portion of the site so as to be visible from any public street or any residential property, and shall be limited to locations designated on the approved site plan.
- c. All services shall be performed within an enclosed building.
- d. No buildings in which services are performed shall be located closer than fifty (50) feet from any residential or agricultural district.

(§ 5.1.31, 12-7-88; Ord. 13-18(1), 4-3-13)

5.1.32 TOWING AND TEMPORARY STORAGE OF MOTOR VEHICLES

- a. This provision is intended to provide locations for the towing and/or temporary storage of collision/disabled vehicles. No body or mechanical work, painting, maintenance, servicing, disassembling, salvage or crushing of vehicles shall be permitted; except that the commission may authorize maintenance and servicing of rental vehicles in a particular case;

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- b. No vehicle shall be located on any portion of such property so as to be visible from any public road or any residential property and shall be limited to locations designated on the approved site plan. (Added 6-6-90)

5.1.33 SPRING WATER EXTRACTION AND/OR BOTTLING

- a. No such use shall operate without approval of the Virginia Department of Agriculture and Consumer Services;
- b. No such use shall be established without approval of a site development plan;
- c. Bottling facilities on-site shall be used only for the bottling of spring water obtained on-site. Water used for bottling shall not contain any additives or artificial carbonation other than those required by regulating agencies for purification purposes;
- d. All structures shall be similar in facade to a single-family dwelling, private garage, shed, barn or other structure normally expected in a rural or residential area and shall be specifically compatible in design and scale with other development in area in which located;
- e. These provisions are supplementary and nothing stated herein shall be deemed to preclude application of the requirements of any other local, state or federal agency. (Added 6-10-92)

5.1.34 ACCESSORY APARTMENT

Each accessory apartment shall be subject to the following:

- a. An accessory apartment shall be permitted only within the structure of the main dwelling to which it is accessory. Usage of freestanding garage or other accessory structure for an accessory apartment is expressly prohibited. Not more than one (1) accessory apartment shall be permitted within any single-family detached dwelling.
- b. The gross floor area devoted to an accessory apartment shall not exceed thirty-five (35) percent of the total gross floor area of the structure in which it is located.
- c. The gross floor area of an accessory apartment shall not be included in calculating the gross floor area of the main dwelling unit for uses such as home occupations as provided in sections 5.2 and 5.2A and other similar uses in this chapter whose area within a dwelling unit is regulated. (Amended 1-12-11)
- d. An accessory apartment shall enjoy all accessory uses availed to the main dwelling, except that no accessory apartment shall be permitted as accessory to another accessory apartment.
- e. Any single family dwelling containing an accessory apartment shall be provided with a minimum of three (3) off-street parking spaces, arranged so that each parking space shall have reasonably uninhibited access to the street, subject to approval of the zoning administrator.
- f. A single-family dwelling which adds an accessory apartment shall be deemed to remain a single-family dwelling and shall be considered one (1) dwelling unit for purposes of area and bulk regulations of the district in which such dwelling is located.
- g. A guest or rental cottage shall not be deemed to be an accessory apartment, but shall be deemed to be a single-family detached dwelling, whether or not used as such, subject to area and bulk regulations of the district in which such cottage is located. No accessory apartment shall be permitted within any guest or rental cottage. (Amended 1-12-11)
- h. The owner must reside in any dwelling to which the apartment unit is accessory or the apartment unit itself.

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- i. The provisions of section 4.1.6 notwithstanding, for lots not served by a central sewer system, no accessory apartment shall be established without written approval from the local office of the Virginia Department of Health of the location and area for both original and future replacement fields adequate to serve the main dwelling and accessory apartment.
- j. An accessory apartment shall be deemed to be a dwelling unit for the purposes of sections 14-234 and 14-410 of the Code. (Added 8-10-94, Amended 1-12-11)

(12-10-80; 8-10-94; Ord. 11-18(1), 1-12-11)

5.1.35 FARM SALES (Added 10-11-95; Repealed 5-5-10)

5.1.36 FARMERS' MARKET (Added 10-11-95; Repealed 5-5-10)

5.1.37 OUTDOOR AMPHITHEATER

(Amended 6-14-00)

Each outdoor ampitheater shall be subject to the following:

- a. Overnight parking or camping shall not be permitted;
- b. No such use shall be approved until adequate provisions for traffic management have been demonstrated;
- c. No such use shall be approved until adequate provisions for on-site emergency medical facilities have been demonstrated;
- d. **(Repealed 6-14-00)**
- e. No special use permit shall be approved without approval of a monitoring program to insure maximum sound levels are not exceeded. (Added 10-9-96)

5.1.38 OFFSITE PARKING FOR HISTORIC STRUCTURES OR SITES

(Added 12-10-97)

In order to provide the minimum parking required by section 4.12 or to provide additional parking, off-site parking for a historic structure or site may be authorized only when (1)the provision of on-site parking would substantially degrade or detract from the historic character and setting of the historic structure or site to be served; (2)the level of use of the property on which the historic structure or site is located, which necessitates the provision of off-site parking, will not degrade or detract from the integrity of the historic structure or site or adversely change the character of the surrounding area; and (3)the provision of off-site parking does not change the character of the area surrounding the property on which the off-site parking is proposed and does not require substantial alteration to roads. To ensure that the review of each application for a special use permit for off-site parking for a historic structure or site pursuant to section 10.2.2.46 is consistent with this intent, each applicant shall comply with the following requirements:

- a. The applicant shall demonstrate that on-site parking cannot be provided without substantially degrading or detracting from the historic structure or site.
- b. The parking lot shall be located, designed and constructed to reduce or eliminate significant visual impacts from all public streets, private roads and adjacent properties, and to reduce or eliminate other significant impacts to adjacent properties resulting from vehicular noise, dust, artificial lighting, glare, runoff, degradation of water quality and other similar disturbances.

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- c. The applicant shall submit a conceptual plan with its application for a special use permit. The conceptual plan shall show the approximate location of the parking lot on the property, its dimensions, its access to a public street, its distance from the historic structure or site, and shall identify how persons will be transported or will transport themselves from the off-site parking to the historic structure or site. The conceptual plan shall also show all features of the parking lot which will ensure that the parking lot will not degrade or detract from the historic structure or site to be served by the parking lot, will not adversely change the character of or significantly impact the area surrounding the property on which the parking lot is proposed, and will impact to the least extent practicable the property on which the parking lot is proposed. The features which shall be shown on the conceptual plan, and which may be required as a condition of approval of a special use permit, include:
 - 1. Visual and noise barriers such as earthen berms, the existing or planned terrain and/or vegetative screening;
 - 2. Proposed construction elements, which shall include elements which will minimize noise, light pollution, dust, glare, and runoff and which will protect water quality and protect trees designated to be preserved;
 - 3. A lighting plan which identifies the location and design of all outdoor light structures and fixtures, demonstrates that all outdoor lights comply with section 4.12.6.4 and demonstrates that all outdoor lights will be shielded in such a manner that all light emitted from the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane of the fixture; and
 - 4. Changes proposed to the entrance and public road, including any necessary road-widening, or grading and removal of trees to accommodate sight distance.
- d. The off-street parking and loading requirements set forth in section 4.12 shall apply to off-site parking for a historic structure or site, except as expressly provided otherwise therein.

5.1.39 OFF-SITE EMPLOYEE PARKING FOR INDUSTRIAL USE

In order to provide the minimum parking required by section 4.12 or to provide additional parking, off-site employee parking may be authorized only when: (1) the provision of on-site parking is not physically feasible or, when considering the general public interest, as opposed to the private interest of the applicant, is not physically desirable; (2) the proposed off-site parking is limited to employee use; (3) the provision of off-site parking does not change the character of the area surrounding the property on which the off-site parking is located, and does not require substantial alteration to roads; (4) alternate transportation opportunities have not eliminated the need for additional parking; and (5) the parcel on which the off-site parking is located is either contiguous with the parcel on which the industrial use being served is located, or if the two parcels are not contiguous, they are separated only by a public street, private road, or alley. (Amended 2-6-02)

To insure that the review of each application for a special use permit for off-site employee parking is consistent with this intent, each applicant shall comply with the following requirements:

- a. The applicant shall demonstrate that additional on-site parking is not physically feasible or physically desirable due to topographic constraints such as critical slopes and natural drainage features; wooded and buffer areas; unusual configuration of the lot or remaining undeveloped area on the lot; entrance corridor and/or landscaping requirements; stormwater management improvements; the location and visibility of the site; and other physical features of the property.

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- b. The applicant shall demonstrate that he has made a determined effort to reduce reliance on single occupancy vehicle use by putting in place incentives and/or employee programs to encourage alternatives to single occupancy vehicles. Where public transit reasonably could be made available, the applicant should demonstrate that efforts have been made to coordinate routes and times with the public transportation service and the workforce hours.
- c. The parking lot shall be located, designed and constructed to reduce or eliminate significant visual impacts from all public streets, private roads and adjacent properties, and to reduce or eliminate other significant impacts to adjacent properties resulting from vehicular noise, dust, artificial lighting, glare, runoff, degradation of water quality and other similar disturbances.
- d. The applicant shall submit a conceptual plan or a site plan with his application for a special use permit. The plan shall show the approximate location of the parking lot on the property, its dimensions, its access to a public street, its distance from the off-site parking to the industrial site, and shall identify how persons will be transported or will transport themselves from the off-site parking to the building or use. The plan shall also show all features of the parking lot, which will insure that the parking lot will not adversely change the character of, or significantly impact, the area surrounding the property on which the parking lot is proposed, and will impact to the least extent practicable the property on which the parking lot is proposed. The features which shall be shown on the conceptual plan or site plan, and which may be required as a condition of approval of a special use permit, include but are not limited to:
 - 1. Visual or noise barriers such as earthen berms, the existing or planned terrain and/or vegetative screening;
 - 2. Proposed construction elements, which shall include elements which will minimize noise, light pollution, dust, glare, and runoff and which will protect water quality and protect trees designated to be preserved and will result in no significant degradation to the environment;
 - 3. A lighting plan which identifies the location and design of all outdoor light structures and fixtures, demonstrates that all outdoor lights comply with section 4.12.6.4 and demonstrates that all outdoor lights will be shielded in such a manner that all light emitted from the fixture, either directly from the lamp or indirectly from the fixture, is projected below the horizontal plane of the fixture; and
 - 4. Changes proposed to the entrance and public road, including any necessary road-widening, or grading and removal of trees to accommodate sight distance.
- e. The off-site parking and loading requirements set forth in section 4.12 shall apply to the off-site parking subject to this section, except as expressly provided otherwise therein.

5.1.40 PERSONAL WIRELESS SERVICE FACILITIES; COLLOCATION, REPLACEMENT, AND REMOVAL OF TRANSMISSION EQUIPMENT

The purpose of section 5.1.40 is to implement the personal wireless service facilities policy, adopted as part of the comprehensive plan, in a manner that complies with Section 704 of the Telecommunications Act of 1996 (47 U.S.C. § 332(c)(7)) for new personal wireless service facilities and collocations and replacements that result in a substantial change in the physical dimensions of an eligible support structure; and to implement Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1455) and 47 CFR § 1.40001 for collocations and replacements that do not result in a substantial change in the physical dimensions of an eligible support structure. Each personal wireless service facility and the transmission equipment of any other wireless service shall be subject to the following, as applicable:

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a. *Application for approval:* An application providing the following information shall be required for each personal wireless service facility (hereinafter, “facility”) and transmission equipment that will be collocated or replace existing equipment on an eligible support structure:

Application Requirements	Type of Application			
	I	II	III	C/R
1. <i>Application form and signatures.</i> A completed application form, signed by the parcel owner, the parcel owner’s agent or the contract purchaser, and the proposed facility’s owner. If the owner’s agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner’s written consent to the application.	X	X	X	X
2. <i>Plat or survey of the parcel.</i> A recorded plat or recorded boundary survey of the parcel on which the facility will be located; provided, if neither a recorded plat nor boundary survey exists, a copy of the legal description of the parcel and the Albemarle County Circuit Court deed book and page number.	X	X	X	X
3. <i>Ownership.</i> The identity of the owner of the parcel and, if the owner is other than a real person, the complete legal name of the entity, a description of the type of entity, and written documentation that the person signing on behalf of the entity is authorized to do so.	X	X	X	X
4. <i>Plans and supporting drawings, calculations, and documentation.</i> Except where the facility will be located entirely within an eligible support structure or an existing building, a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation required by the agent, signed and sealed by an appropriate licensed professional. The plans and supporting drawings, calculations, and documentation shall show:	X	X	X	X
(a) <i>Existing and proposed improvements.</i> The location and dimensions of all existing and proposed improvements on the parcel including access roads and structures, the location and dimensions of significant natural features, and the maximum height above ground of the facility (also identified in height above sea level).	X	X	X	X
(b) <i>Elevation and coordinates.</i> The benchmarks and datum used for elevations shall coincide with the State Plane VA South US Survey Feet based on the North American Datum of 1983 (NAD 83), and the benchmarks shall be acceptable to the county engineer.	X	X	X	X
(c) <i>Design.</i> The design of the facility, including the specific type of support structure and the design, type, location, size, height, and configuration of all existing and proposed antennas and other equipment.	X	X	X	X
(d) <i>Color.</i> Identification of each paint color on the facility, by manufacturer color name and color number. A paint chip or sample shall be provided for each color.	X	X	X	X
(e) <i>Topography.</i> Except where the facility would be attached to an eligible support structure or an existing building, the topography within two thousand (2,000) feet of the proposed facility, in contour intervals not to exceed ten (10) feet for all lands within Albemarle County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Albemarle County.		X	X	
(f) <i>Trees.</i> The caliper and species of all trees where the dripline is located within fifty (50) feet of the facility. The height, caliper, and species of any tree that the applicant is relying on to provide screening of the monopole or tower. The height, caliper and species of the reference tree. The caliper and species of all trees that will be adversely impacted or removed during installation or maintenance of the	X	X	X	

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Application Requirements	Type of Application			
	I	II	III	C/R
<p>facility shall be noted, regardless of their distances to the facility.</p> <p>(g) <i>Setbacks, parking, fencing, and landscaping.</i> All existing and proposed setbacks, parking, fencing, and landscaping.</p> <p>(h) <i>Location of accessways.</i> The location of all existing vehicular accessways and the location and design of all proposed vehicular accessways.</p> <p>(i) <i>Location of certain structures and district boundaries.</i> Except where the facility would be attached to an eligible support structure or an existing building, residential and commercial structures, and residential and rural areas district boundaries.</p> <p>(j) <i>Proximity to airports.</i> If the proposed monopole or tower will be taller than one hundred fifty (150) feet, the proximity of the facility to commercial and private airports.</p>	X	X	X	X
<p>5. <i>Photographs.</i> Photographs of the location of the proposed monopole or tower shall be provided that include, for applications for Tier II facilities, the reference tree, and for applications for Tier III facilities, the area within fifty (50) feet of the proposed monopole or tower. These photographs shall include reference points to enable the lease area, the vehicular access, the trees that will remain, and the trees that will be removed, to be identified. In addition, photographs, where possible, or perspective drawings of the facility site and all existing facilities within two hundred (200) feet of the site, if any, and the area surrounding the site.</p>		X	X	
<p>6. <i>Balloon tests.</i> For any proposed monopole or tower, photographs taken of a balloon test, which shall be conducted, if requested by the agent, as follows:</p> <p>(a) <i>Scheduling.</i> The applicant shall contact the agent within ten (10) days after the date the application was submitted to schedule a date and time when the balloon test will be conducted. The test shall be conducted within forty (40) days after the date the application was submitted, and the applicant shall provide the agent with at least seven (7) days prior notice; provided that this deadline may be extended due to inclement weather or by the agreement of the applicant and the agent.</p> <p>(b) <i>Marking key boundaries and locations.</i> Prior to the balloon test, the locations of the access road, the lease area, the tower site, the reference tree, and the tallest tree within twenty five (25) feet of the proposed monopole shall be surveyed and staked or flagged in the field.</p> <p>(c) <i>Balloon height.</i> The test shall consist of raising one or more balloons from the facility site to a height equal to the proposed facility.</p> <p>(d) <i>Balloon color or material.</i> The balloons shall be of a color or material that provides maximum visibility.</p> <p>(e) <i>Photographing balloon test.</i> The photographs of the balloon test shall be taken from the nearest residence and from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and other properties and locations as deemed appropriate by the agent. The applicant shall identify the camera type, film size, and focal length of the lens for each photograph.</p>		X	X	
		X	X	
		X	X	
		X	X	
		X	X	

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Application Requirements	Type of Application			
	I	II	III	C/R
7. <i>Additions of antennas.</i> If antennas are proposed to be added to an eligible support structure or an existing building, all existing antennas and other equipment on the structure, building, or facility, as well as all ground equipment, shall be identified by owner, type, and size. The method(s) by which the antennas will be attached to the mounting structure shall be depicted.	X	X	X	X
8. <i>Site under conservation or open space easement.</i> If the proposed facility would be located on lands subject to a conservation easement or an open space easement, a copy of the recorded deed of easement and the express written consent of all easement holders to the proposed facility.		X	X	
9. <i>Photographic simulations.</i> At the request of the agent, photographic simulations of the proposed facility.		X	X	
10. <i>Statement of justification for exempt collocation.</i> If the application is for an exempt collocation, a statement of the justification for the application qualifying as an exempt collocation.				X
11. <i>Evidence of prior approval.</i> Approval letters or actions from the County authorizing the initial construction of the facility and any approval letters or actions for modifications of the facility after initial construction. If no approvals were granted by the County for the facility the applicant shall provide evidence that the facility was constructed lawfully.				X
12. <i>Special exception.</i> If the proposed facility does not comply with any provision of section 5.1.40, the applicant shall request a special exception in writing as part of the application. The request shall identify which regulation in section 5.1.40 for the special exception is requested and a justification for the special exception.	X	X	X	

The following abbreviations are used in this table:

I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.

C/R: Refers to exempt collocations and exempt replacements of transmission equipment.

X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

- b. *Development requirements.* Each facility or transmission equipment may be established upon approval as provided in subsection (c) provided that the application satisfies the applicable requirements of subsection (a) and demonstrates that the facility or transmission equipment will be installed and operated in compliance with all applicable provisions of this chapter, and the following:

Development Requirements	Type of Application			
	I	II	III	C/R
1. <i>General design.</i> The facility shall be designed, installed, and maintained as follows:				
(a) <i>Guy wires.</i> Guy wires are prohibited.	X	X	X	
(b) <i>Outdoor lighting.</i> Outdoor lighting for the facility shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire shall be fully shielded as required by section 4.17; provided that these restrictions shall not apply to any outdoor lighting required by federal law.	X	X	X	
(c) <i>Ground equipment.</i> Any ground equipment shelter not located within an eligible support structure or an existing building shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation approved by the agent.	X	X	X	
(d) <i>Whip antenna.</i> A whip antenna less than six (6) inches in diameter may exceed the height of the facility, the eligible support structure, or the existing building.	X	X	X	

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Development Requirements	Type of Application			
	I	II	III	C/R
(e) <i>Grounding rod.</i> A grounding rod, whose height shall not exceed two (2) feet and whose width shall not exceed one (1) inch in diameter at the base and tapering to a point, may be installed at the top of the facility, the eligible support structure, or the existing building.	X	X	X	
2. <i>Antennas and associated equipment.</i> Antennas and associated equipment that are not entirely within a proposed facility, an eligible support structure, or an existing building shall be subject to the following:	X	X	X	
(a) <i>Number of arrays.</i> The total number of arrays of antennas shall not exceed three (3). All types of antennas and dishes, regardless of their use, shall be counted toward the limit of three arrays.	X	X	X	
(b) <i>Size.</i> Each antenna proposed under the pending application shall not exceed the size shown on the application, which size shall not exceed one thousand four hundred (1400) square inches.	X	X	X	
(c) <i>Projection.</i> No antenna shall project from the facility, structure or building beyond the minimum required by the mounting equipment, and in no case shall the closest point of the back of the antenna be more than twelve (12) inches from the facility, structure, or building, and in no case shall the farthest point of the back of the antenna be more than eighteen (18) inches from the facility, structure, or building; and	X	X	X	
(d) <i>Color.</i> Each antenna and associated equipment shall be a color that matches the facility, structure or building.	X	X	X	
3. <i>Tree conservation plan; content.</i> Before the building official issues a building permit for the facility, the applicant shall submit a tree conservation plan prepared by a certified arborist. The plan shall be submitted to the agent for review and approval to ensure that all applicable requirements have been satisfied. The plan shall specify tree protection methods and procedures, identify all existing trees to be removed on the parcel for the installation, operation and maintenance of the facility, and identify all dead and dying trees that are recommended to be removed. In approving the plan, the agent may identify additional trees or lands up to two hundred (200) feet from the lease area to be included in the plan.	X	X	X	
4. <i>Creation of slopes steeper than 2:1.</i> No slopes associated with the installation of the facility and its accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the county engineer are employed.	X	X	X	
5. <i>Ground equipment shelter; fencing.</i> Any ground equipment shelter not located within an existing building shall be fenced only with the approval of the agent upon finding that the fence: (i) would protect the facility from trespass in areas of high volumes of vehicular or pedestrian traffic or, in the rural areas, to protect the facility from livestock or wildlife; (ii) would not be detrimental to the character of the area; and (iii) would not be detrimental to the public health, safety or general welfare.	X	X	X	
6. <i>Screening and siting to minimize visibility.</i> The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. The facility also shall be sited to minimize its visibility from any entrance corridor overlay district, state scenic river, national park or national forest, regardless of whether the site is adjacent to the district, river, park or forest. If the facility would be located on lands subject to a conservation easement or an open space easement, or adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement.		X	X	

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Development Requirements	Type of Application			
	I	II	III	C/R
7. <i>Open space plan resources.</i> The facility shall not adversely impact resources identified in the natural resources chapter of the county’s comprehensive plan and the parks and green systems chapters in any county master plan.		X	X	
8. <i>Horizontal separation of multiple facilities.</i> The facility shall not be located so that it and three (3) or more existing or approved personal wireless service facilities would be within an area comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet.		X		
9. <i>Diameter of monopole.</i> The maximum base diameter of the monopole shall be thirty (30) inches and the maximum diameter at the top of the monopole shall be eighteen (18) inches.		X		
10. <i>Height of monopole.</i> The top of the monopole, measured in elevation above mean sea level, shall not be more than ten (10) feet taller than the tallest tree within twenty-five (25) feet of the monopole, and shall include any base, foundation or grading that raises the monopole above the pre-existing natural ground elevation.		X		
11. <i>Color of monopole, antennas, and equipment.</i> Each monopole shall be a dark brown natural or painted wood color that blends into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole shall be a color that closely matches that of the monopole. The ground equipment, the ground equipment shelter, and the concrete pad shall also be a color that closely matches that of the monopole, provided that the ground equipment and the concrete pad need not closely match the color of the monopole if they are enclosed within a ground equipment shelter or within or behind an approved structure, façade or fencing that: (i) is a color that closely matches that of the monopole; (ii) is consistent with the character of the area; and (iii) makes the ground equipment, ground equipment shelter, and the concrete pad invisible at any time of year from any other parcel or a public or private street.		X	X	
12. <i>Placement of cables, wiring, and similar attachments.</i> Each wood or concrete monopole shall be constructed so that all cables, wiring, and similar attachments that run vertically from the ground equipment to the antennas are placed on the monopole to face the interior of the site and away from public view, as determined by the agent. Metal monopoles shall be constructed so that vertical cables, wiring and similar attachments are contained within the monopole’s structure.		X		
13. <i>Special use permit conditions.</i> All conditions of approval of a special use permit.			X	
14. <i>No substantial change.</i> The collocation or replacement shall not result in a substantial change to the physical dimensions of an eligible support structure.				X
15. <i>Replacement of wooden monopole with metal monopole.</i> The replacement of a wooden monopole with a metal monopole: (a) The monopole is setback farther in distance than its height to any lot line, or is located closer in distance than its height to any lot line and the document authorized by section 5.1.40(c)(3) exists. (b) The monopole is located closer in distance than its height to any lot line and the document authorized by section 5.1.40(c)(3) does not exist and, for the purposes of this subsection, the monopole shall be classified as a Tier II facility.	X			
		S		

The following abbreviations are used in this table:

I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.

C/R: Refers to exempt collocations and exempt replacements of transmission equipment.

X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

S: Refers to a special exception

- c. *Applicability of other regulations in this chapter.* Except as otherwise provided in this subsection, each facility or transmission equipment shall be subject to all applicable regulations in this chapter:

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Applicability of other Development Requirements in this Chapter	Type of Application			
	I	II	III	C/R
1. <i>Building site.</i> Notwithstanding section 4.2.3(a), a facility is not required to be located within a building site.	X	X	X	X
2. <i>Vehicular access.</i> Vehicular access to the facility site or tower site shall be subject to the requirements of section 4.2 and shall not be exempt under section 4.2.6(c).	X	X	X	X
3. <i>Setbacks.</i> Notwithstanding section 4.10.3.1(b), the agent may authorize a facility to be located closer in distance than the height of the tower or other mounting structure to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners, acceptable to the county attorney as to addressing development on the part of the abutting parcel sharing the common lot line that is within the monopole or tower's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.	X	X	X	X
4. <i>Area, bulk, and minimum yards.</i> Notwithstanding the requirements of the district in which the facility will be located, the area and bulk regulations, and the minimum yard requirements of the district shall not apply.	X	X	X	X
5. <i>Required yards.</i> Notwithstanding section 4.11, a facility may be located in a required yard	X	X	X	X
6. <i>Site plan.</i> Notwithstanding section 32.2, a site plan shall not be required for a facility, but the facility shall be subject to the requirements of section 32, and the applicant shall submit all schematics, plans, calculations, drawings and other information required by the agent to determine whether the facility complies with section 32. In making this determination, the agent may impose reasonable conditions authorized by section 32 in order to ensure compliance.	X	X	X	X

The following abbreviations are used in this table:

I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.

C/R: Refers to exempt collocations and exempt replacements of transmission equipment.

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- d. *Performance standards and requirements for approved applications.* In addition to the applicable development requirements in subsections (b) and (c), the following performance standards and requirements shall apply to facilities, as applicable:

Performance Standards and Requirements	Type of Application			
	I	II	III	C/R
1. <i>Building permit application; submitting certification of monopole height and revised plans.</i> The following shall be submitted with the building permit application: (i) certification by a registered surveyor stating the height of the reference tree that is used to determine the permissible height of the monopole; and (ii) a final revised set of plans for the construction of the facility. The agent shall review the surveyor's certificate and the plans to ensure that all applicable requirements have been satisfied.		X		
2. <i>Tree conservation plan; compliance; amendment.</i> The installation, operation, and maintenance of the facility shall be conducted in accordance with the tree conservation plan. The applicant shall not remove existing trees within the lease area or within one hundred (100) feet in all directions surrounding the lease area of any part of the facility except for those trees identified on the plan to be removed for the installation, operation, and maintenance of the facility and dead and dying trees. Before the applicant removes any tree not designated for removal on the approved plan, the applicant shall submit and obtain approval of an amended plan. The agent may approve the amended plan if the proposed tree removal will not adversely affect the visibility of the facility from any location off of the parcel. The agent may impose reasonable conditions to ensure that the purposes of this paragraph are achieved.	X	X	X	

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Performance Standards and Requirements	Type of Application			
	I	II	III	C/R
3. <i>Completion of installation; submitting certifications of compliance.</i> Within thirty (30) days after completion of the installation of the facility, the applicant shall provide to the agent prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the tower or monopole, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified in the application; and (ii) certification stating that the lightning rod's height does not exceed two (2) feet above the top of the tower or monopole and its width does not exceed a diameter of one (1) inch.	X	X	X	
4. <i>Discontinuance of use; notice thereof; removal; surety.</i> Within thirty (30) days after a tower or monopole's use for personal wireless service or any service facilitated by transmission equipment is discontinued, the owner of the facility shall notify the zoning administrator in writing that the facility's use has discontinued. The facility and any transmission equipment shall be disassembled and removed from the facility site within ninety (90) days after the date its use for personal wireless service or any service facilitated by transmission equipment is discontinued. If the agent determines at any time that surety is required to guarantee that the facility will be removed as required, the agent may require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent shall consider the following: (i) whether there is a change in technology that makes it likely that the monopole or tower will be unnecessary in the near future; (ii) the permittee fails to comply with applicable regulations or conditions; (iii) the permittee fails to timely remove another monopole or tower within the county; and (iv) whenever otherwise deemed necessary by the agent.	X	X	X	

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C/R: Refers to exempt collocations and exempt replacements of transmission equipment.

X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

e. *Application review and action.* Each application shall be reviewed and acted on as follows:

Application Review and Action	Type of Application			
	I	II	III	C/R
1. <i>Nature of review and action.</i> The nature of the review and action on submitted applications are as follows: (a) Ministerial review and approval by the department of community development to determine compliance with applicable requirements of this section. (b) Legislative review and approval of a special use permit by the board of supervisors, subject to the applicable requirements of this section and of sections 33.4 and 33.8; to the extent there is any conflict between the time for action in this subsection and in section 33.4, this section shall prevail. ¹ Notwithstanding any other provision of this chapter, an application for an exempt collocation shall not be subject to review by the architectural review board and a certificate of appropriateness shall not be required therefor.	X	X	X	X ¹
2. <i>Time for action.</i> The application shall be acted upon within: (a) 60 days. (b) 90 days.	X S ²	X		X

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Application Review and Action	Type of Application			
	I	II	III	C/R
<p>(c) 150 days.</p> <p>²If the application requires a special exception, the time for acting on the special exception applies to the entire application.</p>		S ²	X	
<p>3. <i>Calculating the time for action.</i> The time for action on an application shall be calculated as follows:</p> <p>(a) <i>Commencement.</i> The time for action on an application shall begin on:</p> <p>(i) The date the application is received in the department of community development.</p> <p>(ii) The submittal date established for this type of application by the director of planning.</p> <p>(b) <i>Determination of completeness.</i> Within thirty (30) days after the application is received, the department of community development shall determine whether the application includes all of the applicable information required by this section. If any required information is not provided, the department shall inform the applicant within the thirty (30) day period of the information must be submitted in order for the application to be determined to be complete.</p> <p>(c) <i>Resubmittal.</i> Within ten (10) days after a resubmittal is received, the department of community development shall determine whether the application includes all of the applicable information required by the initial notice of incompleteness. If any required information was not provided, the department shall inform the applicant within the ten (10) day period of the information must be submitted in order for the application to be determined to be complete. Second or subsequent notices that information is missing may not include information that was not identified in the original notice of incompleteness.</p> <p>(d) <i>Tolling.</i> The running of the time for action shall be tolled between the date the department informs the applicant that its application is incomplete and the date on which the department receives all of the required information from the applicant.</p> <p>(e) <i>Extending time for action.</i> The time by which action must be taken may be extended upon request by, or with the consent of, the applicant.</p>	X	X	X	X
<p>4. <i>Notice.</i> Notice to third parties shall be provided as follows:</p> <p>(a) Notice of the agent’s consideration of an application for a Tier I facility with a special exception or a Tier II facility shall be sent by the agent to the owner of each parcel abutting the parcel on which the proposed facility will be located. The notice shall describe the nature of the facility, its proposed location on the lot, its proposed height, and the appropriate county office where the complete application may be viewed. The notice shall be mailed by first class mail or hand delivered at least ten (10) days before the agent acts on the application. Mailed notice shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an owner to receive the notice as provided herein shall not affect the validity of an approved facility and shall not be the basis for an appeal.</p> <p>(b) Notice of public hearings shall be provided as required by section 33.4(m).</p>	S	X	X	

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Application Review and Action	Type of Application			
	I	II	III	C/R
5. <i>Action.</i> An application shall be acted on as follows:				
(a) The application shall be approved if it satisfies all of the applicable requirements of this section.	X	X		X
(b) The application shall be acted on as provided in sections 33.4 and 33.8.			X	
6. <i>Disapproval of application; appeal.</i> If an application is disapproved:				
(a) If the agent disapproves an application, he shall identify which requirements were not satisfied and inform the applicant what needs to be done to satisfy each requirement. The applicant may appeal the disapproval of an application to the board of supervisors. An appeal shall be in writing and be received in the office of the clerk of the board of supervisors within ten (10) calendar days after the date of the disapproval by the agent. In considering an appeal, the board may affirm, reverse, or modify in whole or in part, the decision of the agent, and its decision shall be based upon the applicable requirements of this section.	X	X		X
(b) In lieu of the appeal provided in subsection (a), the applicant at its sole option may appeal the disapproval of the application related to an alleged violation of 47 USC § 332(c)(7) or 47 CFR § 1.40001, as applicable, in any court of competent jurisdiction.	X		X	X
(c) The applicant may appeal the decision of the board of supervisors as provided in Virginia Code § 15.2-2285 and section 33.4.			X	
7. <i>Effect of failure to act within time for action.</i> The failure to act on an application within the time for action shall:				
(a) Be deemed to be approval of the application; provided that the deemed grant does not become effective until the applicant notifies the department of community development in writing after the review period has expired that the application has been deemed approved.				X
(b) Create a rebuttable presumption that the failure to timely act was not reasonable under 47 U.S.C. § 332(c)(7)(B)(ii).	X	X	X	

The following abbreviations are used in this table:

I, II, and III: Refer to Tier I, Tier II, and Tier III facilities, respectively.

C/R: Refers to exempt collocations and exempt replacements of transmission equipment.

X: Refers to a requirement that applies to the corresponding facility or transmission equipment.

S: Refers to an alternative review period that applies when an application for a special exception accompanies the application.

f. *Collocation or replacement that would result in a substantial change to an eligible support structure.* Any collocation or replacement of transmission equipment that would result in a substantial change in the physical dimensions of an eligible support structure shall be subject to the procedures and standards for a Tier I facility. A special exception shall be required for any substantial change that does not satisfy the standards for a Tier I facility. Any collocation or replacement approved for an eligible support structure by special use permit prior to October 13, 2004 shall not reclassify the eligible support structure as a Tier I, II, or III facility.

g. *Removal of transmission equipment on any eligible support structure.* Any transmission equipment on any eligible support structure may be removed as a matter of right and regardless of any special use permit condition providing otherwise.

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- h. *Agent approval of increase in height of monopole based on increase in height of reference tree.* Upon the written request of the applicant, the agent may authorize the height of an existing Tier II facility's monopole to be increased above its originally approved height upon finding that the reference tree has grown to a height that is relative to the requested increase in height of the monopole. The application shall include a certified survey of the reference tree's new height, as well as the heights of other trees to be considered by the agent. The agent shall not grant such a request if the increase in height would cause the facility to be skylighted or would increase the extent to which it is skylighted.
- i. *Administration of special use permits for facilities approved prior to October 13, 2004; conditions.* If any condition of a special use permit for an eligible support structure approved prior to October 13, 2004 is more restrictive than a corresponding standard in this section, the corresponding standard in this section shall apply. If any condition of the special use permit is less restrictive than a corresponding standard in this section and the applicant establishes that vested rights have attached to the approved facility, the special use permit conditions shall apply.
- j. *Mobile personal wireless service facilities.* Mobile personal wireless service facilities ("MPWSF") shall not be subject to any requirements of section 5.1.40, and are otherwise permitted by right in any zoning district, subject to the following:
 - 1. *Zoning clearance required; temporary non-emergency event.* The owner shall obtain a zoning clearance under section 31.5 prior to placing a MPWSF on any site for a temporary non-emergency event. The MPWSF may be placed on the site for a maximum of seven (7) consecutive days, and shall not be placed on any site for any temporary non-emergency event more than twice in a calendar year.
 - 2. *Zoning clearance required; declared state of emergency.* If a state of emergency is declared by the President of the United States, the Governor of the Commonwealth of Virginia, or the board of supervisors, the owner shall obtain a zoning clearance under section 31.5 within forty-five (45) days after placing a MPWSF on any site. The MPWSF may be placed on the site for the duration of the state of emergency.

The County of Albemarle, Virginia and the Albemarle County Board of Supervisors reserve any and all rights that it has under the United States Constitution including, but not limited to, the Commerce Clause and the Tenth Amendment.

(§ 5.1.40, Ord. 01-18(9), 10-17-01; Ord. 04-18(2), 10-13-04; Ord. 13-18(3), 5-8-13; Ord. 15-18(1), 2-11-15; Ord. 15-18(2), 4-8-15; Ord. 15-18(6), 7-8-15; Ord. 15-18(7), 7-8-15)

5.1.41 PARKING LOTS AND PARKING STRUCTURES

A site plan shall be required for each parking lot and parking structure, unless the requirement is waived as provided in section 32.2.2.

(Ord. 03-18(1), 2-5-03)

5.1.42 HISTORICAL CENTERS

Each historical center shall be subject to the following:

- a. *New historical center structures.* Newly constructed structures for historical centers shall be limited to one thousand five hundred (1,500) square feet in size, aggregate, including interpretative space and accessory uses within such structures.
- b. *Rehabilitation or construction on historic structures or sites to be used for historical center structure.* The rehabilitation of historic structures and sites to be used for historical centers shall be completed to the satisfaction of the Virginia Department of Historic Resources (DHR) as demonstrated by a letter to the county. The design and siting of any proposed accessory uses and visitor amenities at a historic structure or site shall also be approved by DHR.

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- c. *Minimum side and rear yards.* Notwithstanding any other provision of this chapter, the minimum side yard and rear yard shall be fifty (50) feet; provided that there shall be no minimum side yard or rear yard if the side or rear lot lines are shared with another lot that is part of the historical center; and further provided that greater side yards or rear yards may be required by the site plan agent if deemed necessary because of site-specific conditions, and that lesser side yards and rear yards may be allowed to facilitate the rehabilitation or reuse of a historic structure or site.
- d. *Site plan.* A site plan is required for a historical center. In addition to any requirement of section 32: (i) the site plan agent may impose additional reasonable standards of development as conditions of final site plan approval; (ii) the owner shall submit photographic documentation of existing site conditions with the preliminary site plan; and (iii) the site plan agent may require the applicant to submit a Phase 1 archaeological survey of the areas of the site proposed for the historical center use prior to final site plan approval.
- e. *Items for display.* Items for display shall be related to the significance of the historic resource to be interpreted and shall relate to past or present people, places, things, or events in the county.
- f. *Primary uses.* The educational and interpretative activities that are permitted primary uses include, but are not limited to, passive display, active demonstration including tours, public participation in activities, educational classes, and research.
- g. *Accessory uses.* Not more than ten percent (10%) of the total floor area of a historical center structure may be devoted to uses other than the educational and interpretive activities provided in subsection (f). A floor plan shall be submitted with the special use permit application to ensure that this requirement is met. Accessory uses may include, but are not limited to, administrative offices and shops and facilities such as gift shops, book stores, and accessory food sales such as luncheonettes, snack bars, or refreshment stands.
- h. *Operations.* The operation of each historical center shall be subject to the following: (i) daily tours of a historical center shall be permitted; (ii) the normal hours that the historical center is open to the public shall be limited to daylight hours only, dawn until dusk; and (iii) an outdoor amplified sound system shall be prohibited at all times.
- i. *Special events.* Special events are authorized by special use permit only, either as part of the special use permit authorizing the historical center or by a separate special use permit.
 - 1. For purposes of this section, a *special event* is an event conducted at a historical center on a single day for which attendance is allowed only by invitation or reservation and whose participants do not exceed one hundred fifty (150) persons; *special events* are limited to events conducted for the purpose of promoting the mission of the historical center.
 - 2. In addition to all other special use permit application requirements in section 31.2.4, the application shall describe the nature of the special events.
 - 3. The special use permit: (i) shall identify the number of approved special events per year, which number shall not exceed twelve (12); (ii) may authorize specific special events, classes of special events, or a combination thereof; and (iii) may include reasonable conditions relative to the special events as authorized under section 31.2.4.3.
- j. *Festivals.* Festivals are authorized by special use permit only, either as part of the special use permit authorizing the historical center or by a separate special use permit.

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1. For the purposes of this section, a *festival* is an event conducted at an historical center for up to three (3) consecutive days which is open to the general public and conducted for the purpose of promoting the mission of the historical center.
2. In addition to any other special use permit application requirements in section 31.2.4, the application shall describe the nature of the festivals.
3. The special use permit: (i) shall identify the number of approved festivals per year, which number shall not exceed four (4); (ii) may authorize specific festivals, classes of festivals, or a combination thereof; and (iii) may include reasonable conditions relative to the festivals as authorized under section 31.2.4.3.
4. The owner shall obtain a zoning compliance clearance prior to conducting a festival at which more than one hundred fifty (150) persons will be allowed to attend. A single zoning compliance clearance may be obtained for one (1) or more such festivals as provided herein:
 - a. The owner shall apply for a zoning compliance clearance at least thirty (30) days prior to the date of the first festival to be authorized by the zoning compliance clearance. The application shall be submitted to the zoning administrator, who shall forward copies of the application to the county police department, the county department of fire and rescue, and the local office of the Virginia Department of Health;
 - b. The application shall describe the nature of each festival to be authorized by the zoning compliance clearance, the date or dates and hours of operation of each such festival, the facilities, buildings and structures to be used, and the number of participants allowed to attend each festival;
 - c. Upon a determination that all requirements of the zoning ordinance are satisfied, and imposing all conditions of such approval required by the offices identified in subsection 5.1.42(j)(4)(a), the zoning administrator shall issue a zoning compliance clearance for one or more festivals. The zoning compliance clearance shall be conditional upon the owner's compliance with all requirements of the zoning ordinance, all conditions of the approved special use permit, the approved site plan, and all conditions imposed by the zoning compliance clearance; and
 - d. The zoning administrator may issue a single zoning compliance clearance for two (2) or more festivals if: (i) the application submitted by the owner includes the required information for each festival to be covered by the zoning compliance clearance; (ii) the zoning administrator determines that each such festival is substantially similar in nature and size; and (iii) the zoning administrator determines that a single set of conditions that would apply to each such festival may be imposed with the zoning compliance clearance.

(Ord. 05-18(7), 6-8-05)

5.1.43 SPECIAL EVENTS

Each special event authorized by section 10.2.2(50) shall be subject to the following:

- a. *Eligibility and applicability.* Special events may be authorized on those parcels in the Rural Areas (RA) zoning district on which there is an existing and ongoing by-right

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(section 10.2.1) primary use. A special event special use permit issued under section 10.2.2(50) and this section shall not be required for special events associated with farm wineries or historical centers, or for events determined by the zoning administrator to be accessory to a primary use of the parcel.

b. *Information to be submitted with application for special use permit.* In addition to any information otherwise required to be submitted for a special use permit, each application for a special use permit shall include the following:

1. *Concept plan.* A preliminary schematic plan (the “concept plan”) satisfying section 32.4.1. The concept plan shall identify the structure(s) to be used for the special event, include the area of the structure(s) in which the proposed special events will be conducted, the parking area, and the entrance to the site from the street. The concept plan shall address, in particular, provisions for safe and convenient access to and from the street, the location of the parking area, the location of portable toilets if they may be required, proposed screening as required by this section for parking areas and portable toilets, and information regarding the exterior appearance of the proposed site. Based on the concept plan and other information submitted, the board of supervisors may then waive the requirement for a site plan in a particular case, upon a finding that the requirement of a site plan would not forward the purposes of this chapter or otherwise serve the public interest.

2. *Information from the Virginia Department of Health.* The applicant shall submit written comments from the Virginia Department of Health regarding the private water supply and the onsite sewage system that will serve the proposed special event site, the ability of the water supply and the onsite sewage system to handle the proposed events, and the need to improve the supply or the system in order to handle the proposed events.

3. *Building and fire safety.* The building official and the county department of fire and rescue shall review and comment on the application, identifying all Virginia Uniform Statewide Building Code and Virginia Statewide Fire Prevention Code issues and requirements.

c. *Zoning clearance.* The applicant shall obtain a zoning clearance under section 31.5 prior to conducting a special event. A single zoning clearance may be obtained for one (1) or more such special events in a calendar year as follows:

1. The zoning administrator may issue a single zoning clearance for more than one (1) special event if: (i) the application submitted by the applicant includes the required information in subsection 5.1.43(c)(3) for each special event to be covered by the zoning clearance; (ii) the zoning administrator determines that each special event is substantially similar in nature and size; and (iii) the zoning administrator determines that a single set of conditions that would apply to each such special event may be imposed with the zoning clearance.

2. The applicant shall apply for a zoning clearance at least thirty (30) days prior to the date of the first special event to be authorized by the zoning clearance. The application shall be submitted to the zoning administrator, who shall forward copies of the application to the county police department, the county building official, the county department of fire and rescue, and the local office of the Virginia Department of Health. As part of his review, the building official shall determine whether the structure(s) proposed to be used for the special events satisfies the requirements of the Virginia Uniform Statewide Building Code for that use.

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3. The application shall describe the nature of each special event to be authorized by the zoning clearance, the date or dates and hours of operation of each such special event, the facilities, structures to be used, and the number of participants and support staff expect to attend each special event.
 4. Upon a determination that all requirements of the zoning ordinance and all conditions of the special use permit are satisfied, and imposing all conditions of such approval required by the offices identified in subsection 5.1.43(c)(2), the zoning administrator shall issue a zoning clearance for one or more special events. The validity of the zoning clearance shall be conditional upon the applicant's compliance with all requirements of the zoning ordinance, all conditions of the approved special use permit, the approved concept plan or site plan, and all conditions imposed by the zoning clearance.
- d. *Special events sites and structures.* In addition to all other applicable requirements of this chapter, special events sites and structures shall be subject to the following:
1. *Structures used for special events.* Each structure used for a special event shall satisfy the following: (i) the structure shall have been in existence on the date of adoption of this section 5.1.43, provided that this requirement shall not apply to accessory structures less than one hundred fifty (150) square feet in size; (ii) the structure shall be a lawful conforming structure and shall support or have supported a lawful use of the property; and (iii) modifications to farm buildings or farm structures as those terms are defined in Virginia Code § 36-97 shall allow the structure to revert to an agricultural use, as determined by the building official.
 2. *Minimum yards.* Notwithstanding any other provision of this chapter, the minimum front yard shall be seventy-five (75) feet. The minimum side yard shall be twenty-five feet (25) feet. The minimum rear yard shall be thirty-five (35) feet. All yards shall be measured from structures and off-street parking areas. These minimum yard requirements shall apply to all accessory structures established after the effective date of this section 5.1.43 and all tents, parking areas and portable toilets used in whole or in part to serve special events.
 3. *Parking.* The number of off-street parking spaces for a special event shall be as required in section 4.12.6. Notwithstanding section 4.12.15(a) through (g), the additional parking area(s) for special events shall consist of or be constructed of pervious materials including, but not limited to stabilized turf, approved by the county engineer. Asphalt and impervious materials are prohibited. If the parking area is on grass or in a field, the applicant shall reseed and restore the parking area site as required by the zoning administrator. In addition to the requirements of section 4.12.5, the parking area shall be onsite and screened from abutting parcels by topography, structures or new or existing landscaping. Notwithstanding section 4.12.16(d) and (e), the delineation of parking spaces and the provision of bumper blocks shall not be required.
 4. *Water and sewer.* The private water supply and onsite sewage system serving a special event shall be approved by the Virginia Department of Health.
 5. *Streets and access.* Streets serving the site shall be adequate for anticipated traffic volume for a special event. Access from the street onto the site shall be adequate to provide safe and convenient access to the site, and applicant shall install all required improvements and provide adequate sight distance in order to provide safe and convenient access.

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- e. *Special events operations.* In addition to all other applicable requirements of this chapter, special events operations shall be subject to the following:
 - 1. *Number of participants.* The number of participants at a special event at any one time shall not exceed one hundred fifty (150) persons
 - 2. *Number of special events per year.* The special use permit shall identify the number of approved special events per calendar year, which number shall not exceed twenty-four (24).
 - 3. *Signs.* Permanent and temporary signs advertising a special event shall be permitted as provided in sections 4.15.4, 4.15.4A and 4.15.8.
 - 4. *Food service.* No kitchen facility permitted by the Virginia Department of Health as a commercial kitchen shall be allowed on the site. A kitchen may be used by licensed caterers for the handling, warming and distribution of food, but not for cooking food, to be served at a special event.
 - 5. *Portable toilets.* If required, portable toilets are permitted on the site, provided that they comply with the yard requirements in section 5.1.43(d)(2) and shall be screened from that parcel and any street by topography, structures or new or existing landscaping.
- f. *Prohibition of development to a more intensive use.* A parcel subject to a special events special use permit shall not be subdivided so as to create one or more parcels, including the parent parcel, of less than twenty-one acres in size without first amending the special use permit to expressly authorize the subdivision. If a parcel is so subdivided without first amending the special use permit, special events shall thereafter be prohibited on the resulting parcels unless a new special use permit is obtained.

(Ord. 05-18(8), 7-13-05; Ord. 12-18(4), 7-11-12)

5.1.44 FARM WORKER HOUSING

Each farm worker housing facility shall be subject to the following:

- a. *Concept plan to be submitted with application for farm worker housing.* Before applying for the first building permit for a farm worker housing, Class A, facility, or in addition to any other information required to be submitted for a farm worker housing, Class B, special use permit, the applicant shall submit a concept plan meeting the requirements of section 5.1.44(b).
- b. *Contents of concept plan.* The concept plan shall show the following: (i) the boundary lines of the farm (may be shown on an inset map if necessary); (ii) the location and general layout of the proposed structures at a scale of not more than one (1) inch equals forty (40) feet; (iii) vehicular access, travelways and parking for the facility; (iv) topography (with a contour interval of no greater than ten (10) feet); (v) critical slopes; (vi) streams, stream buffers and floodplains; (vii) source(s) of water for fire suppression; (viii) building setback lines as provided in subsection 5.1.44(g) below; and (ix) outdoor lighting. The concept plan also shall include a written description of each structure's construction and materials used, and the number of persons to be housed in the farm worker housing facility.
- c. *Notice of receipt of concept plan to abutting owners.* The zoning administrator shall send notice of the receipt of a concept plan as follows:
 - 1. *Farm worker housing, Class A, facility:* For each concept plan received for a farm worker housing, Class A, facility, the zoning administrator shall send notice to the owner

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of each lot abutting the parcel for which a concept plan has been received within ten (10) days after submittal of the concept plan deemed by the zoning administrator to be complete. The notice shall include a copy of the concept plan and shall advise each recipient of the right to submit written comments within ten (10) days of the date of the notice and the right to request planning commission review as provided in section 5.1.44(d). Notice mailed to the abutting owner shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an abutting owner to receive the notice required by this section shall not affect the validity of an approved concept plan or zoning clearance.

2. *Farm worker housing, Class B, facility:* For each concept plan received for a farm worker housing, Class B, facility, notice to the owner of each lot abutting the parcel for which a concept plan has been received shall be provided in conjunction with the notice required for the special use permit.
- d. *Review and action on concept plan.* A concept plan shall be reviewed and acted upon as follows:
1. *Farm worker housing, Class A, facility.* For a farm worker housing, Class A, facility, the concept plan shall be approved by the zoning administrator before any building permit is issued for the facility. The concept plan shall be approved by the zoning administrator if it satisfies all applicable requirements of this chapter.
 2. *Farm worker housing, Class B, facility.* For a farm worker housing, Class B, facility, the concept plan shall be reviewed and acted upon in conjunction with the special use permit.
- e. *Farm worker housing facilities; permissible structures.* Farm worker housing facilities shall not use motor vehicles or major recreational equipment, as that term is defined in section 4.12.3(b)(1) of this chapter, to provide for sleeping, eating, food preparation, or sanitation (bathing and/or toilets).
- f. *Minimum yards.* Notwithstanding any other provision of this chapter, the minimum front yard shall be seventy-five (75) feet. The minimum side and rear yards shall be fifty (50) feet. All yards shall be measured from the farm worker housing structures.
- g. *Zoning clearance.* The owner shall obtain a zoning clearance from the zoning administrator as provided in section 31.5 of this chapter before a farm worker housing facility is occupied, subject to the following additional requirements:
1. The applicant shall apply for a zoning clearance at least thirty (30) days prior to the first expected occupation of the farm worker housing facility. The application shall be submitted to the zoning administrator.
 2. The zoning clearance application shall include all of the following information:
 - a. Written approval of the farm worker housing facility as a migrant labor camp under 12 VAC 5-501-10 *et seq.*, the food preparation area, the private water supply, and the onsite sewage system by the Virginia Department of Health.
 - b. Approval of the access to the site from a public street by the Virginia Department of Transportation; provided that nothing herein shall be deemed to require that a commercial entrance be constructed unless such an entrance is required by the Virginia Department of Transportation.
 - c. Written approval of the adequacy of the access to the site for emergency vehicles by the fire marshal.

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- d. Written approval of the adequacy of the structures intended for human habitation by the building official.
- 3. Upon the zoning administrator's determination that all requirements of the zoning ordinance are satisfied, that all conditions of the special use permit authorizing a farm worker housing, Class B, facility, are satisfied, and upon receipt of the approvals and documents required in section 5.1.44(h)(2), the zoning administrator shall issue a zoning clearance for the facility.
 - i. *Use of farm worker housing facility by workers and their families only.* A farm worker housing facility shall be occupied only by persons employed to work on the farm on which the structures are located for seasonal agriculture work and their immediate families as provided herein. For purposes of this section 5.1.44, the term "immediate families" means the natural or legally defined off-spring, grandchild, grandparent, or parent of the farm worker.
 - j. *Use of farm worker housing facility when not occupied.* When not occupied by seasonal farm workers, farm worker housing facilities may be used for any use accessory to a primary agriculture use.

(Ord. 06-18(2), 12-13-06; Ord. 12-18(4), 7-11-12)

5.1.45 COUNTRY STORES

Each country store, Classes A and B, shall be subject to the following, as applicable:

- a. *Country store, Class A.* Each country store, Class A, shall be subject to the following:
 - 1. *Primary use.* At least fifty-one percent (51%) of the gross floor area of a historic country store building shall be used as a country store, including accessory food sales and interior seating for accessory food sales as provided in section 5.1.45(a)(2)(a).
 - 2. *Accessory uses.* The following uses are permitted as accessory uses:
 - a. *Accessory food sales.* Accessory food sales, which may include, but are not limited to, luncheonettes, snack bars, refreshment stands and other restaurant uses. Interior seating for luncheonettes, snack bars, refreshment stands and other restaurant uses shall not exceed twenty percent (20%) of the total gross floor area of the country store use. An additional twenty percent (20%) of the total gross floor area of the country store use shall be allowed as exterior seating.
 - b. *Single family dwelling and offices.* Up to forty-nine percent (49%) of the gross floor area of an historic country store building may be used for one single family dwelling and/or one or more offices.
 - 3. *Exemptions.* Country stores, Class A shall be exempt from sections 4.1.2, 4.1.3, 4.12.6, 4.12.13, 4.12.14, 4.12.15, 4.12.16(a) and (b), 4.12.17, 4.12.18, 4.12.19, 6.3 (B), (F) and (G), 6.4(D), 32.7.2.7, 32.7.2.8, and 32.7.9.
 - 4. *Building size.* An historic country store building shall not exceed the gross floor area of the building as it existed on November 12, 2008 or four thousand (4,000) square feet gross floor area, whichever is greater.
 - 5. *Front yard setback.* The following minimum front yard setback shall apply:

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- a. *Building satisfies minimum front yard setback.* If, on November 12, 2008, a historic country store building satisfies the minimum front yard setback set forth in section 10.4, then that setback shall apply.
 - b. *Building does not satisfy minimum front yard setback.* If, on November 12, 2008, a historic country store building does not satisfy the minimum front yard setback set forth in section 10.4, the minimum front yard setback shall be the distance between the building and the street, road or access easement on November 12, 2008 and that distance shall not be thereafter reduced. An enlargement or extension of the building shall: (i) be no closer to a right-of-way than the existing structure or footprint; (ii) be set back from the street, road or access easement the minimum distance required by the Virginia Department of Transportation to provide sight distance; and (iii) comply with the rear and side yard setback requirements, unless they can be reduced pursuant to section 4.11 of this chapter.
6. *Entrances.* No existing entrance for a new use shall be used until the Virginia Department of Transportation approves the entrance to the site. Except for those changes to the entrance required to meet applicable design standards, provide adequate sight distance and safe and convenient access as determined by the county engineer, each existing entrance shall retain its existing site character as determined by the director of planning.
7. *Sewage disposal systems.* Notwithstanding any other provision of this chapter, if an on-site conventional sewage disposal system cannot be approved:
- a. *Off-site conventional sewage disposal system.* The zoning administrator may approve a conventional sewage disposal system to serve a country store and its accessory uses that is located on an abutting lot, provided that the owner obtains from the owner of the abutting lot an easement and the deed of easement is in a form acceptable to the county attorney that provides perpetual access to the sewage disposal system to allow its installation and maintenance.
 - b. *On-site nonconventional sewage disposal.* The zoning administrator may authorize an on-site nonconventional sewage disposal system if the applicant demonstrates to the satisfaction of the zoning administrator that: (i) a conventional sewage disposal system cannot be provided on-site for the country store use only; (ii) the lot on which the country store use is located cannot be enlarged by boundary line adjustment or subdivision; (iii) a conventional sewage disposal system cannot be located on any abutting lot owned by the applicant because of a physical condition or limitation of that lot including, but not limited to, topography, soil conditions, or existing improvements on the abutting lot (hereinafter, a “physical condition or limitation”; (iv) a conventional sewage disposal system cannot be located on any abutting lot that is under different ownership than the lot on which the country store is located because of either a physical condition or limitation or the owner’s refusal to grant an easement; and (v) the Virginia Department of Health approves the nonconventional sewage disposal system. In authorizing a nonconventional sewage disposal system, the zoning administrator shall require that the applicant maintain the system as recommended by the Virginia Department of Health or as required by law.
 - c. *Systems defined.* For the purposes of this subsection, a “conventional sewage disposal system” means a sewage disposal system regulated and authorized by the Virginia Department of Health that uses a subsurface soil absorption system; a “nonconventional sewage disposal system” means a sewage disposal system regulated and authorized by the Virginia Department of Health that does not use

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a subsurface soil absorption system including, but not limited to, a Type III system regulated under 12 VAC 5-610-250(C).

- b. *Country store, Class B.* Each country store, Class B, shall be subject to the following:
1. *Primary use.* At least fifty-one percent (51%) of the gross floor area of a non-historic country store building shall be used as a country store, including accessory food sales and interior seating for accessory food sales as provided in section 5.1.45(b)(2)(a).
 2. *Accessory uses.* The following uses are permitted as accessory uses:
 - a. *Accessory food sales.* Accessory food sales, which may include, but are not limited to, luncheonettes, snack bars, refreshment stands and other restaurant uses. Interior seating for luncheonettes, snack bars, refreshment stands and other restaurant uses shall not exceed twenty percent (20%) of the total gross floor area of the country store use. An additional twenty percent (20%) of the total gross floor area of the country store use shall be allowed as exterior seating.
 - b. *Single family dwelling and offices.* Up to forty-nine percent (49%) of the gross floor area of the non-historic country store building may be used for one single family dwelling and/or one or more offices.
 3. *Exemptions.* Country stores, Class B, shall be exempt from section 32.7.2.8.
 4. *Building size.* A non-historic country store building shall not exceed the gross floor area of the building as it existed on November 12, 2008 or four thousand (4,000) square feet gross floor area, whichever is greater.
 5. *Front yard setback.* The following minimum front yard setback shall apply:
 - a. *Existing building satisfies minimum front yard setback.* If, on November 12, 2008, an existing non-historic country store building satisfies the minimum front yard setback set forth in section 10.4, then that setback shall apply.
 - b. *Existing building does not satisfy minimum front yard setback.* If, on November 12, 2008, an existing non-historic country store building does not satisfy the minimum front yard setback set forth in section 10.4, the minimum front yard setback shall be the minimum required by the Virginia Department of Transportation to provide sight distance.
 - c. *New building.* Each non-historic country store building established on and after November 12, 2008 shall comply with the minimum front yard set forth in section 10.4.
 6. *Entrances.* No existing entrance for a new use shall be used until the Virginia Department of Transportation approves the entrance to the site. Except for those changes to the entrance required to meet applicable design standards, provide adequate sight distance and safe and convenient access as determined by the county engineer, each existing entrance shall retain its existing site character as determined by the director of planning.
- c. *Sale of gasoline and other fuels.* If a special use permit is granted for the sale of gasoline and other fuels, the sale of gasoline from dispensers shall be limited to one multiple product dispenser or one dispenser containing no more than six nozzles, not including nozzles for diesel fuel.

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- d. *Pre-existing country stores.* Any country store existing before and continuing on and after November 12, 2008 that was authorized by a special use permit or a conditional use permit (the “permit”) granted by the board of supervisors shall be subject to the following:
1. *Country store, Class A.* If the country store qualifies as a country store, Class A, the permit and its conditions shall be of no further force or effect. If the permit or a modification, waiver, variation, or a variance granted prior to November 12, 2008 authorizes what would otherwise be allowed only by a modification or waiver of the requirements of section 5.1.45, the country store, Class A and/or the historic country store building as approved shall be deemed to comply with section 5.1.45.
 2. *Country store, Class B.* If the country store qualifies as a country store, Class B, the permit and its conditions shall apply or not apply as follows: (i) if the permit has a condition that is more restrictive than the applicable regulations in section 5.1.45, the applicable regulations in section 5.1.45 shall apply; and (ii) if the permit or a modification, waiver, variation, or a variance granted prior to November 12, 2008 authorizes what would otherwise be allowed only by a modification or waiver of the requirements of section 5.1.45 granted under section 5.1, the country store, Class B and/or the non-historic country store building as approved, shall be deemed to comply with section 5.1.45.
 3. *Gasoline fuel dispensers.* Gasoline fuel dispensers established prior to November 12, 2008 may qualify as a nonconforming use under section 6.2.
- e. *Continuation of accessory uses.* Notwithstanding any other provision of this chapter, if a country store, Class A or Class B, use discontinues, an accessory use authorized by sections 5.1.45(a)(2) or 5.1.45(b)(2) may continue for up to two (2) years thereafter even though a country store, Class A or Class B use is not reestablished during that period.
- f. *Canopies.* Canopies over gasoline fuel dispensers shall be subject to the following:
1. *Canopies existing on November 12, 2008.* Canopies existing on November 12, 2008 are permitted, provided that the location, height, size, area, or bulk of a canopy existing on November 12, 2008 shall not be thereafter changed, enlarged or extended, and further provided that the height, size, area or bulk of a canopy may be reduced.
 2. *Canopies established after November 12, 2008.* No canopy may be established at a country store, Class A, after November 12, 2008. A canopy may be established at a country store, Class B, after November 12, 2008 as authorized by a special use permit for a country store, Class B, under section 10.2.2(22)

(Ord. 08-18(7), 11-12-08)

5.1.46 SMALL WIND TURBINES

The purpose of this section 5.1.46 is to authorize small wind turbines as an accessory use in order to promote renewable energy. Each small wind turbine shall be subject to the following, as applicable:

- a. *Application for approval.* In conjunction with the submittal of a building permit application for a small wind turbine, the applicant shall submit the following information:
1. A plat of the parcel showing the lot lines, the location of the proposed small wind turbine and the setbacks to the lot lines.
 2. Plans that show the total height of the proposed structure, including rotors or turbine blades and that show compliance with the building code.

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- b. *Requirements.* Each small wind turbine shall be subject to the following:
1. *Primary purpose.* The primary purpose of the small wind turbine shall be to support and provide power for one or more authorized uses of the property; provided that nothing herein shall prohibit the owner from connecting the small wind turbine to a public utility and selling surplus power to the utility.
 2. *Location.* Notwithstanding section 4.2.3.1 of this chapter, the small wind turbine may be located in an area on a lot other than a building site. A small wind turbine shall not be located within a historic district or within a ridge area.
 3. *Setbacks.* The small wind turbine shall not be located closer in distance to any lot line than one hundred and fifty (150) feet. The agent may authorize a small wind turbine to be located closer to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners that is acceptable to the county attorney and, where applicable, that prohibits development on the portion of the abutting parcel sharing the common lot line that is within the small wind turbine's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.
 4. *Height.* The small wind turbine shall not exceed the maximum height permitted for structures within the applicable zoning district.
 5. *Lighting.* The small wind turbine shall have no lighting.
 6. *Collocation.* The small wind turbine shall not have personal wireless service facilities collocated upon it.
 7. *Removal.* The small wind turbine shall be disassembled and removed from the property within ninety (90) days after the date the use(s) to which it provides power is discontinued or its use to generate power is discontinued. If the agent determines at any time that surety is required to guarantee that the small wind turbine will be removed as required, the agent may require that the owner submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the small wind turbine. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney.
- c. *Approval.* The agent is authorized to review and approve small wind turbines. The agent shall act on the application before the building permit application or site plan for the small wind turbine is approved. Notwithstanding subsection 5.1, no requirement of subsection 5.1.46(b) may be waived or modified for a small wind turbine.
- d. *Denial.* If the agent denies an application, it shall identify which requirements were not satisfied and inform the applicant of what needs to be done to satisfy each requirement.

(Ord. 09-18(11), 12-10-09)

5.1.47 FARM STANDS AND FARMERS' MARKETS

Each farm stand and farmers' market shall be subject to the following, as applicable:

- a. *Zoning clearance.* Notwithstanding any other provision of this chapter, each farm stand or farmers' market shall obtain approval of a zoning clearance issued by the zoning administrator as provided by section 31.5 before the use is established as provided herein:

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1. *Application.* Each application for a zoning clearance shall include a letter or other evidence from the Virginia Department of Transportation establishing that it has approved the entrance from the public street to the proposed use and:
 - (a) *Farm stands.* For farm stands, a sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the use; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this section and this chapter; and (iii) how potential adverse impacts to adjoining property will be mitigated.
 - (b) *Farmers' markets.* For farmers' markets, a site plan showing only the details not excepted under section 32.3.5(a).
 2. *Notice.* The zoning administrator shall provide written notice that an application for a zoning clearance for a farm stand or by right farmers' market has been submitted to the Virginia Department of Health and to the owner of each abutting lot under different ownership than the lot on which the proposed use would be located. The notice shall identify the proposed use and its size and location and invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance as provided in section 32.4.2.1(g). The review by the Virginia Department of Health shall be independent of the zoning administrator's review of the application for a zoning clearance and the approval of the zoning clearance shall not be dependent on any approval by the Virginia Department of Health. The notice requirements shall not apply to a zoning clearance required for a farmers' market that has been approved by special use permit.
- b. *Structure size.* Structures used in conjunction with a farm stand or farmers' market shall comply with the following:
1. *Farm stands.* Any permanent structure established on and after May 5, 2010 (hereinafter, "new permanent structure") used for a farm stand shall not exceed one thousand five hundred (1500) square feet gross floor area. Any permanent structure, regardless of its size, established prior to May 5, 2010 (hereinafter, "existing permanent structure") may be used for a farm stand provided that if the structure does not exceed one thousand five hundred (1500) square feet gross floor area, its area may be enlarged or expanded so that its total area does not exceed one thousand five hundred (1500) square feet gross floor area, and further provided that if the existing structure exceeds one thousand five hundred (1500) square feet gross floor area, it may not be enlarged or expanded while it is used as a farm stand.
 2. *Farmers' markets.* Any new or existing permanent structure may be used for a farmers' market without limitation to its size.
 - b. *Yards.* Notwithstanding any other provision of this chapter, the following minimum front, side and rear yard requirements shall apply to a farm stand or farmers' market:
 1. *New permanent structures and temporary structures.* The minimum front, side and rear yards required for any new permanent structure or temporary structure shall be as provided in the bulk and area regulations established for the applicable zoning district, provided that the minimum front yard on an existing public road in the rural areas (RA) district shall be thirty-five (35) feet. The minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.

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2. *Existing permanent structures.* If an existing permanent structure does not satisfy any minimum yard requirement under subsection 5.1.47(c)(1), the minimum yard required shall be the distance between the existing permanent structure and the street, road, access easement or lot line on May 5, 2010 and that distance shall not be thereafter reduced. An enlargement or expansion of the structure shall be no closer to a street, road, access easement or lot line than the existing structure.

- d. *Parking.* Notwithstanding any provision of section 4.12, the following minimum parking requirements shall apply to a farm stand or farmers' market:
 1. *Number of spaces.* Each use shall provide one (1) parking space per two hundred (200) square feet of retail area.
 2. *Location.* No parking space shall be located closer than ten (10) feet to any public street right-of-way.
 3. *Design and improvements.* In conjunction with each request for approval of a zoning clearance, the zoning administrator shall identify the applicable parking design and improvements required that are at least the minimum necessary to protect the public health, safety and welfare by providing safe ingress and egress to and from the site, safe vehicular and pedestrian circulation on the site, and the control of dust as deemed appropriate in the context of the use. The zoning administrator shall consult with the county engineer, who shall advise the zoning administrator as to the minimum design and improvements. Compliance with the identified parking design and improvements shall be a condition of approval of the zoning clearance.

(§ 5.1.19, 12-10-80; Ord. 01-18(6), 10-3-01; §5.1.35, Ord. 95-20(3), 10-11-95; § 5.1.36, Ord. 95-20(4), 10-11-95; § 5.1.47, Ord 10-18(4), 5-5-10; Ord. 14-18(4), 11-12-14)

5.1.48 BED AND BREAKFAST

Each bed and breakfast shall be subject to the following:

- a. *Residency.* The owner of the parcel or a manager of the bed and breakfast shall reside on the parcel.
- b. *Number of bed and breakfast uses.* Any parcel may have up to two (2) bed and breakfast uses.
- c. *Required development rights, density and limitation,* Each single family dwelling to which a bed and breakfast use is accessory shall comply with the following: (i) on any parcel less than twenty-one (21) acres in size, the single family dwelling shall be authorized by a development right as provided in section 10.3; (ii) on any parcel, regardless of size, the single family dwelling shall comply with the permitted density; and (iii) no single family dwelling shall have more than one bed and breakfast use accessory to it.
- d. *Minimum yards.* Any accessory structure used for a bed and breakfast use shall comply either with the applicable minimum yard requirements for a primary structure or a lesser yard approved by the zoning administrator that is not less than the minimum yard required for an accessory structure that would otherwise be applicable, if the zoning administrator finds that: (i) the distance between the accessory structure and the closest primary structure on the closest abutting parcel is greater than the applicable minimum yard requirement for a primary structure; and (ii) written consent has been provided by the owner of the abutting lot consenting to the alternative minimum yard. The minimum yard for any parking area shall be twenty-five (25) feet.
- e. *Parking.* In addition to the parking required for a single family dwelling, the number of off-street parking spaces required by section 4.12.6 shall be provided.

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- f. *Information and sketch plan to be submitted with request for zoning clearance.* The owner of the parcel or a manager of the bed and breakfast shall submit the following to the zoning administrator with each request for a zoning clearance under section 31.5:
 - 1. *Information.* Information pertaining to the following: (i) the proposed use; (ii) the maximum number of guest rooms; (iii) the provision of on-site parking; and (iv) the location, height and lumens of outdoor lighting.
 - 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the premises with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the bed and breakfast; (ii) the locations of all guest rooms; and (iii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter.
- g. *Building code, fire and health approvals.* Before the zoning administrator approves a zoning clearance under section 31.5, the owner of the parcel or a manager of the bed and breakfast shall obtain approval of the use from the building official, the fire official, and the Virginia Department of Health.
- h. *Uses prohibited.* Restaurants are prohibited as a use accessory to a bed and breakfast use.

(Ord. 12-18(3), 6-6-12)

5.1.49 DRY CLEANING PLANTS

Each dry cleaning plant shall be subject to the following:

- a. The use of perchloroethylene is prohibited.
- b. The use of petroleum solvents is prohibited.

(§ 5.1.49, Ord. 13-18(1), 4-3-13)

5.1.50 FOUNDRIES

Each foundry shall be subject to the following:

- a. The outdoor production, processing, or repair of equipment shall be located no closer than three hundred (300) feet from any residential or agricultural district. The distance shall be measured from the closest edge of the outdoor production, processing, or repair area to the boundary of the residential or agricultural district.
- b. No outdoor activity, including the location of internal access roads, shall be established, conducted or used within one hundred (100) feet of a residential or agricultural district.
- c. No activity shall be conducted outdoors between 7:00 p.m. and 7:00 a.m.

(§ 5.1.50, Ord. 13-18(1), 4-3-13)

5.1.51 OUTDOOR ACTIVITIES IN INDUSTRIAL DISTRICTS

Except as otherwise expressly permitted for a particular use, each use permitted by right or by special use permit in an industrial district shall be subject to the following:

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- a. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall be conducted within a completely enclosed building.
- b. No outdoor activity, including the location of internal access roads, shall be established, conducted or used within one hundred (100) feet of a residential or agricultural district.
- c. No activity shall be conducted outdoors between 7:00 p.m. and 7:00 a.m.

(§ 5.1.51, Ord. 13-18(1), 4-3-13)

5.1.52 OUTDOOR STORAGE IN INDUSTRIAL DISTRICTS

Except as otherwise expressly permitted for a particular use, the outdoor storage of parts, materials and equipment in an industrial district shall be subject to the following:

- a. Storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than seven (7) feet nor more than ten (10) feet in height.
- b. No wall or fence screening a storage area shall encroach into a sight distance triangle.
- c. The parts, materials and equipment stored in a storage area shall not be stacked higher than the screening wall or fence.
- d. No outdoor storage shall be located within fifty (50) feet of a residential or agricultural district.
- e. The outdoor storage of recyclable materials at a recycling collection or recycling processing center is prohibited.

(§ 5.1.52, Ord. 13-18(1), 4-3-13)

5.1.53 RENDERING FACILITIES

Each rendering facility shall be subject to the following:

- a. The use may be established and maintained only on a site that is at least five (5) acres in size.
- b. In the light industry (LI) district, no building or parking area shall be located within three hundred (300) feet of any residential or agricultural district. In the heavy industry (HI) district, no building or parking area shall be located within two hundred fifty (250) feet of any residential or agricultural district.
- c. No building shall be located within one thousand (1,000) feet of any school at the time the rendering facility is established.
- d. The certified engineer's report required by section 4.15 shall include a detailed waste management plan satisfying the requirements of that section.
- e. The outdoor storage of offal, dead animals or portions thereof, meat wastes, blood, tankage or any putrescible organic matter is prohibited.

(§ 5.1.53, Ord. 13-18(1), 4-3-13)

5.1.54 SLAUGHTERHOUSES

Each slaughterhouse shall be subject to the following:

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- a. The gross floor area of the building shall not exceed four thousand (4,000) square feet.
- b. The use may be established and maintained only on a site that is at least three (3) acres in size.
- c. In the light industry (LI) district, no building or parking area shall be located within two hundred (200) feet of any residential or agricultural district. In the heavy industry (HI) district, no building or parking area shall be located within one hundred fifty (150) feet of any residential or agricultural district.
- d. No building shall be located within one thousand (1,000) feet of any school at the time the slaughterhouse is established.
- e. Outdoor holding pens for animals are prohibited.
- f. The certified engineer's report required by section 4.15 shall include a detailed waste management plan satisfying the requirements of that section.

(§ 5.1.54, Ord. 13-18(1), 4-3-13)

5.1.55 TIRE RECYCLING YARDS

Each tire recycling yard shall be subject to the following:

- a. Tire storage piles are permitted as follows:
 - 1. The site may have up to four (4) tire storage piles in which unchipped or unshredded tires may be stored.
 - 2. No storage pile shall be more than one hundred (100) feet in width or depth nor taller than twelve (12) feet unless a larger or taller storage pile is permitted by the fire official.
 - 3. Each tire storage pile shall be surrounded by containment berms as required by the fire official.
 - 4. Tires stored in a storage pile shall be laced.
- b. Tires that are not stored in a storage pile shall be chipped or shredded before they may be stored onsite.
- c. Storage piles and all other outdoor storage ("storage areas") are subject to the following:
 - 1. Storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than seven (7) feet nor more than twelve (12) feet in height.
 - 2. No wall or fence screening a storage area shall encroach into a sight distance triangle.
 - 3. Tires stored in a storage area shall not be stacked higher than the screening wall or fence.
 - 4. No storage area shall be located within fifty (50) feet of a residential or agricultural district.
- d. The certified engineer's report required by section 4.15 shall include a mosquito control plan satisfying the requirements of that section.
- e. Appropriate firefighting apparatus, water supply, and foam suppressant shall be available on the site, and they shall be of a type and in quantities required by the fire official.

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- f. Twenty-four (24) hour on-site caretaker(s) trained by the local fire district to provide security and first-line firefighting shall be provided or, in the alternative, a twenty-four (24) hour surveillance and alarm system approved by the fire official may be used if the tire recycling yard is served by a continuously manned fire station.
- g. The site shall have paved or hard-surfaced fire access lanes and cleared areas around the exterior of the storage area and in between individual tire storage piles. The fire access lanes and cleared areas shall be established and maintained to the standards required by the fire official.

(§ 5.1.55, Ord. 13-18(1), 4-3-13)

5.1.56 FAMILY DAY HOMES

Each family day home shall be subject to the following:

- a. *Care for four or fewer children.* Each family day home providing care for four (4) or fewer children under the age of thirteen (13), exclusive of the provider’s own children and any children who reside in the home, shall be regulated as a single-family residential use.
- b. *Care for not fewer than five but not more than twelve children.* Each family day home providing care for not fewer than five (5) but not more than twelve (12) children under the age of thirteen (13), exclusive of the provider’s own children and any children who reside in the home, shall be subject to the following:
 - 1. *Traffic.* The additional traffic generated by a family day home, excluding trips associated with the dwelling unit, shall not exceed twenty-four (24) vehicle round trips per day. For the purposes of this section, a “vehicle round trip” means one vehicle entering and exiting the site. The limitation on the number of vehicle round trips per day may be waived or modified by special exception. In acting on a special exception, the board shall consider whether the waiver or modification of the number of vehicle round trips per day will change the character of the neighboring agricultural area or the residential neighborhood, as applicable, and whether the additional vehicle trips per day will be a substantial detriment to abutting lots. Notice of the application for a special exception shall be posted as provided in section 33.4(m)(2).
 - 2. *Parking.* Each family day home shall provide one (1) parking space plus one (1) parking space for each additional employee. The parking spaces may be located on-site, on the street where authorized by law, or in a parking lot safe and convenient to the family day home.
 - 3. *Entrance and access.* In conjunction with each application for a zoning clearance, the zoning administrator shall identify, if necessary, the applicable design and improvements required that are at least the minimum necessary to protect public health and safety by providing safe ingress and egress to and from the family day home site, safe vehicular and pedestrian circulation on the site, and the control of dust as deemed appropriate in the context of the use. The zoning administrator may consult with the county engineer or the Virginia Department of Transportation regarding the minimum design and improvements for the entrance and access.
 - 4. *State licensure.* Each family day home shall acquire and maintain the required licensure from the Virginia Department of Social Services. The owner or operator of the family day home shall provide a copy of the license to the zoning administrator. The owner or operator’s failure to provide a copy of the license to the zoning administrator shall be deemed to be willful noncompliance with the provisions of this chapter.

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5. *Inspections by fire official.* The Albemarle County fire official is authorized to conduct periodic inspections of the family day home. The owner or operator's failure to promptly admit the fire official onto the premises and into the dwelling unit to conduct an inspection in a manner authorized by law shall be deemed to be willful noncompliance with the provisions of this chapter.
6. *Waivers or modifications by special exception.* Except as provided in subsection (b)(1), no requirement of this section may be waived or modified.
7. *Zoning clearance and notice of request.* No family day home shall commence without a zoning clearance issued under section 31.5, subject to the following:
 - a. *Notice to abutting lot owners.* At least thirty (30) days prior to acting on the zoning clearance, the zoning administrator shall provide written notice of the application for a zoning clearance to the owner of each abutting lot under different ownership than the lot on which the proposed family day home would be located. The notice shall identify the proposed family day home, its size and capacity, its location, and whether a special exception under subsection (b)(1) is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed or hand delivered at least thirty (30) days prior to the action on the zoning clearance. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement.
 - b. *Special exception.* If the zoning administrator receives a written objection to the family day home from the owner of an abutting lot within thirty (30) days after the notice was mailed or delivered, the zoning clearance shall not be approved until after the applicant obtains a special exception for the family day home as provided in sections 33.5 and 33.9. In acting on a special exception, the board shall consider whether the proposed use will be a substantial detriment to abutting lots.
8. *Relationship to other laws.* The provisions of this section are supplementary to all other laws and nothing herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency.

(§ 5.1.0.6, 12-10-80; Ord. 01-18(6), 10-3-01; § 5.1.56, Ord. 13-18(5), 9-11-13; Ord. 18-(6), 6-8-16, effective 7-1-16)

5.1.57 FARM BREWERIES

Each farm brewery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, "uses") are permitted at a farm brewery:
 1. The production and harvesting of barley and other grains, hops, fruit, and other agricultural products, and the manufacturing of beer including, but not limited to, activities related to the production of the agricultural products used in beer including, but not limited to, growing, planting, and harvesting the agricultural products and the use of equipment for those activities.
 2. The sale, tasting, or consumption of beer within the normal course of business of the farm brewery.

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3. The direct sale and shipment of beer in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
 4. The sale and shipment of beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 5. The storage and warehousing of beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 6. The sale of beer-related items that are incidental to the sale of beer including, but not limited to, the sale of incidental gifts such as bottle openers, beer glasses, and t-shirts.
 7. Private personal gatherings of a farm brewery owner who resides at the farm brewery or on property adjacent thereto that is owned or controlled by the owner, provided that beer is not sold or marketed and for which no consideration is received by the farm brewery or its agents.
- b. *Agritourism uses or beer sales related uses permitted by right.* The following uses are permitted by right at a farm brewery, provided they are related to agritourism or beer sales:
1. Exhibits, museums, and historical segments related to beer or to the farm brewery.
 2. Guest brewmasters and trade accommodations of invited guests at a farm brewery owner's private residence at the farm winery.
 3. Hayrides.
 4. Kitchen and catering activities related to a use at the farm brewery.
 5. Picnics, either self-provided or available to be purchased at the farm brewery.
 6. Providing finger foods, soups, and appetizers for visitors.
 7. Tours of the farm brewery, including the areas where agricultural products are grown.
 8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm brewery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm brewery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm brewery, provided that they are related to agritourism or beer sales, as follows:
1. *Eligibility.* Any farm brewery use established in the county before January 18, 2017, is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm brewery use established in the county on and after January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) an on-site fermentation process; (ii) an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop

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damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. Notwithstanding any other provision of this chapter, the eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.

2. *By right.* Farm brewery events, weddings, wedding receptions, and other events are permitted by right at a farm brewery provided that not more than two hundred (200) persons are in attendance at the farm brewery at any time and the events are related to agritourism or beer sales, subject to the following:
 - (a) *Zoning clearance.* For each farm brewery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the use will generate more than fifty (50) visitor vehicle trips per day; and
 - (b) *Notice.* The farm brewery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the farm brewery during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.
 3. *By special use permit.* Farm brewery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm brewery at any time are permitted by special use permit at a farm brewery, provided that they are related to agritourism or beer sales.
 4. *Determining attendance at the farm brewery at any time.* The attendance at the farm brewery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
 5. *Other events.* For the purposes of this subsection, the term “other events” means events that are agritourism events or are beer sales related events, which are determined by the zoning administrator to be usual and customary at farm breweries, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm brewery events, weddings, or wedding receptions.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.57(c)(3) shall include the following:

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1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm brewery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm brewery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm brewery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm brewery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm brewery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning.
- f. *Yards.* Notwithstanding any other provisions of this chapter, the following shall apply to each farm brewery in the Rural Areas (RA) district:
1. *Permanent structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010.
 2. *Tents and portable toilets.* The minimum front, side, and rear yard shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm brewery for tents and portable toilets used in whole or in part to serve any permitted use at a farm brewery.
 3. *Off-street parking areas.* Off-street parking areas established on or after January 18, 2017 shall comply with the minimum front yard requirements in section 10.4 and the minimum side and rear yards shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm brewery.
 4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no

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harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.

g. *Uses prohibited.* The following uses are prohibited:

1. Restaurants.
2. Helicopter rides.

(Ord. 14-18(4), 11-12-14; Ord. 15-18(10), 12-9-15; Ord. 17-18(1), 1-18-17)

5.1.58 EVENTS AND ACTIVITIES AT AGRICULTURAL OPERATIONS

Each event or activity at an agricultural operation authorized below shall be subject to the following:

a. *Purpose and intent.* The purpose and intent of this section 5.1.58 is to implement policies of the comprehensive plan and the requirements of Virginia Code § 15.2-2288.6. The stated elements of the county’s vision for the Rural Area designated in the comprehensive plan include having a strong agricultural economy with large lots on which to produce agricultural products, opportunities to gain value from processing those products, and accessing local markets; maintaining a clearly visible rural character achieved by supporting lively rural industries and activities; having a significant tourist economy in which the rural landscape augments the visitors’ experience; and having diverse, interconnected areas of viable habitat, healthy streams, sustainable supplies of unpolluted groundwater, and protected historic and cultural resources. The comprehensive plan’s stated goal to protect the county’s agricultural lands as a resource base for its agricultural industries and for the related benefits they contribute towards the county’s rural character, scenic quality, natural environment, and fiscal health is achieved, in part, by allowing appropriately scaled low-impact events and activities on farms engaged in agricultural production as provided in this section. The comprehensive plan’s stated goal to encourage creative and diverse forms of rural production and support rural land uses is achieved, in part, by allowing the events and activities such as farm sales, low-impact forms of agritourism, and other events and activities provided herein.

The comprehensive plan also recognizes that rural land uses depend on natural resources that are irreversibly lost when rural land is converted to residential and commercial uses, and that protecting rural land uses provides an opportunity to conserve natural, scenic, and historic resources – by maintaining farmland, forested areas, and other natural areas – and public fiscal resources – by limiting development and lessening the need to provide public services to wide areas of the County. In addition, the comprehensive plan recognizes that conflicts can arise not only between agricultural and residential uses, but also between different agricultural uses. Thus, to ensure that events and activities at agricultural operations do not conflict with the character of the Rural Area, to promote a vibrant rural economy while controlling the adverse impacts these events and activities may have on public fiscal resources and services, and to minimize possible adverse impacts resulting from events and activities, this section incorporates strategies provided in the comprehensive plan to address potential impacts.

This section shall be implemented and interpreted to achieve the objectives of its purpose and intent.

b. *Findings.* The board hereby finds that the standards and restrictions in this section were established by considering their economic impact on agricultural operations and the agricultural nature of the events and activities authorized herein. The board further finds that one or more substantial impacts on the public health, safety, or welfare have been identified when a zoning clearance or a special use permit is required by this section. These substantial impacts, and the thresholds and standards related thereto, are based upon the comprehensive plan, study, experience from authorizing and regulating similar events and activities under this chapter, and existing state

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standards. In addition, the board finds that the thresholds and standards established herein are the minimum necessary in order to satisfy the relevant policies, goals, and objectives of the comprehensive plan without allowing the events, activities, and structures permitted by this section to cause substantial impacts and thereby endanger the public health, safety, or welfare.

- c. *Applicability; limitations.* This section applies only to the events and activities permitted by right and by special use permit under subsection (d). This section does not apply to the agricultural operation itself, to any farm winery subject to section 5.1.25, or to any farm brewery subject to section 5.1.57.
- d. *Events and activities permitted.* The following events, activities, and structures are permitted by right, permitted by right with approval of a zoning clearance, or by special use permit as set forth in the following table, provided that these events, activities, and structures are individually and in the aggregate subordinate to the agricultural operation, and subject to the applicable requirements of this section and this chapter:

Event or activity ¹	Criterion	By right	By right with zoning clearance ²	By special use permit ³
Agritourism: generally, for any number of events or activities, not regulated as another category of agritourism in this subsection or as an agricultural operation event	On sites ⁴ greater than or equal to 21 acres and the event or activity will generate 50 or fewer visitor vehicle trips per day (“VTPD”)	X		
	Either on sites less than 21 acres or the event or activity will generate more than 50 visitor VTPD		X	
	The event or activity would have more than 200 attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site			X
Agritourism: educational programs, or workshops or demonstrations related to agriculture or silviculture	On sites ⁴ greater than or equal to 21 acres and the event or activity will generate 50 or fewer visitor vehicle trips per day (“VTPD”), and each event or activity would have 200 or fewer attendees at any single time, regardless of whether the number of these events or activities, in the aggregate would exceed 4 in a calendar year	X		
	The event or activity would have 200 or fewer attendees at any single time, regardless of the number of visitor VTPD or the acreage of the site, where the number of these events or activities, in the aggregate would not exceed 4 in a calendar year	X		
	Either on sites less than 21 acres or the event or activity will generate more than 50 visitor VTPD and each event or activity would have 200 or fewer attendees at any single time, where the number of these events or activities, in the aggregate would exceed 4 in a calendar year		X	
	The event or activity would have more than 200 attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site			X
	The number of farm tours in which the agricultural operation is participating would not exceed 4 in a calendar year, and each farm tour would have 200 or fewer attendees at any single agricultural operation at any time, regardless of the number of visitor VTPD or the acreage of the site	X		

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Event or activity¹	Criterion	By right	By right with zoning clearance²	By special use permit³
Agritourism: farm tours	The number of farm tours in which the agricultural operation is participating would exceed 4 in a calendar year, regardless of the number of attendees at any single agricultural operation at any time, the number of visitor VTPD, or the acreage of the site		X ⁵	
Sales: The sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation, including farm sales but excluding harvest-your-own activities	On sites greater than or equal to 21 acres and the activity will generate 50 or fewer visitor VTPD	X		
	On sites less than 21 acres or the activity will generate more than 50 visitor VTPD		X	
	Structures used for the sales activity, in the aggregate, if the gross floor area devoted to sales is less than or equal to 4,000 square feet	X		
	Structures used for the sales activity, in the aggregate, if the gross floor area devoted to sales is greater than 4,000 square feet			X
Sales: harvest-your-own activities	On any site, regardless of the acreage of the site, the number of visitor VTPD, or the number of attendees at any time	X		
Sales: The preparation, processing, or sale of food products in compliance with Virginia Code § 3.2-5130(A)(3), (4) and (5) or related state laws and regulations (“sale of food products”)	On sites greater than or equal to 21 acres and the activity will generate 50 or fewer visitor VTPD	X		
	On sites less than 21 acres or the activity will generate more than 50 visitor VTPD		X	
Other Events or Activities: Agricultural operation events	The event will generate 50 or fewer visitor VTPD and will occur on sites greater than or equal to 21 acres	X		
	The event will generate more than 50 visitor VTPD or occur on sites less than 21 acres but have 200 or fewer attendees at any time		X	
	The event will have more than 200 attendees at any time, regardless of the number of visitor VTPD or the acreage of the site			X
	The number of events in a calendar year would exceed 24, regardless of the number of visitor VTPD, number of attendees, or the acreage of the site			X
Other Events or Activities: Other events or activities which are determined by the zoning administrator to be usual and customary uses at agricultural operations throughout the Commonwealth	The applicable criteria will depend on whether the proposed event or activity is classified as agritourism, sales, or an event; and the applicable criterion of the events or activities listed above shall apply	Determined by how event or activity is classified	Determined by how event or activity is classified	Determined by how event or activity is classified

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1. If two or more events or activities categorized as “Agritourism” or “Other Events or Activities” are being, or will be, conducted on-site simultaneously for any duration, the number of visitor VTPD and the number of attendees shall each be aggregated, and the requirements of the more restricted event or activity shall apply. For the purposes of this provision, an event or activity requiring a special use permit is more restricted than an event or activity permitted by right, either with or without a zoning clearance, and an event or activity permitted by right with a zoning clearance is more restricted than an event or activity permitted by right.
 2. The zoning clearance shall be obtained under section 31.5 and shall include considering the matters in subsection (e).
 3. The special use permit shall be obtained under section 33 and, in addition to the requirements of that section, shall include the information required by subsection (f).
 4. The term “site,” as used in this section, means one or more abutting lots under the same ownership on which the agricultural operation and the event or activity is located.
 5. A single zoning clearance may be obtained for all agricultural operations participating in a farm tour.
- e. *Matters to be considered in review of request for approval of zoning clearance.* In reviewing a request for approval of a zoning clearance, the zoning administrator’s review shall include verifying that the proposed event or activity complies with the applicable minimum yard standards in subsection (h), Virginia Department of Transportation entrance standards, Virginia Department of Health health and sanitation standards, and shall ensure that on-site travelways can accommodate emergency vehicles, adequate on-site parking is provided in a location that complies with this chapter, environmental impacts are addressed by compliance with the applicable regulations or performance standards of this chapter and chapter 17, and that all improvements comply with the applicable requirements in section 4. In addition, for any zoning clearance for a farm tour that may have more than 200 attendees at any single agricultural operation at any time, the zoning administrator shall consider the traffic management plan submitted by the person requesting the zoning clearance. The traffic management plan shall demonstrate how traffic entering and exiting each agricultural operation participating in the farm tour will be managed to ensure safe and convenient access to and from the site and safe travel on public streets.
- f. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more event or activity (“use”) for which a special use permit is required under subsection (d) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning, depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- g. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each agricultural operation shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the agricultural operation. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the agricultural operation will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being generated.

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2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
- h. *Yards and separation from dwelling units.* Notwithstanding any other provision of this chapter, the following minimum front, side, and rear yard requirements shall apply to any event or activity:
1. *Structures used for sales.* The minimum yards for structures used for the sale of agricultural or silvicultural products shall be as follows:
 - a. *New permanent structures and temporary structures.* The minimum front, side, and rear yards required for any new permanent structure or temporary structure shall be as provided in the bulk and area regulations established for the applicable zoning district, provided that the minimum front yard on an existing public road in the rural areas (RA) district shall be thirty-five (35) feet. The minimum required yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
 - b. *Existing permanent structures.* If an existing permanent structure does not satisfy any minimum yard requirement under subsection (h)(1)(a), the minimum yard required shall be the distance between the existing permanent structure and the street, road, access easement, or lot line on November 12, 2014, and that distance shall not be thereafter reduced. An enlargement or expansion of the structure shall be no closer to a street, road, access easement or lot line than the existing structure.
 2. *Outdoor event and activity areas.* The minimum front, side, and rear yards for outdoor event and activity areas shall be seventy-five (75) feet. In addition, outdoor event and activity areas shall be a minimum of one hundred twenty-five (125) feet from any dwelling unit on an abutting lot not under the same ownership as the agricultural operation. These minimum standards shall not apply to any portion of the agricultural operation that is engaged in production agriculture or silviculture, even though it also is used for an agritourism activity.
 3. *Parking areas and portable toilets.* The minimum front, side, and rear yards for parking areas and portable toilets shall be seventy-five (75) feet. In addition, parking areas and portable toilets shall be a minimum of one hundred twenty-five (125) feet from any dwelling unit on an abutting lot not under the same ownership as the agricultural operation.
- i. *Uses prohibited.* The following uses are prohibited:
1. Restaurants.
 2. Helicopter rides

(Ord. 14-18(2), 11-12-14)

5.1.59 FARM DISTILLERIES

Each farm distillery shall be subject to the following:

- a. *Operational uses permitted by right.* The following operational uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm distillery:

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1. The production and harvesting of agricultural products and the manufacturing of alcoholic beverages other than wine or beer.
 2. The on-premises sale, tasting, or consumption of alcoholic beverages other than wine or beer during regular business hours in accordance with a contract between a distillery and the Alcoholic Beverage Control Board pursuant to the provisions of Virginia Code § 4.1-119(D).
 3. The sale and shipment of alcoholic beverages other than wine or beer to licensed wholesalers and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 4. The storage and warehousing of alcoholic beverages other than wine or beer in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
 5. The sale of items related to alcoholic beverages other than wine or beer that are incidental to the sale of the alcoholic beverages.
- b. *Agritourism uses or sales related uses permitted by right.* The following uses are permitted by right at a farm distillery, provided they are related to agritourism or the sale of alcoholic beverages other than wine or beer:
1. Exhibits, museums, and historical segments related to alcoholic beverages other than wine or beer or to the farm distillery.
 2. Guest distillers and trade accommodations of invited guests at a farm distillery owner's private residence at the farm distillery.
 3. Hayrides.
 4. Kitchen and catering activities related to a use at the farm distillery.
 5. Picnics, either self-provided or available to be purchased, at the farm distillery.
 6. Providing finger foods, soups, and appetizers for visitors.
 7. Tours of the farm distillery, including the areas where agricultural products are grown.
 8. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be similar in kind to other uses permitted by right in this subsection, which do not create a substantial impact on the public health, safety, or welfare, and at which not more than two hundred (200) persons are in attendance at any time for this use.
- c. *Farm distillery events, weddings, wedding receptions, and other events permitted by right and by special use permit.* Farm distillery events, weddings, wedding receptions, and other events are permitted by right or by special use permit at a farm distillery, provided that they are related to agritourism or the sale of distilled spirits, as follows:
1. *Eligibility.* Any farm distillery use established in the county before January 18, 2017 is eligible to hold the events authorized in subsections (c)(2) and (c)(3). Any farm distillery use established in the county on and after January 18, 2017 or which had not submitted an application to the United States Bureau of Alcohol, Tobacco, and Firearms for licensure in the county before January 18, 2017, is eligible to hold the events authorized by subsections (c)(2) and (c)(3) if it has: (i) on-site distillation and bottling processes; (ii)

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an on-site tasting room with regular hours in which it is open to the public; and (iii) a minimum of five (5) acres of fruits, grains, or other agricultural products planted on-site, or on any abutting lot under the same ownership, at least one growing season each calendar year and used or to be used in the production of the establishment's beverages, provided that the five (5) acre threshold shall not apply during periods of widespread crop damage due to pest damage, disease, frost damage, or storm damage, and further provided that none of these eligibility requirements shall apply where the sole events under this subsection (c) are holding up to four (4) educational programs related to agriculture per calendar year at which not more than two hundred (200) persons are in attendance at any time. Notwithstanding any other provision of this chapter, the eligibility requirements of this subsection (c)(1)(i) and (iii) may not be waived, modified, or varied by special exception. A special exception to subsection (c)(1)(ii) may be granted to permit tasting room hours by appointment instead of regular hours in which the tasting room is open to the public.

2. *By right.* Farm distillery events, weddings, wedding receptions, and other events are permitted by right at a farm distillery provided that not more than two hundred (200) persons are in attendance at the farm distillery at any time and the events are related to agritourism or the sale of distilled spirits, subject to the following:
 - (a) *Zoning clearance.* For each farm distillery licensed on and after December 9, 2015, the owner shall obtain a zoning clearance under section 31.5 prior to holding any events if either the lot or the abutting lots on which the events allowed in this subsection occur is less than twenty-one (21) acres in size or the event will generate more than fifty (50) visitor vehicle trips per day; and
 - (b) *Notice.* The farm distillery shall provide written notice that an application for a zoning clearance for one or more events allowed by this subsection has been submitted to the owner of each abutting lot under different ownership than the lot on which the proposed event would be located. The notice shall identify the proposed type, size, and frequency of events, and provide the name and telephone number of a contact person who will be on-site at the farm distillery during each event. The notice shall be mailed at least ten (10) days prior to the action on the zoning clearance.
3. *By special use permit.* Farm distillery events, weddings, wedding receptions, and other events at which more than two hundred (200) persons will be in attendance at the farm distillery at any time are permitted by special use permit at a farm distillery, provided that they are related to agritourism or the sale of distilled spirits.
4. *Determining attendance at the farm distillery at any time.* The attendance at the farm distillery at any time under subsections (c)(2) and (c)(3) shall be the aggregate of the actual or allowed attendance at any time for any farm winery event, farm brewery event, farm distillery event, wedding, wedding reception, and other events. Attendance shall not include any owner or employee of the farm winery or any employee or owner of a vendor providing goods or services to the farm winery event, wedding, wedding reception, or other event pursuant to subsections (c)(2) and (c)(3). Attendance shall not include any individual engaging or participating in activities under subsections (a) and (b).
5. *Other events.* For the purposes of this subsection, the term "other events" means events that are agritourism events or are distilled spirits sales related events, which are determined by the zoning administrator to be usual and customary at farm distilleries, which do not create a substantial impact on the public health, safety, or welfare, and which are not expressly authorized under subsection (c) as farm distillery events, weddings, or wedding receptions.

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- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 33.4, each application for one or more events authorized under section 5.1.59(c)(3) shall include the following:
1. *Information.* Information pertaining to the following: (i) the proposed events; (ii) the maximum number of persons who will attend each event at any given time; (iii) the frequency and duration of the events; (iv) the provision of on-site parking; (v) the location, height, and lumens of outdoor lighting for each event; (vi) the location of any stage, structure or other place where music will be performed; and (vii) a traffic management plan, which demonstrates how traffic entering and exiting the farm distillery for an event will be managed to ensure safe and convenient access to and from the site, and includes planned routes of vehicular access to the farm distillery, on-site circulation, the use of shuttles or other transportation services, and traffic control personnel.
 2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the events; (ii) how access, on-site parking, outdoor lighting, signage, and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to abutting lots will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall be subject to the following:
1. *Zoning clearance.* Each farm distillery shall obtain approval of a zoning clearance under section 31.5 prior to generating any outdoor amplified music at the farm distillery. The purpose of the zoning clearance shall be to verify that the sound amplification equipment at the farm distillery will comply with the applicable standards in section 4.18 or that the owner has and will use a sound level meter as that term is defined in section 4.18.02 prior to and while outdoor amplified music is being played, to monitor compliance with the applicable standards in section 4.18, or both.
 2. *Maximum sound level.* Sound generated by outdoor amplified music shall not exceed the applicable maximum sound levels in section 4.18.04.
 3. *Outdoor amplified music not an exempt sound.* Outdoor amplified music shall not be deemed to be an exempt sound under section 4.18.05(A).
 4. *Times of day when outdoor amplified music prohibited.* Sound generated by outdoor amplified music is prohibited between 10:00 p.m. each Sunday through Thursday night and 7:00 a.m. the following morning, and between 11:00 p.m. each Friday and Saturday night and 7:00 a.m. the following morning.
- f. *Yards.* Notwithstanding any other provisions of this chapter, the following shall apply to each farm distillery in the Rural Areas (RA) district:
1. *Permanent structures.* The minimum front, side, and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after May 5, 2010.
 2. *Tents and portable toilets.* The minimum front, side, and rear yard shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm distillery for tents and portable toilets used in whole or in part to serve any permitted use at a farm distillery.
 3. *Off-street parking areas.* Off-street parking areas established on or after January 18, 2017 shall comply with the minimum front yard requirements in section 10.4 and the minimum

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side and rear yards shall be one hundred twenty-five (125) feet from any abutting lot not under the same ownership as the farm distillery.

4. *Special exception.* Any minimum yard may be reduced by special exception upon consideration of the following: (i) there is no detriment to any abutting lot; (ii) there is no harm to the public health, safety, or welfare; and (iii) written consent to the proposed reduction has been provided by the owner of any lot abutting the proposed reduced setback.

g. *Uses prohibited.* The following uses are prohibited:

1. Restaurants.
2. Helicopter rides.

(Ord. 15-18(10), 12-9-15; Ord. 17-18(1), 1-18-17)

5.1.60 DRIVE-THROUGH WINDOWS

Each drive-through window shall be subject to the following:

- a. If the building is adjacent to a public street, any drive-through windows shall be located on the side or rear of the building, away from the public street.
- b. No drive-through lane shall be located between a building and a public street unless separated from the right of way by a landscaped area that complies with section 32.7.9.5(b), (c), (d), and (e) and is at least ten (10) feet in depth extending the length of the drive-through lane.
- c. No portion of a drive-through lane shall be located within fifty (50) feet of a residential district, the rural areas district, the Monticello Historic district, or any part of a planned development district allowing residential uses.
- d. If any portion of a drive-through lane that is located between fifty (50) and one hundred (100) feet of a residential district, the rural areas district, the Monticello Historic district, or any part of a planned development allowing residential uses, the drive-through window shall be open for business no earlier than 7:00 a.m. and shall be closed no later than 10:00 p.m., daily.
- e. Each drive-through lane shall be separated from any pedestrian travelway, except where a pedestrian travelway crosses the drive-through lane as provided in subsection (f), and any vehicular travel areas, by a planting strip at least five (5) feet in width.
- f. If a pedestrian travelway crosses a drive-through lane, the owner shall provide either a five (5) foot wide raised pedestrian travelway or a five (5) foot wide pedestrian travelway containing a change in texture and visual markings.
- g. Each drive-through lane shall be at least eleven (11) feet wide.
- h. No drive-through lane shall enter directly from or exit directly to any public street.
- i. Each entrance to a drive-through lane shall be more than fifty (50) feet from any intersection with a public or private street or travelway without parking.
- j. Each drive-through lane shall be a minimum of one hundred (100) feet in length measured from the center of the first window or service point. This length may be reduced if a study is submitted and approved by the director of community development or his designee demonstrating that a shorter length will be sufficient for a particular use.

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- k. Each drive-through lane shall extend at least twenty (20) feet beyond the drive-through window.
- l. If a drive-through lane is located adjacent to an internal travelway, the direction of travel in the drive-through lane and the travelway shall be the same unless they are separated from one another by a landscaped area that complies with section 32.7.9.5(b), (c), (d), and (e) and is at least ten (10) feet in depth extending the length of the drive-through lane.

(Ord. 16-18(2), 3-2-16)

5.1.61 HISTORIC RESTAURANTS, TAVERNS, AND INNS

In addition to the factors to be considered for a special use permit under section 33.8, each application for one or more uses authorized under section 10.2.2(27)(a) shall conform to the following:

- 1. The use shall be consistent with the Rural Area goals listed in the Comprehensive Plan.
- 2. The location and scale of proposed structures and additions shall be complementary and proportionate to the existing structures and/or site, and additions and new structures shall be clearly subordinate to the historic structures on the site. In no event shall the proposed additions, new structures, or exterior modifications to the historic structure adversely impact the historic character or significance of the structure and/or site as determined by the director of planning or his/her designee.
- 3. In no event shall the proposed additions, new structures, or exterior modifications to the historic structure result in de-listing of the structure and/or site from the National Register of Historic Places and/or Virginia Landmarks Register, as indicated in a determination by the Virginia Department of Historic Resources.
- 4. The proposed additions, new structures, and exterior modifications to the historic structure shall protect archaeological resources and preserve them in place. If such resources must be disturbed, mitigation measures as determined by the director of planning or his/her designee shall be undertaken.

(Ord. 16-18(7), 12-14-16)

5.2 HOME OCCUPATIONS IN ZONING DISTRICTS OTHER THAN THE RURAL AREAS ZONING DISTRICT

Each home occupation authorized in a zoning district other than the rural areas zoning district shall be subject to the following:

- a. *Purpose and intent.* The purpose for authorizing home occupations in zoning districts other than the rural areas zoning district is to encourage limited home-based economic development, balanced with the need to protect and preserve the quality and character of the county’s residential neighborhoods. The regulations in this section are intended to ensure that authorized home occupations will be compatible with other permitted uses and the residential neighborhood by regulating the scale, hours, external activities, external appearance and other impacts that may arise from a home occupation.
- b. *Location and area occupied by a home occupation.* A home occupation shall be located and sized as follows:
 - 1. *Class A home occupations.* A Class A home occupation shall be conducted entirely within the dwelling unit, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further

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provided that the gross floor area used for the home occupation shall not exceed one thousand five hundred (1500) square feet.

2. *Class B home occupations.* A Class B home occupation shall be conducted within the dwelling unit or an accessory structure, or both, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the cumulative gross floor area used for the home occupation shall not exceed one thousand five hundred (1500) square feet.
- c. *Exterior appearance.* The exterior appearance of a parcel with a home occupation shall be subject to the following:
1. *Class A home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a Class A home occupation.
 2. *Class B home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a Class B home occupation, except that one home occupation sign may be erected as authorized by section 4.15. Accessory structures shall be similar in façade to a single-family dwelling, private garage, shed, barn or other structure normally expected in a residential area and shall be specifically compatible in design and scale with other residential development in the area in which it is located. Any accessory structure that does not conform to the applicable setback and yard requirements for primary structures shall not be used for a home occupation.
- d. *Sales.* No home occupation shall sell goods to a customer who comes to the site except for goods that are hand-crafted on-site and goods sold that are directly related to a beauty shop or a one-chair barber shop home occupation.
- e. *Traffic generated by a home occupation.* The traffic generated by a home occupation shall not exceed the volume that would normally be expected by a dwelling unit in a residential neighborhood.
- f. *Parking.* All vehicles used in a home occupation and all vehicles of employees, customers, clients or students shall be parked on-site.
- g. *Performance standards.* All home occupations shall comply with the performance standards in section 4.14.
- h. *Prohibited home occupations.* The following uses are prohibited as home occupations: (1) tourist lodging; (2) nursing homes; (3) nursery schools; (4) day care centers; and (5) private schools.
- i. *Zoning clearance required.* No home occupation shall commence without a zoning clearance issued under section 31.5, subject to the following:
1. *Class A home occupations.* Prior to the zoning administrator issuing a zoning clearance for a Class A home occupation, the applicant shall sign an affidavit affirming his understanding of the requirements of section 5.2.
 2. *Class B home occupations.* Prior to the zoning administrator issuing a zoning clearance for a Class B home occupation: (a) there shall be a valid special use permit for the Class B home occupation; (b) the applicant shall provide the zoning administrator evidence that the Virginia Department of Transportation has approved the entrance to the site; and (c) the applicant shall sign an affidavit affirming his understanding of the requirements of section 5.2.

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(§ 20-5.2, 12-10-80; § 5.2.1, 12-10-80, 3-18-81; § 20-5.2.2, 12-10-80; §18-5.2.2, Ord. 98-A91), 8-5-98; Ord. 01-18(3), 5-9-01; Ord. 11-18(1), 1-12-11)

5.2A HOME OCCUPATIONS IN THE RURAL AREAS ZONING DISTRICT

Each home occupation authorized in the rural areas zoning district shall be subject to the following:

- a. *Purpose and intent.* The purpose for authorizing home occupations in the rural areas zoning district is to encourage limited home-based economic development, balanced with the need to protect and preserve the quality and character of the county’s agricultural areas and residential neighborhoods in the rural areas zoning district. The regulations in this section are intended to ensure that authorized home occupations will be compatible with other permitted uses, the agricultural areas, and the residential neighborhoods by regulating the scale, hours, external activities, external appearance and other impacts that may arise from a home occupation.

- b. *Location and area occupied by a home occupation.* A home occupation shall be located and sized as follows:
 - 1. *Major home occupations.* A major home occupation shall be conducted within the dwelling unit or accessory structures, or both, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the cumulative area used for the home occupation, including the gross floor area within the dwelling unit or any accessory structure and the area used for outdoor storage as provided in section 5.2A(g), shall not exceed one thousand five hundred (1500) square feet. Plants that are planted in the ground that are to be used for a major home occupation do not count toward the one thousand five hundred (1500) square feet limitation.

 - 2. *Minor home occupations.* A minor home occupation shall be conducted entirely within the dwelling unit, provided that not more than twenty-five (25) percent of the gross floor area of the dwelling unit shall be used for the home occupation and further provided that the gross floor area used for the home occupation shall not exceed one thousand five hundred (1500) square feet.

- c. *Exterior appearance.* The exterior appearance of a parcel with a home occupation shall be subject to the following:
 - 1. *Major home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a major home occupation, except that one home occupation sign may be erected as authorized by section 4.15. Accessory structures shall be similar in façade to a single-family dwelling, private garage, shed, barn or other structure normally expected in a residential area and shall be specifically compatible in design and scale with other residential development in the area in which it is located. Any accessory structure that does not conform to the applicable setback and yard requirements for primary structures shall not be used for a home occupation.

 - 2. *Minor home occupations.* There shall be no change in the exterior appearance of a dwelling unit or other visible evidence of the conduct of a minor home occupation.

- d. *Visitors and sales.* Visitors and sales related to a home occupation shall be subject to the following:
 - 1. *Major home occupations.* Customers, clients and students may visit a major home occupation. The sale of goods by the major home occupation to a customer who comes to the site is prohibited except for goods that are hand-crafted on-site and accessory

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goods that are directly related to a major home occupation, including but not limited to tools for pottery making and frames for artwork.

2. *Minor home occupations.* No customers, clients or students may visit a minor home occupation for a purpose related to the home occupation. The sale of goods or the provision of services by the minor home occupation to a customer, client or student at the site is prohibited.
- e. *Traffic generated by a major home occupation.* The traffic generated by a major home occupation shall not exceed ten (10) vehicle round trips per day or more than thirty (30) vehicle round trips per week. For the purposes of this section, a “vehicle round trip” means one vehicle entering and exiting the site.
- f. *Parking.* All vehicles used in a home occupation and all vehicles of employees, customers, clients or students related to a major home occupation shall be parked on-site.
- g. *Outdoor storage.* The storage of goods, products, equipment other than vehicles used in a home occupation, or any materials associated with a home occupation, other than natural landscaping materials such as mulch and plants, outside of an enclosed structure is prohibited.
- h. *Days and hours of operation for major home occupations.* Major home occupations may operate up to six (6) days per week and the hours of operation shall be between 7:00 a.m. and 8:00 p.m. for those home occupations that have employees, customers, clients or students visiting the site.
- i. *Number of vehicles used in a home occupation.* The number of vehicles that may be used in a home occupation that are parked or stored on-site shall not exceed two (2) motor vehicles and two (2) trailers.
- j. *Number of home occupations.* More than one home occupation is permitted on a parcel, provided that the area occupied and the traffic generated by the home occupations shall be considered cumulatively and all requirements of this section shall apply.
- k. *Performance standards.* All home occupations shall comply with the performance standards in section 4.14.
- l. *Prohibited home occupations.* The following uses are prohibited as home occupations: (1) any use requiring a special use permit under section 10.2.2; (2) animal rescue centers; (3) automobile graveyards; (4) restaurants; (5) storage yards; (6) gun sales, unless the guns are made on-site by one or more family members residing within the dwelling unit; (7) on-site pet grooming; (8) body shops; (9) equipment, trailers, vehicles or machinery rentals; (10) shooting ranges; (11) commercial stables; (12) rummage or garage sales other than those determined by the zoning administrator to be occasional; (13) veterinary clinics or hospitals; (14) pyrotechnic (fireworks or bomb) device manufacturing or sales; and (15) any other use not expressly listed that is determined by the zoning administrator to be contrary to the purpose and intent of section 5.2A.
- m. *Waivers and modifications.* The waiver or modification of any requirement of section 5.2A is prohibited except as provided herein:
 1. *Area.* The area requirements in section 5.2A(b) may be waived or modified, provided that the waiver or modification shall not authorize the home occupation to occupy more than forty-nine (49) percent of the gross floor area of the dwelling. In granting a waiver or modification of the area requirement, the commission shall make the following findings in addition to those findings in section 5.1: (1) the nature of the home occupation requires storage or additional space within the dwelling unit to conduct the home occupation; (2) the primary use of the dwelling unit as a residence is maintained; and (3)

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the waiver or modification would not change the character of the neighboring agricultural area or the residential neighborhood.

2. *Traffic.* The traffic limitation in section 5.2A(e) may be waived or modified. In granting a waiver or modification of the traffic limitation, the commission shall find, in addition to those findings in section 5.1, that the waiver or modification would not change the character of the neighboring agricultural area or the residential neighborhood.

- n. *Zoning clearance required; notice of request.* No home occupation shall commence without a zoning clearance issued under section 31.5. For each zoning clearance requested for a major home occupation, the zoning administrator shall provide written notice that an application for a zoning clearance has been submitted to the owner of each abutting parcel under different ownership than the parcel on which the proposed home occupation would be located. The notice shall identify the proposed home occupation, its size, its location, and whether any waiver or modification is requested. The notice shall invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed at least five (5) days prior to the action on the zoning clearance as provided in section 32.4.2.5.

(Ord. 11-18(1), 1-12-11)

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5.3 MOBILE HOME PARKS (Original section repealed and section reenacted 3-5- 86)

A mobile home park may be established by the commission and board of supervisors by special use permit obtained pursuant to section 31.0 of this ordinance.

It is intended that a mobile home park be located and designed so as to provide and maintain a desirable residential environment for the residents of the park and the residents of adjacent properties.

Mobile home parks shall be located in designated growth areas of the comprehensive plan.

5.3.1 MINIMUM SIZE MOBILE HOME PARKS

A mobile home park shall consist of five (5) or more contiguous acres.

5.3.2 MAXIMUM DENSITY

A mobile home park shall conform to the maximum gross density requirements of the district in which it is located.

5.3.3 MINIMUM LOT SIZES

Each mobile home lot shall comply with the following area and width requirements:

- 5.3.3.1 Mobile home lots shall consist of four thousand five hundred (4,500) square feet or more, and shall have a width of forty-five (45) feet or more.
- 5.3.3.2 Mobile home lots served by either a central water or central sewerage system shall consist of forty thousand (40,000) square feet or more, and shall have a width of one hundred (100) feet or more.
- 5.3.3.3 Mobile home lots served by neither a central water supply nor a central sewerage system shall consist of sixty thousand (60,000) square feet or more and shall have a width of one hundred thirty (130) feet or more.

5.3.4 LOCATION OF MOBILE HOMES

- 5.3.4.1 Each mobile home shall be located on a mobile home lot. The lot shall also provide space for outdoor living and storage areas and may provide space for a parking area.
- 5.3.4.2 Each mobile home lot shall front on an internal street.
- 5.3.4.3 No mobile home shall be located closer than fifty (50) feet from any service or recreational structure intended to be used by more than one (1) mobile home.
- 5.3.4.4 The minimum distance between mobile homes shall be thirty (30) feet. The Albemarle County fire official may require additional space between mobile homes if public water is not available or is inadequate for fire protection.

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5.3.5 SETBACKS AND YARDS

- 5.3.5.1 Mobile homes and other structures shall be set back at least fifty (50) feet from the right-of-way of an existing public street.
- 5.3.5.2 Mobile homes and other structures shall be set back at least fifty (50) feet from the mobile home park property line when it is adjacent to a residential or rural areas district.
- 5.3.5.3 Mobile homes and other structures shall be set back at least fifteen (15) feet from the right-of-way of internal private streets, common walkways and common recreational or service areas. This distance may be increased to twenty-five (25) feet for mobile homes or structures at roadway intersections and along internal public streets.
- 5.3.5.4 Mobile homes and other structures shall be set back at least six (6) feet from any mobile home space lot line.

5.3.6 APPLICATION PLAN REQUIRED

An application plan shall be submitted as part of the application for a mobile home park. The plan shall be reviewed by the site plan review committee, but shall be considered preliminary. Following approval of the special use permit, and prior to the issuance of a building permit or any clearing of the site, a final site development plan shall be approved. The final site development plan shall contain all the information required on the application plan in addition to all the information required in section 32.0, site development plan.

- 5.3.6.1 The application plan shall contain the following information at a scale of one (1) inch equals forty (40) feet or larger:
 - a. Location of tract or parcel by a vicinity map, and landmarks sufficient to identify the location of the property;
 - b. An accurate boundary survey of the tract;
 - c. Existing roads, easements and utilities; watercourses and their names; owners, zoning and present use of adjoining tracts, and location of residential structures on adjoining tracts;
 - d. Location, type and size of ingress and egress to the site;
 - e. Existing and proposed topography accurately shown with a maximum contour interval of five (5) feet; areas shown with slopes of twenty-five (25) percent or greater;
 - f. Flood plain limits;
 - g. Proposed general road alignments and rights-of-way; general water, sewer and storm drainage lay-out; general landscape plan; common area with recreational facilities and walkways; service areas; common trash container locations; parking areas; a typical lot detail showing the mobile home stand, outdoor living and storage areas, parking area, setbacks and utility connections; and any other information necessary to show that these requirements can be met.

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5.3.7 IMPROVEMENTS REQUIRED--MOBILE HOME LOTS

5.3.7.1 UTILITIES

Each mobile home lot shall be provided with an individual connection to an approved sanitary sewage disposal system. Each mobile home lot shall be provided with an individual connection to an approved central water supply or other potable water supply.

Each mobile home lot shall be provided with electrical service installed in accordance with the National Electrical Code.

5.3.7.2 MARKERS FOR MOBILE HOME LOTS

Each mobile home lot shall be clearly defined on the ground by permanent markers. There shall be posted and maintained in a conspicuous place on each lot a number corresponding to the number of each lot as shown on the site plan.

5.3.7.3 OUTDOOR LIVING AND STORAGE AREAS

An outdoor living area shall be provided on each mobile home lot. At least one hundred (100) square feet shall be hard surfaced.

Storage buildings not to exceed one hundred fifty (150) square feet in aggregate shall be permitted in a designated area on each lot. Additional storage facilities may be provided in common areas.

5.3.7.4 ADDITIONS TO MOBILE HOMES

Additions to mobile homes are permitted, subject to the following conditions:

- a. Albemarle County building official approval;
- b. Applicable setbacks are met;
- c. Total roof area lot coverage shall not exceed forty (40) percent of the mobile home lot.

5.3.7.5 INSTALLATION OF MOBILE HOMES

Installation of mobile homes shall comply with the requirements of the Virginia Uniform Statewide Building Code.

Skirting shall be provided around the mobile home from ground level to the base of the mobile home within thirty (30) days of the issuance of a certificate of occupancy.

5.3.8 IMPROVEMENTS REQUIRED--MOBILE HOME PARK

5.3.8.1 OFF-STREET PARKING

Off-street parking for mobile homes, recreational uses and service areas shall be provided in accordance with section 4.12 of this ordinance. Parking for mobile homes may be provided on

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individual lots, or in convenient bays, in accordance with section 4.12.3.3. Additional parking area for recreational vehicles shall be provided in a common area at a rate of one (1) space per ten (10) units.

5.3.8.2 INTERNAL STREETS

A minimum right-of-way width of forty (40) feet shall be established on internal private streets for the purpose of measuring setbacks. The right-of-way shall be maintained clear of all obstructions.

Internal private streets shall be constructed to the following minimum standards:

MOBILE HOME PARK STREET STANDARDS

1. Minimum typical section for access, entrance, or other connecting streets that do not abut mobile home sites and for streets that do abut mobile home sites where the lot frontage (measured at the mobile home setback line) is an average of 85 feet or greater.
2. Minimum typical section for all park streets that abut mobile home sites where the lot frontage (measured at the mobile home setback line) is an average of less than 85 feet.
3. General Design Notes:
 - a. Increase street width to 24 feet for streets that serve over 50 mobile home sites.
 - b. Pavement shall be prime and double seal bituminous surface treatment. Base shall be six inches of 21 or 21A aggregate base.
 - c. Maximum longitudinal street grade is 10 percent.
 - d. Minimum vertical stopping sight distance is 100 feet.
 - e. Minimum horizontal centerline curve radius is 250 feet.
 - f. Cul-de-sacs shall have a minimum radius of 45 feet measured to the edge of pavement.
 - g. Minimum radius of edge of pavement at intersections is 25 feet.
 - h. Roadside ditches shall be designed to contain the ten-year storm below the shoulder using Mannings "n" of 0.06 if lined with grass, or 0.015 if lined with concrete. Ditches may be grassed if the flow from the two- year storm does not exceed three feet per second for a Mannings "n" of 0.03. If the three foot per second velocity is exceeded, the ditches shall be paved with class A-3 concrete, four inches thick, to the depth of the ten-year storm. When the depth of the required roadside ditch (measured from the shoulder to the invert) exceeds 2.5 feet, the flow shall be piped in a storm sewer system.
 - i. Driveway entrance culverts and culverts crossing streets shall be designed to contain the ten-year storm below the road shoulder using the appropriate Virginia Department of Highways and Transportation (VDH&T) nomographs. When paved ditches are smoothly transitioned into the culverts, the culverts may be sized using Mannings formular. All culverts shall be concrete. Erosion control protection (VDH&T standard EC-1) shall be placed at culverts when the outlet velocity exceeds five feet per second. Driveway culverts shall be a minimum of 12 feet long.
 - j. Driveways shall be paved the same as streets to the right-of-way line. Aggregate base may be four inches thick.

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- k. Curb drop inlets shall be placed along the tangent portions of the street or at the points of curve at intersections. Curb drop inlets shall be sized and located to prevent overtopping of the curb during the ten-year storm. Curb drop inlets shall be VDH&T DI-3A, 3B, or 3C with a type "A" nose.
- l. Storm sewers shall be designed in accordance with VDH&T criteria.
- m. All construction and materials shall be in accordance with current VDH&T road and bridge standards and specifications.

5.3.8.3 RECREATIONAL REQUIREMENTS

See section 4.16 for recreation requirements.

5.3.8.4 PEDESTRIAN ACCESS

The requirements of section 32.7.2.8 shall be met. (Amended 10-3-01)

(§ 5.3.8.4, 12-10-80; Ord. 01-18(6), 10-3-01)

5.3.8.5 SERVICE AREAS AND ACCESSORY USES

Centrally located service buildings may provide common laundry facilities, office space for management and accessory uses as are customarily incidental to the operation and maintenance of a mobile home park. Consolidation of the service building and indoor recreational facilities is permitted. Other uses may be established in accordance with the regulations of the zoning district in which the park is located.

5.3.8.6 LIGHTING

All proposed exterior lighting shall be shown. Lighting shall be directed away from mobile homes, adjacent properties and roadways such that it does not create a nuisance or safety hazard and shall be shielded when necessary.

5.3.8.7 LANDSCAPING AND SCREENING

The requirements of section 32.79 shall be met. In addition, screening may be required in accordance with section 32.7.9.8(a) around the entire perimeter of the park, or part thereof, except where adequate vegetation already exists and a conservation plan has been submitted in accordance with section 32.7.9.4(b). (Amended 10-3-01)

(§ 5.3.8.7, 12-10-80; Ord. 01-18(6), 10-3-01)

5.4 (Repealed 3-5-86)

5.4.1 (Repealed 3-5-86)

5.4.2 (Repealed 3-5-86)

5.4.3 (Repealed 3-5-86)

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5.4.4 (Repealed 3-5-86)

5.4.5 (Repealed 3-5-86)

5.5 MOBILE HOME SUBDIVISIONS

5.5.1 PURPOSE

This provision is designed primarily to benefit those who wish to acquire ownership or equity in a lot and occupy the premises themselves, but who may find it undesirable or difficult to construct a conventional single-family dwelling. It is intended that conventional homes may be built in mobile home subdivisions and that owners of mobile homes in these subdivisions may improve, convert or change their residences from mobile homes to conventional dwellings.

5.5.2 APPLICATION

These regulations shall supplement and be in addition to the regulations of the district in which any such subdivision shall be located, except that no regulation which is by its nature inapplicable to mobile homes shall apply to mobile homes.

5.5.3 SPECIAL USE PERMIT REQUIRED

A mobile home subdivision may be established by the commission and the board of supervisors by special use permit obtained pursuant to section 31.0 of this ordinance.

5.5.4 MINIMUM SIZE OF MOBILE HOME SUBDIVISION

A mobile home subdivision shall consist of ten (10) lots or more.

5.5.5 SUBDIVISION CONTROL

All mobile home subdivisions shall conform to the requirements of Chapter 14 of the Code of Albemarle (Subdivision of Land), Chapter 17 of the Code of Albemarle (Water Protection); and all other applicable law.

5.5.6 APPLICATION PLAN REQUIRED

A preliminary subdivision plat shall be submitted as part of the application for a mobile home subdivision, and shall be reviewed by the site plan review committee. Following approval of the special use permit, and prior to the issuance of a building permit or any clearing of the site, a final plat shall be approved. (Added 3-5-86)

5.6 MOBILE HOMES ON INDIVIDUAL LOTS (Amended 3-5-86; 11-11-92)

While the Code of Virginia specifically provides for the restriction of mobile homes solely to mobile home parks among other regulatory provisions applicable to mobile home, Albemarle County, in an effort to provide for affordable housing for all residents, permits mobile homes to be

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situated on individual lots in certain zoning districts. To ensure usage of such mobile homes for residential purposes, the following regulations shall apply:

- a. Such mobile home shall be located on a foundation approved pursuant to the Virginia Uniform Statewide Building Code;
- b. Such mobile home shall not be used for any purpose other than a primary place of residence.

5.7 TEMPORARY MOBILE HOME PERMIT

Temporary mobile home permits may be authorized by the zoning administrator provided the mobile home is used only as an interim means of housing during construction of a permanent dwelling. The mobile home shall be removed within thirty (30) days of issuance of a certificate of occupancy for the permanent dwelling. Temporary mobile home permits shall be subject to the following conditions:

- a. Albemarle County building official approval;
- b. The applicant and/or owner of the subject property shall certify as to the intent for locating the mobile home at the time of application;
- c. Minimum frontage setback and side and rear yard setbacks shall be determined by the zoning administrator;
- d. Provision of potable water supply and sewerage facilities to the reasonable satisfaction of the zoning administrator and the local office of the Virginia Department of Health.

5.7.1 EXPIRATION, RENEWAL

Any permit issued pursuant to section 5.7 shall expire eighteen (18) months after the date of issuance unless construction shall have commenced and is thereafter prosecuted in good faith. The zoning administrator may revoke any such permit after ten (10) days written notice, at any time upon a finding that construction activities have been suspended for an unreasonable time or in bad faith. In any event, any such permit shall expire three (3) years from the date of issuance; provided, however, that the zoning administrator may, for good cause shown, extend the time of such expiration for not more than two (2) successive periods of one (1) year each. (Amended 6-3-81)

5.8 TEMPORARY NONRESIDENTIAL MOBILE HOMES

A temporary nonresidential mobile home may be authorized by the zoning administrator provided the mobile home is necessitated to provide additional space for employees, students or other people and is to be an activity area as opposed to being employed for storage purposes or equipment which could be accommodate in an accessory structure. Such mobile home shall be located on the same site as the main established use for which additional space is needed. In the event of the expansion of the main permanent structure, the mobile home shall be removed within thirty (30) days of issuance of a certificate of occupancy for the permanent structure. Temporary nonresidential mobile home permits shall be subject to the following conditions: (Amended 12-5-90)

- a. Administrative approval of site development plan after submittal to site review committee; (Amended 12-5-90)
- b. Albemarle County building official approval;

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- c. The applicant and/or owner of the property shall certify as to the intent for locating the mobile home at the time of application;
- d. Skirting to be provided from ground level to base of mobile home within thirty (30) days of the issuance of a certificate of occupancy. (Added 3-5-86)

5.8.1 EXPIRATION, RENEWAL

Any permit issued pursuant to section 5.8 shall expire three (3) years after the date of issuance unless expansion of the main permanent structure shall have commenced and is thereafter prosecuted in good faith.. The zoning administrator may revoke any such permit after ten (10) days written notice, at any time upon a finding that construction activities have been suspended for an unreasonable time or in bad faith. In any event, any such permit shall expire three (3) years from the date of issuance; provided, however, that the zoning administrator may, for good cause shown, extend the time of such expiration for not more than two (2) successive periods of one (1) year each. (Amended 12-5-90)