

ARTICLE 4 Supplemental Use Regulations and Standards

4-1 Accessory Uses and Structures

4-1.1 Authorization

Accessory uses and structures are permitted in any zoning district, unless qualified below. Accessory uses and structures shall be permitted only in conjunction with, and incidental to, a principal use or structure, except as exempted in section 4-1.3.

4-1.2 Permitted residential accessory uses and structures, allowed only in conjunction with, and incidental to, a principal use or structure.

Accessory uses and structures shall be limited to the following residentially related uses and structures and to any other use or structure the zoning administrator determines to be similar in scope, size and impact as those listed herein, and are in compliance with all other provisions of this chapter.

4-1.2.1 Permits are typically required prior to installation:

1. Above-ground deck
2. Fallout Shelter
3. Freestanding air conditioning unit
4. Patio, porch, gazebo
5. Private garage, carport
6. Private greenhouse
7. Private swimming pool and bathhouse
8. Private tennis court or outdoor recreational court
9. Radio or satellite antennas, freestanding or on roof, setback from required yards a minimum of one (1) foot for each one (1) foot in height
10. Storage shed, for personal, noncommercial use, and clearly subordinate to principal structure. Not more than two storage sheds may be placed on any single residential lot
11. Studios and workshops without outdoor display for personal use, and clearly subordinate to the principal structure
12. Solar power panels and windmills
13. Accessory dwelling in accord with Article 4
14. Driveways and parking for motor vehicles, any type of surface, subject to Article 5
15. Temporary family health care structure in accord with Section 4-10.

4-1.2.2 Permits are typically not required for installation:

1. Clothesline
2. Pet houses, pens, runs hutches for commonly accepted pets but not kennels
3. Storage, outdoor, provided such storage area is located on the rear half of the lot; is screened from view from the first story window of any

neighboring dwelling; and the total area for such outside storage does not occupy more than 100 square feet

4. Enclosed areas devoted to collection of recyclable materials generated by the principal use
5. School bus shelter or bus stand
6. Playhouse for children, not to exceed 100 square feet in gross floor area or 6 feet in height, and children's play equipment
7. Family day-care homes with fewer than 6 children are permitted by right, but family day-care homes with 6 to 12 children are only permitted as provided in the applicable zoning district, as specified in Article 2.

4-1.3 Permitted residential accessory uses and structures, allowed absent a principal use or structure.

Land disturbance shall be limited to the area that is reasonably necessary for establishment of the allowed accessory use.

4-1.3.1 Permits are typically required prior to installation:

1. Private well for a single dwelling unit (Site plan engineered by design professional is required for installation prior to principal structure. Placement of features and structures shall be as defined by the Virginia Department of Health and the Land Use Administration office.)
2. Community water facilities, in accord with Article 4
3. Private septic system for a single dwelling unit (Site plan engineered by design professional is required for installation prior to principal structure. Placement of features and structures shall be as defined by the Virginia Department of Health and the Land Use Administration office.)
4. Gravel driveways and parking for motor vehicles, subject to Article 5
5. Water-dependent structures
6. Fence greater than six feet in height
7. Retaining wall
8. Gardening, exceeding 2,500 square feet (permits required for initial establishment of garden only)
9. One (1) accessory structure, 150 square feet or less in size, with electric permissible. Habitation of this structure is not allowed unless re-permitted as a principal structure.

4-1.3.2 Permits are typically not required for installation:

1. Gardening and composting, which is less than 2,500 square feet and outside the 100' Resource Protection Area
2. Fence or privacy wall that is six feet or less in height, arbor, trellis, barbeque equipment, statue, flagpole, hedges, gates and gateposts

4-1.4 Permitted commercial and industrial accessory uses and structures

Accessory uses and structures shall be limited to the following commercially and industrially related uses and to any other use or structure the zoning

administrator determines to be similar in scope, size and impact as those listed herein, and are in compliance with all other provisions of this chapter:

1. Administrative offices for the principal uses
2. Dumpsters and dumpster pads
3. Emergency power generators
4. Fence, flagpole, or wall
5. Freestanding air conditioning unit
6. Off-street Parking, loading spaces and parking structures, as permitted by Article 5
7. Recycling facilities
8. Storage sheds, clearly subordinate to principal structure
9. Stormwater management facilities, BMP facilities
10. Bus shelter or bus stand
11. Sculpture, fountain, and other outdoor decorative elements etc. clearly subordinate to principal structure
12. Solar power panels and windmills
13. Water-related structure
14. Private outdoor recreational courts or facilities for use by employees
15. Motor vehicle fuel tanks and pumping facilities as an accessory to an industrial or commercial use, provided that such facilities are private, not visible from a public roadway, and used solely to fuel company vehicles and equipment
16. Loading docks and bays
17. Signs, as permitted by Article 7
18. Accessory living quarters for watchman, guard, caretaker or custodian subject to Article 4

4-1.5 Accessory Use and Structure Limitations

- 4-1.5.1 Accessory structures shall be included in the calculation required by this ordinance for the purpose of complying with height, bulk and coverage regulations.
- 4-1.5.2 No accessory use or structure shall create a nuisance or hazard.
- 4-1.5.3 Accessory uses and structures shall be operated and maintained under the same ownership as the principal use.
- 4-1.5.4 All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which it is located.
- 4-1.5.5 Any allowance, approval, or permit issued, which authorizes an accessory use or other non-principal use and the like, may be rescinded, cancelled, nullified or terminated by the Administrator, in his sole discretion, if the privileges and activities pursued thereunder are violative of the ordinances, Land Use Administration policies, or detrimental to the health, safety, or general welfare of the citizenry.
- 4-1.5.6 If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal

building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building.

- 4.1.5.7 No barbed wire, electrical elements or other hazardous materials, and no unfinished concrete or cinder block or similar unfinished material shall be maintained as a fence or part of a fence or wall in a residential district or abutting a residential district or use, except in conjunction with bona fide agricultural uses in the A-C, RC, or A-1 districts. Underground "invisible" fencing shall be permitted.
- 4-1.5.8 Accessory uses or structures shall be located on the same lot or parcel as the principal structure or use except in Agricultural zoning districts, where accessory uses or structures may be located on a parcel that is under the same ownership as the parcel or lot upon which the principal use or structure is located.
- 4-1.5.9 No accessory use or structure shall be located in a required yard except as permitted in Section 4-1.5.10 and Section 4-1.5.11. The potential future location of reserve drainfields must be taken into consideration when locating accessory structures.
- 4-1.5.10 For any yard, including front yards, the following structures shall be permitted, provided applicable sight distance and fire safety requirements are met and maintained:
- A. Fences, provided that no fence in a front yard of a residential district shall exceed four (4) feet in height, nor shall it contain barbed wire.
 - B. Ground level terraces, patios or decks not over thirty (30) inches high, which do not include a permanently roofed-over terrace or porch.
 - C. Awnings or canopies, provided they do not project more than eight (8) feet from the existing building face.
 - D. Bay windows and overhanging eaves or gutters, projecting no more than four (4) feet into the yard.
 - E. Architectural features, chimneys, or the like, projecting a maximum of three (3) feet into any yard, provided that such projection does not reduce the width of a yard to less than three (3) feet.
 - F. Covered entry porches, enclosed or unenclosed, may project a maximum of four (4) feet, provided such projection does not reduce the width of the yard to less than three (3) feet.
 - G. Arbors and trellises not exceeding ten (10) feet in height, provided that such structures do not reduce the width of the yard to less than three (3) feet.
 - H. Flag poles.

- I. Recreational equipment, provided that such equipment does not reduce the width of the yard to less than three (3) feet.

4-1.5.11 For any yard except front yards of a lot of one acre or less in a residential district, and any yard of a waterfront lot except the rear yard between the principal structure and the water, the following structures are permitted, provided applicable sight distance and fire safety requirements are met and maintained:

- A. Clotheslines.
- B. Fences shall not exceed eight (8) feet in height in residential areas and shall not contain barbed wire. (also see Section 4-1.5.10 (A)).
- C. Balconies projecting a maximum of four (4) feet, provided they do not reduce the width of the yard to less than three (3) feet.
- D. In conjunction with single-family dwellings only, small sheds, pet houses and pens, provided that such structures:
 - (1) Are not in excess of one hundred fifty (150) square feet in floor area.
 - (2) Not in excess of twelve (12) feet in height.
 - (3) At least fifty (50) feet from any street right-of-way or private access easement at the front of the lot.
 - (4) At least twenty (20) feet from any street right-of-way or private access easement at the rear of the lot, except for street frontage setbacks.
 - (5) Decks exceeding thirty (30) inches in height may be permitted in rear yards provided that they are no closer than twenty (20) feet to a property line.

4-2 Temporary Uses

4-2.1 Purpose and Intent

There are certain uses that may be permissible on a temporary basis subject to the controls, limitations and regulations of this section. The following sections provide the procedures and criteria used by the Zoning Administrator in reviewing temporary use applications and issuing temporary zoning permits.

4-2.2 General Standards for Temporary Uses and Structures

No temporary use or temporary structure shall be permitted unless it is determined that the following requirements are met. It shall be the applicant's responsibility to demonstrate compliance with these standards. The Zoning Administrator may impose reasonable conditions on the proposed use to ensure compliance with these standards or other applicable provisions of law.

- 4-2.2.1 Adjacent uses shall be suitably protected from any adverse effects of the use, including noise and glare.
- 4-2.2.2 The temporary use or structure shall not create hazardous conditions for vehicular or pedestrian traffic, or result in traffic in excess of the capacity of streets serving the use.
- 4-2.2.3 Adequate refuse management, security, emergency services, and similar necessary facilities and services shall be available for the temporary use, and all necessary sanitary facilities shall be approved by the appropriate health agency. Removal of temporary structures and all signs, materials and debris shall be guaranteed in writing and such structures shall be removed immediately upon termination of the activity, including, if deemed necessary by the Zoning Administrator, adequate bond to ensure such removal.
- 4-2.2.4 The site or structure or temporary structure is suitable for the proposed use, considering flood hazard, drainage, soils and other conditions which may constitute a danger to life, health or property.
- 4-2.2.5 The use or temporary structure shall not have a substantial adverse impact on the natural environment, including trees, ground cover and vegetation.
- 4-2.2.6 Permits shall be valid for a period not to exceed fourteen (14) consecutive days unless otherwise specified in 4-2.3, below, or extended by the Zoning Administrator, and each event or activity on a site shall be separated by a period of not less than twenty-one (21) consecutive days.
- 4-2.2.7 All temporary zoning permits shall be applied for at least thirty (30) days in advance of the event or function.

- 4-2.2.8 If the Zoning Administrator determines that potential impacts of the use or structure merit further review, he may refer the application to the Board of Supervisors for review and action.

4-2.3 Standards for Specific Types of Temporary Uses/Structures

4-2.3.1 Construction

Temporary buildings and storage of materials are permitted in conjunction with the construction of a building when located on the same parcel where the construction is taking place and when limited to the duration of the construction. However, the erection and occupancy of a temporary dwelling during the construction of a dwelling on the same lot requires a zoning permit, valid for a time period to be determined by the Zoning Administrator, to be issued concurrently with or after the issuance of the building permit. Construction of a house displayed for advertising purposes, not intended to be sold or occupied as a dwelling, whether in connection with a residential development or otherwise, shall not commence until a performance bond adequate to ensure the removal of the structure has been posted.

4-2.3.2 Temporary or Seasonal Sales

Temporary sales of produce, Christmas trees, fireworks, and other seasonal goods, may be permitted on application for a temporary zoning permit to the Zoning Administrator. Such permit may impose conditions necessary to alleviate any adverse impacts such as provisions for adequate on-site parking, public safety, fire safety, hours of operation, provision for sewage disposal, and other health and safety concerns the Zoning Administrator may deem necessary, and the posting of a bond to ensure timely removal of structures and materials and restoration of the area, if deemed appropriate. A temporary zoning permit for temporary sales shall be valid for a period not to exceed 45 days, unless extended, and shall require that all structures and materials be removed within such time period. At a minimum:

- A. Structures for temporary sales shall not exceed 400 square feet in floor area nor be closer than 35 feet to a right of way or prescriptive easement of a road.
- B. Entrances and exits to roads shall be clearly delineated, and located as to provide safe ingress and egress from roads and shall be channeled to prevent unrestricted access to and from the premises.
- C. No more than two (2) signs consistent with Article 7 of this Ordinance shall be permitted.
- D. Adequate off-street parking must be provided.

4-2.3.3 Special Events

- A. A temporary use permit for such special events that are planned for or which reasonably may be expected to attract more than 100 persons at any one

time, such as Carnival, Circus, Festival, Fair, Dog Show, Horse Show, Outdoor Retail Sales Event, Fireworks Show, Tent Revival or similar meetings shall be issued for not more than ten consecutive days, in any six (6) month period.

- B. No such activity shall be located closer than 300 feet to a residential use, unless the owner of the residential use grants express written permission in a form that can be reviewed and validated by the Zoning Administrator.
- C. Adequate provisions must be made for off-street parking, safe ingress and egress must be provided and approved by the Zoning Administrator.
- D. Special event are permitted only between the hours of 7:00 a.m. and 12:00 midnight. The Zoning Administrator may require that no activity, including set-up or knock-down of a carnival or circus, shall be permitted between 12:00 midnight and 7:00 a.m.
- E. Night operations shall be permitted only if there is a lighting plan approved by the Zoning Administrator which provides for safe lighting without excessive glare into residential areas or onto public streets.
- F. One temporary on-site sign, advertising the activity and two on-site directional signs for ingress and egress may be permitted in accordance with this Zoning Ordinance.
- G. The following special events are exempt from the requirements of this section (i.e., they may occur without a temporary zoning permit). Exempt special events, however, shall remain subject to all other applicable provisions of this Ordinance and the County Code, including, but not limited to standards governing noise control.
 - (1) Special events planned or reasonably expected to attract less than 100 persons at any one time.
 - (2) Special events occurring within, or upon the grounds of, a private residence, where the property owner receives no compensation for hosting the event and guests/attendees are not charged an admission fee.
 - (3) Any event sponsored in whole or in part by Westmoreland County or another political subdivision of the Commonwealth of Virginia;
 - (4) Any organized special events conducted at sites or facilities typically intended, used, and designed for such events. Examples of such exempt activities include, but are not necessarily limited to sporting events conducted on courses or fields intended and used for such activities; wedding services conducted at churches, country inns, banquet facilities/halls, reception halls, or similar facilities; wine tasting and wine tasting dinners at wineries whose facilities are designed for such events; conferences and similar events in facilities designed for such use.

4-2.3.4 Yard Sale/Garage Sale

Yard/garage sales may be permitted on a lot with a principal residential or agricultural use without a Zoning Permit, subject to the following limitations:

- A. Not more than one yard sale may be conducted on a lot every three months; for a total of not more than four (4) per calendar year.
- B. A yard sale shall not continue for longer than two days which shall be consecutive.
- C. Items offered for sale shall be used household goods or articles created or substantially processed on the premises by the residents thereof, and shall be the property of those residents.

4-3 Home Occupation Uses

4-3.1 Purpose and Intent

Home occupations are permitted in any dwelling unit subject to the limitations established herein. The purpose of these regulations is to encourage limited home based economic development, balanced with the need to protect and preserve the quality and character of residential subdivisions, rural areas and agricultural areas throughout the County. These standards are intended to ensure the compatibility of home occupations with other permitted uses, and to prevent excessive noise, traffic, nuisance, safety hazards and other potential adverse impacts of commercial uses conducted in residential or agricultural areas.

4-3.2 General Standards

The provisions of Section 4-3 shall in no way restrict or prohibit those principal uses allowed pursuant to Article 2, Base District Regulations, or to regulate activities such as home doctor offices, home professional offices, or family day-care homes for which there are specific permit provisions established in other sections of this Ordinance.

4-3.3. Minor Home Occupation Uses

Minor Home Occupation Uses are permitted by-right in all residential and agricultural zoning districts in residential dwellings and accessory structures provided the following requirements are met:

1. Only one person not a resident of the dwelling shall be employed on the premises in connection with the minor home occupation.
2. There shall be no visible exterior evidence of the conduct of the minor home occupation use and there shall be no on-premises signage.
3. No traffic shall be generated by such minor home occupation in greater volumes than would normally be expected in a residential neighborhood.
4. The minor home occupation use does not create a need for parking beyond normal dwelling unit needs.
5. The minor home occupation shall not create noise, vibration, glare, fumes, dust, smoke, or odors detectable to the normal senses off the premises. The minor home occupation shall not create visual or audible interference in any radio or television receivers off the premises.
6. The minor home occupation shall be secondary and incidental to the use of the dwelling unit and property for residential purposes and does not change the character thereof.
7. No goods shall be offered for sale onsite except for goods made onsite as part of the home occupation.

8. Visits of customers or clients coming to the property shall not cause the amount of traffic to the site to exceed what is normally associated with a residential use (10 vehicle trips per day total for the site).
9. No vehicles other than the private automobiles owned or leased by the bona fide residents of the dwelling may be stored or maintained at a property used for a minor home occupation. No vehicles with more than two axles shall be stored, parked or maintained as part of a minor home occupation.

4-3.4. Major Home Occupation Uses

Major Home Occupation Uses are permitted by special exception in residential dwellings and accessory structures, in certain residential and agricultural districts as specified in Article 2, subject to special exception approval and the standards enumerated herein. All Major Home Occupations shall meet and comply fully with the following performance standards, unless modified as part of the special exception approved by the Board of Supervisors. It shall be the applicant's responsibility to demonstrate compliance with these standards:

1. No more than two (2) persons other than members of the family occupying such dwelling shall be employed on the premises in connection with the major home occupation at any given time.
2. The only visible exterior evidence of the conduct of the major home occupation use shall be one, non-illuminated sign less than (4) square feet in size.
3. The major home occupation use shall be limited to no more than two (2) parking spaces beyond normal dwelling needs and all parking shall be accommodated on the property and off of the street.
4. Items offered for sale on premises as part of the major home occupation use are not purchased elsewhere in wholesale or large lots intended for resale or for retail sales.
5. The major home occupation shall be secondary and incidental to the use of the dwelling unit and property for residential purposes and does not change the character thereof.
6. A major home occupation shall not create noise, vibration, glare, fumes, dust, smoke, or odors detectable to the normal senses off the premises. The home occupation shall not create visual or audible interference in any radio or television receivers off the premises.
7. A major home occupation shall not have more than 2 customers or clients on site at any given time, especially in those cases in which several individuals may constitute a single client and customers and clients shall only be allowed on the premises between the hours of 7:00 AM and 7:00 PM.

8. No vehicles other than the private automobiles owned or leased by the bona fide residents of the dwelling may be stored or maintained at a property used for the major home occupation.

4-3.5 Duration, Renewal, and Revocation of Major Home Occupations Permits

1. All major home occupation permits shall remain valid for a period of three (3) years, or such longer or shorter time period specified by any applicable special exception conditions, unless one of the following occurs:
 - (a) Violation of this section, or the conditions of the permit.
 - (b) Failure to maintain a current County business license, if at any such time as the County issues business licenses.
2. The Zoning Administrator may revoke a home occupation permit for violation of this subsection or the conditions of the permit. Notice of such revocation shall be given in writing by the Zoning Administrator to the operator of the home occupation, by hand-delivery or certified mail, setting forth the reasons for the revocation, the date and time upon which the revocation is effective, and the appeals procedure. This provision shall not preclude the use of any other remedy as prescribed in Article 11 or by law with respect to violations of the provisions of the Zoning Ordinance.

4-4 Rural Small Businesses

4-4.1 Purpose and Intent

The purpose of this section is to allow residents in the AC and RC districts to locate and operate small-scale service, repair and contracting businesses, which preserve the rural and historic character of the districts and agriculture as an industry. The intent of this Section is to allow local, small-scale businesses to locate and operate at the owner's principal place of residence. It is not intended to permit franchises, branch facilities or other partial elements of larger enterprises that have other business facilities in other locations. Such larger scale enterprises, including expanding businesses which initially located in rural areas under the provisions of this Section, must locate in the County's industrial and commercial zoning districts where they will not adversely impact residential neighborhoods or agricultural activities.

4-4.2 Rural Small Business Uses

Small business uses that do not meet the criteria of a major or minor home occupation due to the need to store large scale equipment, supplies or heavy machinery, may be permitted in the AC and RC districts on lots of five (5) or more acres, subject to special exception approval, and based on the standards in Section 4-4.3. The following uses may be approved as rural small business in the AC and RC districts:

1. Farm Machinery Repair
2. Vehicle/Equipment Service Repair
3. Small Engine Repair
4. Contractors and contracting
5. Studios for fine arts and crafts.
6. Antique sales
7. Sale of any goods or items produced on the premises; no wholesale commercial businesses are permitted and no retail sales of items produced off-site
8. Limited personal repair services
9. Blacksmith Shop

4-4.3 Rural Small Business Use Standards

To be deemed a Rural Small Business, all activities of the Rural Small business shall meet and comply fully with the following lot size requirements and performance standards, unless modified as part of the special exception approved by the Board of Supervisors. It shall be the applicant's responsibility to demonstrate compliance with these standards:

4-4.3.1 Restrictions Based on Parcel Size

	5.0 to 9.9 acres	10.0 to 49.9 acres	50 or more acres
Max. employees	3	4	8
Heavy Equipment	None	2	4
Business Vehicles (on-site)	2	4	6
Accessory Structures	2,500 square feet maximum	5,000 square feet for the first 10 acres plus an additional 1,000 square feet for each additional 10 acres not to exceed 10,000 square feet	5,000 square feet for the first 10 acres plus an additional 1,000 square feet for each additional 10 acres not to exceed 10,000 square feet
Storage Yard	2,500 square feet maximum	5,000 square feet for the first 10 acres plus an additional 1,000 square feet for each additional 10 acres not to exceed 10,000 square feet	5,000 square feet for the first 10 acres plus an additional 1,000 square feet for each additional 10 acres not to exceed 15,000 square feet

- 4-4.3.2 All storage yards shall be screened from view using opaque screening materials.
- 4-4.3.3 The maximum height of accessory structures shall not exceed that permitted for accessory structures by the applicable AC or RC zoning district regulations.
- 4-4.3.4 Notwithstanding accessory structure limitations in 4-4.3(A), 100 percent of an existing farm structure may be used for rural small business purposes.
- 4-4.3.5 All accessory buildings or storage yards of less than 2,500 sq. ft. for uses allowed under this Section shall be set back a minimum of 100 feet from all lot lines.
- 4-4.3.6 All accessory buildings or storage yards in excess of 2,500 sq. ft. for uses allowed under this Section shall be set back a minimum of 300 feet from all lot lines.
- 4-4.3.7 All accessory building or storage yards used for the storage of heavy equipment under this Section shall be set back at least 300 feet from all lot lines and 500 feet from existing residential dwellings.
- 4-4.3.8 All businesses which use, or store on site, heavy equipment shall access a paved or all-weather state-maintained road.
- 4-4.3.9 Signs for rural small businesses shall not exceed six (6) square feet.

4-4.3.10 Parking must be provided in accordance with Article 5 when employees and customers are to be on the premises. Parking areas shall be screened to comply with the requirements of Section 6-7.4. No parking shall be permitted in a required yard or setback.

4-4.3.11 All exterior lighting must comply with the standards of Article 4

4-4.3.12 The use must comply with the noise standards of Chapter 22, Article IV of the County Code.

4-5 Use Specific Regulations

The following additional regulations apply to specific uses as set forth below. These are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply, or for additional conditions that may be imposed in connection with special exception or rezoning approvals.

Unless otherwise specified, the following additional regulations may be modified by Special Exception in accordance with the provisions of Article 10.

Modifications may be approved by the Board of Supervisors upon a finding that such modification to the regulations will achieve an innovative design, improve upon the existing regulations, preserve the County's historic heritage, or otherwise exceed the public purpose of the existing regulation. No modification may be granted to any of the underlying zoning district regulations.

4-5.1 Bed and Breakfast establishments and Country Inns

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

4-5.1.1 Bed and Breakfast Homestay.

- A. The owner of the premises shall reside in and manage the establishment.
- B. The establishment shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
- C. Up to five (5) guest rooms may be provided for paying guests.
- D. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in Section 4-2.

4-5.1.2 Bed and Breakfast Inn

- A. The owner or manager shall provide full-time management of the establishment at all times when the facility is occupied by one more guests.
- B. The establishment shall not contain restaurant facilities, but may provide food service for transient, overnight guests only.
- C. Up to fifteen (15) guest rooms may be provided for paying guests.
- D. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in Section 4-2.
- E. The establishment shall be located on a public road, and the site shall have safe access from the public road.

4-5.1.3 Country Inn

- A. The owner or manager shall provide full-time management of the establishment at all times when the facility is occupied by one (1) or more guests.
- B. The establishment may contain full-service restaurant facilities that provide meal service to guests and to the general public.
- C. Up to thirty (30) guest rooms may be provided for paying guests.
- D. Outdoor events such as weddings, receptions, and similar activities may be conducted for compensation subject to the provisions for temporary uses set forth in Section 4-2.
- E. The establishment shall be located on a public road, and the site shall have safe access from the public road.

4-5.2 Reserved.

4-5.3 Intensive Agriculture

Intensive Agricultural Uses, as defined in Article 16, may be permitted by-right in the Agricultural A-1 District, Agricultural Conservation (AC) District, and in the Rural Conservation (RC) District subsequent to approval of a Special Exception approved by the Board of Supervisors in accordance with Article 10, and subject to the following minimum standards and requirements:

4-5.3.1 Required Minimum Acreage for Intensive Agriculture

The minimum number of acres on which an intensive livestock, dairy or poultry facility may be established shall be as follows:

- A. For Intensive Poultry Facilities the minimum acreage size shall be fifty (50) acres or the number of acres required by the nutrient management plan as provided for in subsection 4-5.3.3 whichever is greater.
- B. For Intensive beef, swine or dairy cattle facilities, the minimum acreage size shall be one hundred (100) acres or the number of acres required by the nutrient management plan as provided for in subsection (16)(g), whichever is greater.
- C. All such acres required to meet the minimum acreage as defined in 4-5.3(A)1 and 4-5.3(A)1 2. for any one intensive facility or operation need not be contiguous provided that all of the minimum required acreage is in the same ownership, or the operator has a written agreement with the landowner acceptable to the county, for use and access to the land in accord with the provisions of the approved nutrient management plan and provisions of this section.
- D. Intensive facilities of all types which are in operation as of the effective date of this chapter which do not meet the acreage requirements set forth herein

shall be considered nonconforming uses, subject to the provisions of Article 8 regarding nonconforming uses.

4-5.3.2 Required Setbacks for Intensive Agriculture

Except for existing dairy operations and beef cattle feedlot operations specified below, all intensive livestock, dairy or poultry structures, as defined herein, shall be set back from any existing use at the time of establishment of the intensive agriculture operation or facility, as follows:

- A. Setback from an existing dwelling in the Agriculture A-1, Agricultural Conservation (AC) or Rural Conservation (RC) districts not owned by the operator: One thousand (1,000) feet for swine, three hundred (300) feet for all other animals.
- B. Setback from an existing dwelling in a residential district: One thousand (1,000) for swine, five hundred (500) feet for all other animals.
- C. Setback from existing churches, platted residential subdivisions, residential zoning districts, mobile home parks, public or private schools, parks, playgrounds, incorporated towns, public water facilities such as impoundments, wells or treatment plants: One thousand (1,000) feet.
- D. Setback from property lines and public rights-of-way: One thousand (1,000) feet for swine, three hundred (300) feet for all other animals.
- E. Setback from an existing river or perennial stream, perennial springs, private wells: Five hundred (500) feet, which may be reduced to one hundred (100) feet if a planted grass filter strip at least fifty (50) feet in width is maintained. The setback from intermittent streams (streams and springs as identified by U.S. Geological Survey) shall not be less than one hundred (100) feet. No intensive livestock facilities or structures shall be located within the floodplain as defined herein.
- F. The setbacks for intensive livestock, dairy, poultry structures shall be applied to all new free-standing structures. The setbacks for intensive livestock, dairy, poultry structures shall be applied to additions to existing structures if these existing structures were designed for fewer than fifty (50) Animal Units (as determined by the County Extension Agent based on Best Management Practices) or if they housed a livestock species different from that proposed in the intensive facility. The setbacks for intensive livestock, dairy, poultry structures for additions to existing structures that were designed for more than fifty (50) Animal Units may be less than as specified in Sections 4-5.3(B)1 thru 4-5.3(B)5 above, but shall be not less than the setback of the existing structures or fifty (50) feet, whichever is less.
- G. Setbacks from existing livestock, dairy or poultry facilities for any new dwelling not owned by the operator shall be set back from all existing livestock, dairy or poultry structures a minimum of one thousand (1,000) feet.

4-5.3.3 Administration, Review, and Enforcement Procedures for Intensive Agricultural Operations

- A. A zoning permit shall be required for any intensive agricultural operation. To obtain a zoning permit, operator or potential operator shall submit an Intensive Agriculture Development Plan to the Zoning Administrator. Within thirty (30) days of acceptance of the plan, the zoning administrator shall review it and either approve the plan or provide the applicant with a written description of the portion(s) of the plan that do not comply with this chapter. The Intensive Agriculture Development Plan development plan submitted by the applicant/operator shall include the following:
 - (1) the number, size, and location of livestock, dairy, or poultry structures, and number of associated animals planned for the subject parcel;
 - (2) a surveyed plat showing all required setbacks verifying the accuracy of the distances shown in the development plan;
 - (3) a copy of the approved Nutrient Management Plan for the intensive facility and any subsequent revisions;
 - (4) a written statement, sworn to and subscribed before a notary public, by which the owner/operator certifies to the zoning administrator that the intensive facility shown in the development plan meets all applicable requirements of this ordinance.

- B. A zoning permit shall be required for any intensive agricultural operation in a Rural Conservation (RC) district and shall only be issued subsequent to approval of a Special Exception by the Board of Supervisors in accordance with Article 10. A copy of the approved Nutrient Management Plan and approved special exception plat for the intensive agricultural facility shall be filed with the zoning permit application.

- C. After the effective date of this chapter, no intensive agricultural facility shall commence operation until a nutrient management plan for the proposed facility has been prepared by the applicant and reviewed and approved by the Virginia Cooperative Extension Service, or the Virginia Department of Conservation and Recreation, or by another agency designated by the State. Such plans may also be reviewed by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner, if permitted by state regulation. Such plans shall be reviewed and updated every three (3) years by the Virginia Cooperative Extension Service, or the Virginia Department of Conservation and Recreation or by a person certified or employed by the Commonwealth of Virginia as a nutrient management planner.

4-5.4 Farm Machinery Sales, Rental and Service; Farm Machinery Repair

Farm Machinery Sales, Rental, Service and Repair establishments may be permitted in accordance with the list of permitted and special exception uses for the individual zoning districts, subject to the following additional criteria:

- 4-5.4.1 The establishment shall be located on a paved, state-maintained road not more than 1,000 feet from a primary state road.
- 4-5.4.2 Buildings shall be set back a minimum of 75 feet from all property lines.
- 4-5.4.3 Parking, driveways (other than entrance) and storage yards shall be set back a minimum 75 feet from the property line along any road frontage, and a minimum of 50 feet from all other property lines.
- 4-5.4.4 Accessory retail sales shall be limited to farm and garden equipment parts and related tools and accessories. In no case shall the floor area devoted to the display and sale of such related tools and accessories be more than 15% of the floor area of the building site. No other non-farm equipment sales shall be permitted, including, but not limited to, lumber, hardware, building materials, or like items.
- 4-5.4.5 No structure shall be located within 500 feet of an existing residential structure.
- 4-5.4.6 The total Floor Area Ratio for all structures shall not exceed 0.1.

4-5.5 Wayside Stands

Seasonal or year round wayside stands permitted in accordance with the list of permitted and special exception uses for the individual zoning districts, shall require a zoning permit and shall be subject to the following standards:

- 4-5.5.1 Structures for wayside stands shall not exceed 400 square feet in floor area nor be closer than 35 feet to the front property line or side property line adjoining a street and no closer than ten (10) feet to any lot line abutting a residential use.
- 4-5.5.2 Entrances and exits shall be so located as to provide safe ingress and egress from roads and shall be channeled to prevent unobstructed ingress and egress to the premises.
- 4-5.5.3 Adequate off-street parking shall be provided.
- 4-5.5.4 Sales shall be limited to the sale of agricultural products grown on the same property, or an adjacent agricultural property under same ownership, or for the sale of products of approved home occupations conducted on the same property.
- 4-5.5.5 Notwithstanding the provisions of Article 7, a wayside stand may have one (1) building mounted sign which does not exceed ten (10) square feet in area, mounted flush against the stand.

4-5.6 Manufactured/Mobile Homes

Manufactured/Mobile Homes are permitted in accordance with Article 2 and, subject to issuance of a zoning permit subject to the following specific use limitations:

4-5.6.1 Residential Use of Manufactured /Mobile Home

Individual Manufactured/Mobile Homes permitted in the Agricultural Conservation (AC) and A-1 Districts for single family residential use shall meet the following requirements:

- A. The manufactured/mobile home shall be on a permanent foundation with transportation tongue and axles removed;
- B. The manufactured /mobile home shall meet all zoning standards applicable to conventional, site-built family dwellings within the AC and A-1 Districts.
- C. Skirting requirements and other applicable manufactured housing regulations of the Virginia Uniform Statewide Building Code shall be met.

4-5.6.2 Temporary Use of Manufactured /Mobile Homes

Temporary or Emergency Use of Manufactured/Mobile Homes shall be permitted as follows:

- A. Emergency use of an individual Manufactured /Mobile Home shall be allowed in all residential districts where a natural disaster or fire has destroyed or damaged normal dwelling. A temporary manufactured/mobile home permit, valid for a period to be determined by the Zoning Administrator, shall be required prior to the placement of the manufactured/mobile home. The Zoning Administrator may grant one (1) extension of the time period of up to six (6) months.
- B. Individual manufactured/mobile homes shall be permitted as temporary offices or storage structures (not for permanent residential use) in business, industrial or residential districts in the construction phase of buildings or other construction projects in such districts. A temporary manufactured/mobile home permit shall be required prior to the placement of the manufactured/mobile home and the Zoning Administrator shall set the time period that such use is permitted. The zoning administrator may grant one (1) extension of the time period of up to six (6) months.
- C. Manufactured/mobile home parks may be permitted on a temporary basis, subject to special exception by the Board of Supervisors and provided the following conditions and others as may be established by the Board are met:

- (1) The applicant shall certify that the temporary manufactured/mobile home park is necessary for housing transient agricultural workers.
- (2) A minimum area of two thousand (2,000) square feet shall be provided for each manufactured/mobile home.
- (3) Sanitary facilities shall conform to the State Health Department's "Trailer Camp Sanitation" requirements unless herein otherwise provided.
- (4) The period for operating such a temporary park shall coincide with the anticipated period of the work. Applications for renewal may be submitted if more time is required to complete the project. However, such applications must be filed at least thirty (30) days prior to the expiration of the original special exception.
- (5) The County, in granting such a special exception, may require the posting of a bond with approved surety to assure that the temporary manufactured/mobile home park will be removed and the site left in good order at the expiration of the permit.

4-5.6.3 Prohibited Use of Manufactured /Mobile Homes

- A. A manufactured/mobile home shall not be used for the purpose of an accessory use, such as a separate storage facility except as permitted in 4-5.6.2. This subsection is not intended to prohibit a manufactured/mobile home for use as an accessory dwelling when otherwise permitted.
- B. An individual manufactured/mobile home shall not be attached to another manufactured home, travel trailer or single-family dwelling.

4-5.7 Secondary Residential Units - Accessory dwellings, tenant houses, Caretaker's dwelling, Business Related Residential Unit

4-5.7.1 Accessory Dwellings

Accessory dwelling units may be permitted in accord with the list of permitted and special exception uses for the individual zoning districts, subject to the following additional criteria:

- A. No accessory apartment or dwelling unit shall exceed 1,200 square feet in floor area.
- B. Only one (1) accessory dwelling unit shall be permitted on a lot meeting the minimum lot requirements of the zoning district in which it is located.

- C. Accessory units may be located within an accessory building, agricultural structure, or in the principal structure.
- D. All of the use limitations of Section 4-1.5 shall be met.

4-5.7.2 Caretaker Dwelling

Caretaker Dwellings, including quarters for guards and night watchman, shall be permitted in accord with the list of permitted and special exception uses for the individual zoning districts, subject to the following additional criteria:

- A. One (1) Caretaker Dwelling may be permitted in the AC, RC, or RR districts on parcels of 100 acres and above as an accessory to a residential use and in addition to any permitted accessory dwelling unit, guest house and/or tenant farm dwelling.
- B. One (1) Caretaker Dwelling may be permitted in the AC, RC, or RR districts on parcels of 50 acres and above as an accessory to a non-residential use.
- C. One Caretaker Dwelling may be permitted as an accessory to a non-residential use in business and commercial districts as permitted in Article 2. Such dwellings may be attached to or located entirely within a non-residential structure provided the portion of the building used for the Caretaker Dwelling meet all building code requirements for a residence.
- D. A Caretaker Dwelling may not be occupied until the principal use is occupied.
- E. The Caretaker Dwelling may be occupied exclusively by the caretaker and their immediate family.
- F. The Caretaker Dwelling residence may contain a maximum of 1,000 square feet of gross floor area.

4-5.7.3 Business Related Residential Use

The proprietor or manager of a business in a B-1 (BG) district may use a portion of a permanent building in which the business is conducted as a family residence provided that the portion of the building proposed for residential use meets all of the building code requirements for a single family residence. This provision does not apply to manufactured homes or other temporary buildings.

4-5.8 Group/Dormitory Housing for Farm Labor (Seasonal Labor Dormitory)

Seasonal or year round farm group labor uses permitted by special exception in the AC and RC districts shall comply with the following minimum standards:

- 4-5.8.1 The use shall be located on the site of active agriculture, horticulture or animal husbandry operations.

- 4-5.8.2 The minimum size of a group house/dormitory shall be based on a rate of 100 square feet per seasonal laborer housed, up to a maximum of 2,500 square feet.
- 4-5.8.3 Residents shall be employed on site at an on-going agriculture, horticulture or animal husbandry operation during their occupancy of the unit.
- 4-5.8.4 Dormitories/group housing shall be accessed by internal site roads and shall not have direct access to public roads.
- 4-5.8.5 Dormitories/group housing shall be set back 300 feet from off-site residential units.
- 4-5.8.6 Yards, berms, vegetative screening, fences or walls shall be provided to buffer adjacent properties and public streets from dormitory structures.
- 4-5.8.7 All dwellings shall have indoor sanitary and bathing facilities consistent with the sewer and water requirements of this Ordinance.
- 4-5.8.8 On-site parking shall be provided at a rate of .33 spaces per laborer All parking areas shall use a dust-free surfacing material and be screened from public view.

4-5.9 Clubs

Land shall not be used for club purposes except upon the issuance of a special exception as authorized under Article 2 - Base District Regulations of this ordinance. Each application for such a special exception shall show the type of club involved and shall be for club house use only unless additional facilities or uses related to the club are specifically requested by the applicant and approved as a condition of the special exception, if issued.

4-5.10 Hospitals

Hospitals are permitted in accord with the list of permitted and special exception uses for the individual zoning districts, shall be subject to the following minimum standards:

- 4-5.10.1 All hospital sites shall have frontage on a public, hard surfaced road capable of accommodating the traffic generated by the site.
- 4-5.10.2 Hospitals serving over one hundred (100) inpatients shall be served by central wastewater and central water systems.
- 4-5.10.3 Principal structures shall be set back a minimum of 100 feet from property lines or shall meet the minimum yard setback requirements of the district within which it is located or the adjacent district setback requirements, whichever are greater.

- 4-5.10.4 Accessory structures and parking shall be set back a minimum of 75 feet from any rights-of-way, private access easements, and property lines which adjoin agricultural or residential districts, or shall meet the minimum yard setback requirements of those adjoining districts, whichever are greater.

4-5.11 Commercial Kennels, Veterinary Clinics and Animal Hospitals

Commercial Kennels, Veterinary Clinics and Animal Hospitals permitted in accordance with the list of permitted and special exception uses for the individual zoning districts, shall be subject to the following minimum standards:

- 4-5.11.1 Indoor Commercial Breeding or Boarding Kennels and all Veterinary Clinics and Animal Hospitals shall be air-conditioned and be constructed of sound absorbing materials so as not to create undue noise at adjacent property lines.
- 4-5.11.2 Kennel and boarding facilities (including those associated with a veterinary clinic or animal hospital) shall be at least 200 feet from any residential property line, if fully enclosed, or 500 feet from any residential property line, if not fully enclosed. In all cases, animals shall be confined in the fully or partially enclosed structure from 9:00 p.m. to 6:00 a.m. In exceptional cases, the animal may be briefly escorted outside by kennel staff during the hours of enclosed confinement. All animals shall be kept in pens designed and maintained for humane and secure confinement.
- 4-5.11.3 Kennels and veterinary clinics or animal hospitals offering boarding services shall have a fenced exercise area.
- 4-5.11.4 The hours of operation for commercial breeding and boarding kennels (including those associated with a veterinary clinic or animal hospital) shall not be earlier than 7:00 a.m. or later than 9:00 p.m.

4-5.12 Camps

Day camps and boarding camps permitted in accordance with the list of permitted and special exception uses for the individual zoning districts, shall be subject to the following minimum standards:

- 4-5.12.1 The minimum lot size requirement shall be twenty (20) acres.
- 4-5.12.2 No structure or campsite or related athletic facility shall be located closer than 100 feet to any property line.
- 4-5.12.3 No permit shall be issued for such use until the applicant has furnished evidence that the proposed development meets all applicable State and local health department requirements.
- 4-5.12.4 All parking and loading areas shall be effectively screened.

4-5.13 Campgrounds – Tent Camping

Campgrounds permitted in accordance with the list of permitted and special exception uses for the individual zoning districts shall be subject to the following minimum standards:

- 4-5.13.1 The minimum lot size requirement shall be ten (10) acres.
- 4-5.13.2 No structure or campsite shall be located closer than 100 feet to any property line, or adjacent perimeter property lines, or state and county road right-of-ways.
- 4-5.13.3 No permit shall be issued for such use until the applicant has furnished evidence that the proposed development meets all applicable State and local health requirements.
- 4-5.13.4 Travel trailers and other residential vehicles are not allowed.
- 4-5.13.5 The only permanent structure allowed for residential use will be occupied by the resident owner or manager.
- 4-5.13.6 The facility shall have direct access to a road currently maintained by the State.
- 4-5.13.7 A minimum of 2,000 square feet per tent space shall be provided, and in no event shall more than 20 spaces per acre, on average, be permitted.
- 4-5.13.8 Each site or space shall be a minimum of 25 feet wide, and no unit shall be placed closer than ten (10) feet from the individual lot line of the space.
- 4-5.13.9 All sites shall have access to a potable water supply and communal toilet and bathing facilities that meet local and State health department standards and that comply with the sewer and water standards of this Ordinance. Pit privies are not permitted.

4-5.14 Travel Trailer Parks

Travel Trailer parks permitted in accordance with the list of permitted and special exception uses for the individual zoning districts shall be subject to the following minimum standards:

- 4-5.14.1 Both tents and recreational vehicles campers can be accommodated within a travel trailer park, but the park shall be designed for travel trailers.
- 4-5.14.2 The minimum lot size requirement shall be ten (10) acres.
- 4-5.14.3 No structure, campsite or recreational facility shall be located closer than 100 feet to any property line, or adjacent perimeter property

lines, or state and county road right-of-ways. All travel trailers and campers on each site shall be set back a minimum of 20 feet from all interior roads.

- 4-5.14.4 No permit shall be issued for such use until the applicant has furnished evidence that the proposed development meets all applicable State and local health department requirements.
 - 4-5.14.5 A minimum of 200' of road frontage on a paved state maintained road will be required.
 - 4-5.14.6 Each park shall provide electrical outlets at each individual site, one or more central travel trailer sanitary stations, and toilet and shower facilities.
 - 4-5.14.7 Accessory commercial uses are permitted, exclusively for the use of residents of the park (e.g. coin-operated laundry, convenience store, entertainment).
 - 4-5.14.8 A minimum of 3,000 square feet per vehicle space shall be provided, and in no event shall more than 10 spaces per acre, on average, be permitted.
 - 4-5.14.9 Each site or space shall be a minimum of 25 feet wide, and no unit shall be placed closer than ten (10) feet from the individual lot line of the space.
 - 4-5.14.10 All sites shall have access to a potable water supply and communal toilet and bathing facilities that meet local and State health department standards and that comply with the sewer and water standards of this Ordinance. Pit privies are not permitted.
 - 4-5.14.11 One permanent residential unit may be permitted for the resident owner or manager; campers, their tents and travel trailers may not reside in the park for more than fourteen (14) consecutive days.
- 4-5.15 Limitations on Vehicles and Vehicle Storage
- 4-5.15.1 Storage of Inoperable Vehicles
 - A. No inoperable vehicle shall be parked or stored outside a building for more than one (1) week on a lot of less than ten (10) acres in area in any residential or agricultural district. Not more than one (1) inoperable vehicle may be parked outdoors at a time on any lot greater than ten (10) acres in area in any residential district. Any vehicle not displaying current license plates and inspection validation certificate as required by Virginia law shall be construed as an inoperable vehicle. Not more than one (1) inoperable item of major recreational equipment shall be parked outdoors on any lot of less than ten (10) acres in area in any residential district. Multiple inoperable vehicles shall be permitted to be stored

only in a lawful automobile graveyard or in a lawful, licensed motor vehicle repair facility.

- B. Automobile graveyards shall completely screen all portions of the operation reserved for the storage, either temporary or permanent, of inoperable vehicles or portions thereof, on any sides open to view from a public road. Such screening shall be implemented through buildings, masonry wall, solid fencing, berming and/or double, staggered rows of evergreen hedge or some combination thereof to a height of six (6) feet or more, taking into account the topography of the land and the intent to screen the view from the public road.

4-5.15.2 Limitations on Parking of Vehicles in Residential Districts

- A. Parking areas in front yards shall be limited to the area contained in paved or gravel driveways.
- B. Parking of small cargo trailers and recreational vehicles or equipment in a residential district including but not limited to boats, boat trailers, camping trailers, travel trailers, motorized dwellings, tent trailers, houseboats and horse vans, are subject to the following limitations:
 - (1) Such equipment shall not be used for living, sleeping or other occupancy when parked or stored on a residential lot or in any other location not approved for such occupancy use.
 - (2) Such equipment six (6) feet or more in average height, not parked or stored in a garage, carport or other structure, shall not be located in any required front or side yard and shall be located at least three (3) feet from all buildings.

4-5.15.3 Limitations on Commercial Vehicles in Residential Districts

- A. The parking or storage of a commercial vehicle, or a container constructed for the transportation of cargo is prohibited in all residential districts, except that one (1) commercial vehicle with a manufacturer's rating of less than 1-1/2 tons may be parked on any lot on which there is located a principal building, provided that such vehicle is parked in an enclosed garage, accessory building, approved off-street parking area or behind the nearest portion of buildings to streets and is used by a resident of the premises. This regulation shall not be interpreted to prohibit commercial vehicles or containers from loading and unloading in any residential district.
- B. The following commercial vehicles are prohibited from overnight parking, regardless of ownership or occupancy.
 - (1) Garbage truck

- (2) Tractor or trailer or both
- (3) Dump truck
- (4) Tow truck
- (5) Passenger bus (excluding school buses)
- (6) Cement truck
- (7) Stake bed truck
- (8) Flat bed truck
- (9) Construction equipment, or
- (10) Fuel oil truck.
- (11) Septic Tank pump-out trucks

- C. Construction equipment and construction-related vehicles may be parked only during the duration of construction.
- D. The provisions of the subsections above shall not prohibit the overnight parking of any vehicle or equipment in rural residential and agricultural districts as long as such vehicles are used in bona fide agricultural operations.

4-5.16 Service Stations

- 4-5.16.1 Service stations shall not include ancillary uses such as vehicular or tool rental (including moving vans) and shall be limited to the servicing of vehicles and non-automotive accessory retail sales of snacks, convenience foods, and similar products.
- 4-5.16.2 Service stations shall not include an outdoor storage area for more than three (3) abandoned, wrecked or inoperable vehicles on the site for more than one week, subject to the limitation that there shall be no dismantling, wrecking, or sale of said vehicles or part(s) thereof.
- 4-5.16.3 Outside sales and display areas shall be shown on the plan to be reviewed by the Planning Commission and Board of Supervisors
- 4-5.16.4 No permit shall be issued for a service station if any part of any structure, including underground gasoline tanks or service aisles, is located within 100 feet of any building or grounds of a school, public playground, hospital, church, or public library or any residential district.

4-5.17. SEXUALLY ORIENTED BUSINESSES

This Section was adopted by the Board of supervisor on November 16, 2007 and became effective immediately.

4-5.17.1 Definitions.

The following words, terms and phrases, when used in title, shall have the following meaning:

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

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency or Service means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Live exhibition or performance means modeling, dancing or any similar activity which involves a person physically performing for the benefit of one or more other persons.

Nude means any state of dress less than seminude.

Obscene shall mean that which, considered as a whole, has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or products thereof or sadomasochistic abuse, and which goes substantially beyond customary limits of candor in description or representation of such matters and which, taken as a whole, does not have serious literary, artistic, political or scientific value; and specifically, any graphic, visual depiction, in any media or form of the human sex act or human sexual activity, including masturbation. (Va. Code Section 18.2-374)

Seminude means any state of dress with less than completely and opaquely covered pubic region, buttocks male and/or female; or the male reproductive organ at anytime in an aroused, erect or turgid state, whether covered or not; or female breasts below a point immediately above the top of the areolae, excepting any portion of the cleavage of the female breast exhibited by a dress, shirt, leotard, bathing suit or other wearing apparel provided the areolae are not exposed, but under no circumstances less than completely covered genitals, anus, or areolae of the female breast.

Sexual implements means any device used to imitate in appearance or function as human genitals or public regions, or any device designed to be inserted in or attached to specified anatomical areas as defined herein for the purposes of enhancing a sexual act.

Sexually oriented means regularly emphasizing, through performance, displays, merchandise or otherwise, an interest in matter relating to specified sexual activities or specified anatomical areas as defined herein or is intended for the sexual stimulation or titillation of patrons; or which appeal to the prurient interests.

Sexually oriented business means any business providing sexually oriented merchandise or entertainment or any other establishment, including but not limited to: any sexually oriented modeling studio; sexually oriented cocktail lounge or sexually oriented nightclub; sexually oriented entertainment establishment which features, on a regular basis, live performances involving persons who are nude or seminude, including a strip lounge, adult club, lounge, restaurant, or similar place which features topless dancers, go-go dancers, exotic dancers, strippers or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities as defined herein; sexually oriented motion picture theater where, for any form of consideration, films (which term shall also include videotapes and other comparable technology) containing specified sexual activities or specified anatomical areas (sexually oriented films); movie arcade to which the public is admitted and in which a moving picture, film or videotape viewing device is operated; massage parlor where manipulation of body tissues for any purpose is conducted and the owners and employees are not a physician, chiropractor, osteopath, naturopath or physical therapist duly licensed by the Commonwealth, nor a massage

therapist certified by the State Board of Nursing; and/or any sexually oriented bookstore/videostore which offers for sale, rental or viewing for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides, CD's, DVD'S, virtual reality or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

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

Specified anatomical areas means such areas include less than completely and opaquely covered human genitals, pubic region, buttocks, female breast below a point immediately above the top of the areola, and human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities means such activities include human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, and fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

Viewing area means any location within a sexually oriented motion picture theater or arcade where a patron, customer, or employee of the movie arcade or any other person would ordinarily be positioned while watching a moving picture, film or videotape viewing device in operation.

4-5.17.2 Permitted uses.

The following may be permitted by special exception permit within the Industrial General (2-9) or Planned Industrial Park (2-10) Zoning Districts, only and then only if approved by the Board of Supervisors in accordance with the procedures, guidelines, and standards of Section 5.4, of the Westmoreland County Zoning Ordinance, as amended from time-to-time:

All sexually oriented businesses shall comply with the following standards:

- A. No such regulated use shall be permitted:
 - 1. Within 1,000 feet of any other existing adult entertainment establishment; or,
 - 2. Within 2,000 feet of any existing residential use or residentially zoned district, or any of the following residentially related uses:
 - a. churches, chapels, or synagogues or other places of religious worship;
 - b. schools and their adjunct play areas and school board property;
 - c. playgrounds, swimming pools, parks and libraries;
 - d. daycare facilities or infant care;

- e. nursing homes; and/or
- f. hotels, motels, inns, lodging houses and bed & breakfasts.

B. Spacing distances.

For the purpose of subsection A, spacing distances shall be measured, as follows:

- 1. From all property lines of any "regulated use".
- 2. From the outward line or boundary of any residentially zoned district.
- 3. From all property lines of any residential or residentially related use.

C. Hours regulated

No sexually oriented business shall begin service to the public or any outside activity before 9:00 o'clock a.m., nor extend any outside activity or hours of service after 11:00 o'clock p.m.

4-5.17.3 Exhibition of films.

It shall be unlawful for any person to own, operate, or cause to be operated a sexually oriented business that shows films or visible depictions of sexually oriented materials, unless all viewing areas within such movie arcade are visible from a continuous main aisle or other point of observation ordinarily accessible to the public and are not obscured by any curtain, door, wall, or other enclosure.

Obstruction of viewing area. No viewing area on the premises of a sexually oriented business shall be obstructed from the remainder of the establishment's interior by curtains, doors, walls, display racks or any other permanent or temporary enclosure.

Employee required to be on premises. At least one (1) employee, in addition to any persons providing live exhibitions or performances, must be on duty on the premises of an sexually oriented business at all times that any patron, customer or member of the audience is inside the business, and such employee must have a direct line of sight of any viewing area during any live exhibition or performance.

Prohibited Nudity. Any person appearing on the premises of a sexually oriented business who is nude or seminude must be at least five (5) feet from the nearest patron and must be on a stage which is at least twenty-four (24) inches above the floor.

4-5.17.4 Signs and other visible messages.

This use shall be permitted one (1) on-site freestanding sign not exceeding eight (8) square feet and shall be no more than four (4) feet in height as measured from ground level. All such signs shall be of a monument style having a base equal to the width of the sign, and shall comply with the following standards:

1. Signs:

- A. Sign messages shall be limited to verbal description of material or services available on the premises.

- B. Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.
 - C. Sign shall meet all applicable setback requirements of the underlying zoning district.
 - D. Building-mounted signs, to include any sign to be mounted to the building wall or roof, are prohibited.
2. *Other visible messages.* Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display materials, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentations of persons performing or services offered on the premises.

4-5.17.5 Discontinuance of operation.

Should any of the regulated uses listed above cease or discontinue operation for a period of ninety (90) or more consecutive days, it may not resume, nor be replaced by any other regulated use until it complies with the requirements set forth herein.

Section 4-5.17.6 Violations

1. Findings by the Zoning Administrator.

A finding by the zoning administrator of a violation of any of the provision of this Title shall be presumed to be correct unless the subject owner or operator rebuts the presumption by clear and convincing evidence.

2. Obscene materials and depictions.

The distribution of any obscenity as defined above is prohibited as a Class I misdemeanor. (Va. Code Section 18.2-372 through 18.2-388)

3. Punishment for violations of this section.

- A. A violation of any provision of this section shall constitute a Class I misdemeanor, pursuant to Va. Code Section 18.2-11, as amended from time-to-time.
- B. *Responsibility of owner, manager or person in control.* The owner, manager or person in control of the premises of a sexually oriented business who knows or reasonably should know that a violation of this Section is occurring on the premises are in violation of this section, shall also be guilty of a Class I misdemeanor.

Sewer and Water Regulations

4-6.1 Purpose and Intent

The purpose of the following regulations is to protect the health, safety and welfare of the citizens of Westmoreland County by ensuring the provision of clean, healthy water and safe, effective means of sewage disposal. The intent of the following standards is to ensure that all new and existing development is served by a clean, sufficient potable water supply and an adequate, efficient and environmentally sound system of sewage treatment and disposal. Further, these standards are intended to ensure that all sewer and water systems in the County are operated and maintained in accordance with standards established by the Virginia Department of Health and the Virginia Department of Environmental Quality.

4-6.2 General Standards for Sewer and Water Service

4-6.2.1 All residential, commercial, and industrial uses of property shall be served with a supply of potable water in accordance with section 4-6.3 and with an approved method of sewage disposal in accordance with section 4-6.4 and in accordance with any specific sewer and water regulations imposed for the applicable zoning district in Article 2.

4-6.2.2 Property shall not be converted from a non-commercial use to a commercial use or from a non-industrial use to an industrial use until the applicant has provided evidence that potable water shall be supplied in accordance with section 4-6.3, and that sewage will be disposed of in accordance with section 4-6.4 and in accordance with any specific sewer and water regulations imposed for the applicable zoning district in Article 2.

4-6.2.3 No zoning permit shall be issued for new construction until the applicant has provided evidence that potable water shall be supplied in accordance with section 4-6.3 and that sewage will be disposed of in accordance with section 4-6.4 unless (i) the sole use of the proposed structure is for storage of equipment, supplies, and materials related to an agricultural use and no sewage system is being provided, or unless (ii) the proposed, accessory structure or building is limited to storage, use or similar accessory activities and no water or sewage disposal facilities are in place in the structure.

4-6.2.4 No zoning permit shall be issued to expand a principal structure more than 500 square feet of gross floor area or fifty percent (50%) beyond the size of the existing structure, whichever is less, until such development is served by a supply of potable water in accordance with section 4-6.3 and a method of sewage disposal in accordance with section 4-6.4. A zoning permit for expansions of structures or buildings of five hundred (500) square feet or more in areas served by central wastewater treatment works will only be issued if such structures are connected to the available treatment works. The size of existing structures shall be determined using the 2000 County reassessment data.

4-6.2.5 To preserve an adequate reserve drainfield area for structures not connected to a central wastewater treatment works and which lawfully existed prior to January 1, 2001, no zoning permit shall be issued for replacement dwellings or

structures, new construction, new structures or the expansion of any existing structure's footprint on a lot or parcel until the applicant searches for a reserve sewage disposal site meeting current standards of the Virginia Department of Health, preserves such reserve site if identified, and provides written confirmation from the Virginia Department of Health that the location of the new construction shall not result in the loss of reserve drainfield area.

- 4-6.2.6 Property that is within a service area for any central wastewater treatment system, as defined in Section 4-6.4, that is operated by a municipal corporation or governmental authority created and organized pursuant to the Virginia Water and Sewer Authorities Act or other similar enabling authority of the Code of Virginia and within two hundred (200) feet of the closest service line of such treatment works shall dispose of sewage by no other means than such central wastewater treatment works as referred to in this paragraph provided, however, that any building, structure or use having a private sewage disposal system meeting applicable standards under state and local law shall not be required to discontinue use of same nor shall connection be required when there is an existing on-site septic system that was applied for, permitted, and installed under the Health Department standards established effective July 1, 2000 or as later revised, was installed prior to the waste water treatment service being available, and the on-site septic system is suitable for the proposed use. Use of the on-site septic system allowed under this section may be continued until it fails to function properly as determined by the County in consultation with the Virginia Department of Health.

4-6.3 Water Supply Standards

4-6.3.1 Permitted Water Supply Types

Potable water supplies required pursuant to section 4-6.2 shall be provided by one of the following approved sources, subject also to the applicable provisions and limitations of Article 2:

- A. A private well properly permitted by the Westmoreland County Health Department pursuant to the Private Well Regulations of the Virginia Department of Health;
- B. A Central Water System approved by the Westmoreland County Health Department having more than one, but no more than three contiguous single family residential dwelling units connections as permitted by this code;
- C. Non-community Waterworks properly permitted pursuant to the Waterworks Regulations of the Virginia Department of Health; or
- D. Community Waterworks properly permitted pursuant to the Waterworks Regulations of the Virginia Department of Health.

4-6.3.2 Administration, Review, and Enforcement Procedures for water supply systems

Potable water supplies may be permitted in accordance with the following provisions and subject also to the applicable provisions of Article 2:

A. Private Wells

- (1) A private well is permitted following review and approval of a Zoning Permit.
- (2) Zoning Permit fees will not be charged for a replacement well.
- (3) The applicant for a Zoning Permit for the well shall provide a potable water supply as required by the Virginia Department of Health showing the required wellhead protection radius of 50 feet. The entire wellhead protection radius shall be contained within the area of the applicant's property, an existing public or private road right-of-way dedicated for public access, a waterbody, and/or a recorded easement or easements with all landowners encumbered under the wellhead protection radius.
- (4) A private well may be used to provide water to no more than three residential connections among lots or parcels when a privately owned and operated community waterworks is not available. Pools or irrigation shall not be included in determining the number of connections.
- (5) All unused, discontinued or abandoned wells shall be properly abandoned in accordance with the requirements of the Virginia Department of Health.

B. Central Water Systems, Community Waterworks, Non-Community Water Works

- (1) Application for a special exception is required for any newly constructed central water system serving more than three (3) single family homes, community waterworks or non-community waterworks that, shall include, at a minimum, the following information:
 - (a) Description of the service area, in narrative and map form. Once approved, such a waterworks shall not extend service beyond the approved service area without amending the existing special exception permit;
 - (b) Description of the level of service provided in terms of equivalent residential connections;
 - (c) Description of the operation and maintenance of the waterworks, subject to the provisions of the County Code, and the Virginia Department of Health.
- (2) The County may, as a component of a special exception approval for a community waterworks or non-community waterworks or central water system, require a third-party maintenance contract for such systems, impose additional operational standards for such systems beyond minimum standards required by the State and require surety bonds to ensure that systems are properly operated and maintained.

- (3) No setbacks shall be required for a private well, central water system well, non-community waterworks wells or community waterworks well used for a potable water supply other than those required pursuant to current regulations of the Virginia Department of Health-or as determined by the governing body. Minimum lot sizes shall apply to all privately owned and operated wells. Associated structures shall be subject to setback requirements.
- (4) The use of two or more non-community waterworks for new development is prohibited.
 - a. The Board of Supervisors may grant a Special Exception to this requirement after a public hearing advertised in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and Article 10 of this Ordinance, when the Board shall have made the following findings of fact:
 - i. That the use of more than one non-community waterworks is not requested so as to circumvent the requirements of a community waterworks,
 - ii. That there are unique physical characteristics of the subject property that make the use of a community waterworks cost prohibitive,
 - iii. That such an exception does not confer upon the applicant any special privileges that are denied by these requirements to other property owners, and
 - iv. That such an exception shall not be injurious to the neighborhood or detrimental to public health, safety, and welfare.
- (5) An existing State Health Department approved central water system serving more than three, community water system or non-community system shall not require special exception approval for the extension or expansion included in the original special exception approval.

4-6.4 Sewer Service Standards

4-6.4.1 Permitted Sewage Disposal Systems

The following types of sewer service may be permitted for new or existing development in accordance with the following provisions and subject also to the applicable provisions and limitations of Article 2:

- A. Conventional Sewage Disposal Systems as defined herein. -All Conventional Septic Disposal systems which are regulated by the provisions of this section shall operate in accordance with a permit issued by the Westmoreland County Health Department pursuant to the current regulations of the Virginia Department of Health and such permits shall be valid for year-round use.
- B. Alternative Sewage Treatment Systems as defined herein.
- C. Central Wastewater Treatment Systems, as defined here, which may be privately or publicly owned, and may be permitted subject to special exception approval where permitted by Article 2.

4-6.4.2 Administration, Review, and Enforcement Procedures for Sewage Disposal Systems

Sewage Disposal Systems may be permitted in accordance with the following provisions and subject also to the applicable provisions of Article 2:

- A. Conventional Sewage Disposal Systems
 - (1) A zoning permit shall be required for the installation of a conventional sewage disposal system and such systems shall comply with current regulations of the Virginia Department of Health unless otherwise permitted by that agency.
 - (2) Permits for conventional sewage disposal system which limit the use of the subject property to a specific portion of the year are prohibited. Additions to structures served by a conventional sewage disposal systems that was initially constructed subject to a seasonal or conditional sewage disposal permit are prohibited unless a year round use permit is issued by the Virginia Department of Health or the structure is connected to an available central wastewater treatment works. Changes in use to structures served by a conventional sewage disposal systems that was initially constructed subject to a seasonal or conditional sewage disposal permit shall only be to a less intensive use as determined by the County in consultation with the Virginia Department of Health and in consideration of occupancy and wastewater flow criteria unless such use is connected to an available central wastewater treatment works.

- (3) Conventional sewage disposal systems using a sewage disposal apparatus or drainfield located on a lot or parcel other than the one upon which the structure is located shall be referred to as a remote or off-site conventional sewage disposal system and shall be subject to each and all of the following conditions.
 - (a) The use of such remote or off-site conventional sewage disposal systems shall be limited to specific development types and uses pursuant to Article 2.
 - (b) The remote drainfield area or apparatus shall be subject to an easement in perpetuity appurtenant to the lot or parcel upon which the structure to be served is located in accordance with current regulations of the Virginia Department of Health.
 - (c) Easements for drainfield and other components of the remote conventional sewage disposal system shall be shown on a plat of survey prepared by a certified land surveyor, be recorded with the Clerk of the Circuit Court, and have permanent monuments set in the field.
 - (d) Access for sewage conveyance lines to reach the remote conventional sewage disposal system from the subject property shall be in an easement at least 15 feet in width and shall be shown on the plat which identifies the remote drainfield easement.
 - (e) When multiple conveyance lines are proposed to be installed in a single easement, such conveyance lines shall be installed at one time, shall be identified with magnetic tape, shall be permanently marked and color coded at 5 foot intervals for ease of identification and a copy of this color code shall be delivered to the Westmoreland County Health Department and to the Zoning Administrator.
 - (f) When multiple remote sewage disposal systems are located upon a common lot the area for each drainfield shall be at least twenty (20) feet from all other drainfields and twenty (20) feet from the property lines of the subject lot.
 - (g) Reserve drainfield areas amounting to 100% of the approved required area shall be provided in conjunction with approval of the required drainfield area.

B. Alternative Sewage Treatment System

- (1) Applications for a special exception for an alternative sewage shall include, at a minimum, the following information:

- (a) A site plan/special exception plat indicating, at a minimum, the following:
 - i. The location of all structures within one thousand (1,000) feet of the proposed alternative sewage treatment system.
 - ii. The location of all recorded subdivisions within one mile of the subject property.
 - iii. The location of all public swimming areas and primary contact areas, whether publicly or privately owned, within one mile of the subject property.
 - iv. The location of all authorized water withdrawals within one mile of the subject property.
 - v. The location of all permitted discharges within one mile of the subject property.
 - (b) A copy of any completed applications which will be or have been submitted to State regulatory agencies.
 - (c) Written verification from the Division of Shellfish Sanitation describing the status of the waters adjacent to any discharge point.
 - (d) A narrative which describes:
 - i. Sewage treatment process;
 - ii. Sensitivity of the process to irregular waste water flows and irregular use of household chemicals;
 - iii. Recommended maintenance requirements; and
 - iv. Proposed disinfection process.
- (2) The following conditions, at a minimum, shall apply to special exceptions for Alternative Sewage Treatment Systems granted pursuant to this section:
- (a) The lot or parcel upon which the alternative sewage treatment system is located shall be no less than ten (10) acres in size.
 - (b) All components of the alternative sewage treatment system, except the discharge structure, if any, shall be no less than one hundred (100) feet from all property boundary lines.
 - (c) Land application of treated sewage effluent is prohibited in the Resource Protection Area.

- (d) Alternative Sewage Treatment System discharge point(s) shall not be permitted if they result in the establishment or expansion of a shellfish buffer area or a condemnation of shellfish waters or grounds.
 - (e) Intermittent or recirculating sand filter systems used in conjunction with an alternative sewage treatment system shall be designed and installed such that their components are accessible for inspection and maintenance at all times.
 - (f) No proposed alternative sewage treatment facility will be approved if it involves the establishment of a buffer zone in any area within the Baylor Survey or which is leased by the Marine Resources Commission pursuant to an effective assignment of oyster planting ground and, further, that any certificates or permits granted by any governmental agency for the construction of an alternative sewage treatment plant be conditioned on the requirement that the owner of the facility make such modifications, additions and other improvements as may be required to maintain water quality standards established by the State Water Control Board or other appropriate governmental agency and to avoid the necessity of buffer zones in any such area or areas.
- (3) Any special exception approved by the Board of Supervisors for an alternative sewage treatment system shall not become effective until such time as all state or federal agencies with regulatory authority shall have issued all permits necessary to operate the proposed sewage treatment works, and transmitted copies to the Zoning Administrator as part of a complete zoning permit application.. Changes to the plans approved with the special exception, which are required by state or federal agencies shall not invalidate the special exception provided that all of the provisions of this Article are still satisfied, that any and all conditions placed upon the special exception by the Board of Supervisors are satisfied, and provided that the changes do not change the service area of the sewage treatment works or the discharge point(s).
- (4) The County may, as a component of a special exception approval for an alternative wastewater treatment system require a third-party maintenance contract for such systems, impose additional operational standards for such systems beyond minimum standards required by the State and surety bonds to ensure that systems are properly operated and maintained.

C. Central Wastewater Treatment Systems

- (1) Applications for a special exception for a central wastewater treatment system shall include, at a minimum, the following information:
- (a) A special exception plat indicating, at a minimum, the following:
 - i. The location of all structures within one thousand (1,000) feet of the proposed central wastewater treatment system.

- ii. The location of all recorded subdivisions within one mile of the subject property.
 - iii. The location of all public swimming areas and primary contact areas, whether publicly or privately owned, within one mile of any proposed discharge point.
 - iv. The location of all authorized surface water withdrawals within one mile of the proposed central wastewater treatment facility.
 - v. The location of all permitted discharges within one mile of the subject property.
 - vi. The service area of the central wastewater treatment system.
- (b) Sewage treatment works which utilize a discharge point, shall provide written verification from the Division of Shellfish Sanitation describing the status of the waters adjacent to the proposed discharge point.
- (c) Applications shall include a narrative describing the collection, treatment, and discharge methods and the specific legal and other documents for the ownership, operation, and maintenance of the proposed central wastewater treatment works.
- (2) The following conditions, at a minimum, shall apply to special exceptions for Central Wastewater Treatment Systems granted pursuant to this section:
- (a) Components of a central wastewater treatment system, with the exception of the outfall structure, shall not be permitted within a Resource Protection Area.
 - (b) Land application of treated sewage effluent shall not be permitted within a Resource Protection Area.
 - (c) Central wastewater treatment works shall have a clear and well-defined service area approved as a condition of the special exception. No service shall be provided beyond the approved service area without amending the existing special exception permit.
 - (d) Sewage treatment works which utilize a discharge point, shall provide written verification from the Division of Shellfish Sanitation describing the status of the waters adjacent to the proposed discharge point.
 - (e) No proposed central wastewater treatment facility will be approved if it involves the establishment of a buffer zone in any area within the Baylor Survey or which is leased by the Marine Resources Commission pursuant to an effective assignment of oyster planting ground and, further, that any certificates or permits granted by any

governmental agency for the construction of a central wastewater treatment plant be conditioned on the requirement that the owner of the facility make such modifications, additions and other improvements as may be required to maintain water quality standards established by the State Water Control Board or other appropriate governmental agency and to avoid the necessity of buffer zones in any such area or areas.

- (3) Any special exception for a central wastewater treatment facility approved by the Board of Supervisors shall not become effective until such time as all applicable agencies of the Commonwealth shall have issued all permits necessary to construct the central wastewater treatment system and transmitted copies of all permits to the Zoning Administrator. Changes to the plans approved with the special exception permit, which changes are required by agencies of the Commonwealth, shall not invalidate the special exception permit provided that all of the provisions of this Article are still satisfied, that all conditions placed upon the special exception are satisfied, and that the changes do not change the service area or discharge point(s) of the central wastewater treatment works.
- (4) The Board of Supervisors may require, as part of the conditions placed on the special exception permit, any of the following:
 - (a) Sampling and monitoring schedule;
 - (b) Specific effluent standards and limitations;
 - (c) Maintenance requirements;
 - (d) Bonding or surety requirements.
- (5) Following special exception approval, a site plan for a Central Wastewater Treatment Facility shall be submitted and approved in accordance with the requirements of this Ordinance, prior to issuance of a Zoning Permit for such use.

4-6.4.3 General Provisions for Sewer System Repairs and Maintenance

- A. Properties with existing sewage disposal facilities and proposed for development or redevelopment shall search for a reserve sewage disposal site meeting current standards of the Virginia Department of Health and preserve such site if identified.
- B. A properly functioning sewage disposal system has properly functioning absorption trenches as determined by the Virginia Department of Health or can be made to function properly by replacing or repairing the building sewer, septic tank or any of its parts, pump or pump chamber, conveyance lines or distribution box. For septic systems located within a designated sewer service district, a one time remedial repair such as chemical treatment, flushing or root removal may be made to correct a failing drainfield that would not require excavation, replacement or relocation of any portion of the drainfield.

- C. On-site sewage disposal systems shall be properly abandoned immediately following connection of a structure, building or property to a central wastewater treatment system if the on-site system is not to remain connected to the structure.

An on-site system shall only remain connected to a structure that is served by a central wastewater treatment system as long as the on-site system is properly functioning or is repaired as provided by subsection B above. As long as the on-site system is not abandoned, the site and system shall continue to meet all zoning and Virginia Department of Health requirements for an on-site system, except that zoning ordinance sections 4-1.5.9 and 4-6.4.3 A., which regard preserving reserve drainfield areas, shall not apply. Also, the on-site system shall only remain connected to a structure through a switchable "Y" connection, such that either the central system is in use or the on-site system is in use, but not both at the same time.

When abandoning an on-site system, septic tanks shall be completely pumped out and removed, crushed in place, have one or more holes inserted through the bottom of the tank to prevent the tank from holding water, or be converted to a cistern for non-potable water. If the septic tank is left in place and the bottom holed, it shall also be filled with clean dirt, rock, concrete, or other approved material. If the septic tank is to be used as a non-potable water cistern septic system tank, the tank shall be disconnected from the structure and septic system and sanitized prior to use.

- D. Septic system tanks shall be pumped out at least once every five years. Zoning permits shall not be issued for any expansion of a structure, additional structure(s) or change in use of a structure until the applicant has provided proof of pump-out to the Zoning Administrator.
- E. Repairs to septic systems do not require a Zoning Permit, but shall not be performed without providing proof of a VDH permit to the Zoning Administrator. Proof of septic system pump-out shall be performed as part of any repair unless the Virginia Department of Health notifies the Zoning Administrator that pump-out is not required due to the nature of the repair.

4-6.4.4 Temporary Sewage Disposal Methods

- A. For the purposes of this Article, Temporary Sewage Disposal Methods include vault privies, pit privies, composting toilets, portable toilets and pump and haul.
- B. Temporary sewage disposal methods are not acceptable for residential, commercial, or industrial use, and such shall only be used as a temporary measure for a period of time not to exceed one (1) year or, in the case of residential uses only, for a period of time as determined by the Virginia Department of Health.
- C. A zoning permit is required prior to the installation and use of a temporary sewage disposal method. Such zoning permits shall be valid for not more than six (6) months, renewable one time for a period not to exceed six (6)

months when the temporary system is proposed to serve a property where central utilities or alternative treatment systems are not available. For properties that will be served by either a central wastewater treatment system or an alternative wastewater treatment system in the future, the zoning permit may be valid for a period not to exceed five (5) years.

D. No zoning permit for a temporary sewage disposal method for a proposed residential use or a residential dwelling that is under construction shall be issued until the following conditions are satisfied:

- (1) The Building Official determines such method is allowed pursuant to the Uniform Statewide Building Code.
- (2) The Westmoreland County Health Department determines, such method is appropriate and allowed pursuant to current regulations of the Virginia Department of Health.
- (3) The need for the temporary system is not due to the negligence of the owner or applicant, as determined by the Zoning Administrator.
- (4) Plans, permits and financing for construction of a permanent system have been approved in accord with all applicable regulations.

E. No zoning permit for a temporary sewage disposal method for an existing residential use shall be issued until the following conditions are satisfied:

- (1) The Westmoreland County Board of Supervisors determines that a public health emergency exists or is imminent, and a temporary disposal method as defined herein is the only practical way to protect the public health and safety.
- (2) The need for the temporary system is not due to the negligence of the owner or applicant, as determined by the Zoning Administrator.
- (3) Plans, permits and financing for construction of a permanent system have been approved in accord with all applicable regulations.

4-7 Telecommunication Facilities

November 26, 2007 the Board of Supervisors amended section 4-7.1 as follows.

The standards of this section shall apply to all telecommunication uses and structures.

4-7.1 Antenna

Roof top mounted and related unmanned equipment may be developed subject to the performance standards below to the extent permitted by-right in the district use lists and as listed below:

1. Such antenna and related equipment may exceed the maximum building height limitations, provided the use is in accordance with the development criteria herein.
 - a. Antenna and related equipment used exclusively for high-speed internet service, such as Broadband or equal, shall be allowed by-right provided it shall not exceed a maximum of one hundred and twenty five (125') feet in height, including antenna, provided a single pole is used and the use is in accordance with the development criteria herein.
2. Omnidirectional or whip antenna shall not exceed twenty (20) feet in height or seven (7) inches in diameter and shall be of a material or color which matches the exterior of the building or structure.
3. Directional or panel antenna shall not exceed five (5) feet in height or two (2) feet in width and shall be of a material or color which matches the exterior of the building or structure.
4. Satellite and microwave dish antenna shall not exceed six (6) feet in diameter.
5. No commercial advertising shall be allowed on any antenna.
6. Signals or lights or illumination shall not be permitted on any antenna, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the County.
7. The related unmanned equipment structure(s) shall not contain more than 500 square feet of total gross floor area on each site. Equipment structures shall not exceed 12 feet in height and shall be of a material or color which matches the exterior of the building or structure.
8. If the equipment structure is located on the roof of a building, the area of the equipment and structures shall not occupy more than twenty-five (25) percent of the roof area.
9. Equipment buildings located on the grounds shall meet the minimum yard requirements of the zoning district in which located.
10. Antenna and related unmanned equipment are permitted on an existing transmission or communication tower or pole in any district.

11. Antenna and related unmanned equipment are permitted in any zoning district on buildings and structures owned or controlled by a public use, fire and rescue station, or a County governmental unit.
12. Those antenna's or dish's located on the same business site that are used solely for the business to communicate with a subsidiary business in the daily transaction in its normal course of business provided the use is in accordance with the development criteria herein.

4-7.2 Monopoles

Monopoles and related unmanned equipment may be developed subject to the standards below to the extent permitted by special exception in the district use lists.

1. The height of such monopole shall not exceed 150 feet, including antennas.
2. Satellite and microwave dishes attached to monopoles shall not exceed three and one-half (3.5) feet in diameter.
3. Monopoles shall be subject to minimum yard requirements and shall not be located any closer than one (1) foot for every five (5) feet in height to any property line. Structures and building may be constructed within the setback areas of the monopole, provided other zoning standards are met.
4. The related unmanned equipment structure(s) shall not contain more than 500 square feet of total gross floor area on each site. Structures shall not exceed twelve (12) feet in height provided that no more than two (2) structures are erected. In such cases where more than two (2) structures are erected, they shall not be more than eight (8) feet in height. The structure shall be located in accordance with the minimum yard requirements of the zoning district in which it is located. The structure shall be of a material or color which matches the exterior of the building structure.
5. Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, monopoles shall have galvanized finish or be painted with a silver or gray finish.
6. No signals or lights or illumination shall be permitted on a monopole, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the County.
7. No commercial advertising or signs shall be allowed on a monopole, including manufacturer's logo or brand name.
8. A commission permit shall be required, in accordance with Article 10 of this Ordinance.
9. All unused equipment and facilities from a commercial public telecommunications site shall be removed within 90 days of cessation of

commercial public telecommunications use and the site shall be restored as closely as possible to its original condition.

10. New telecommunications monopoles shall be designed to accommodate at least three (3) providers. The applicant shall identify the conditions under which future co-location by other service providers are permitted. Co-location may not be required when the Board of Supervisors determines based on substantial evidence produced by the applicant that:
 - (A) Doing so would create unnecessary visual impact on the surrounding area; or
 - (B) No additional need is anticipated for any other potential user in the vicinity; or
 - (C) There is valid technological, economic or physical justification as to why co-location is not possible.

11. In addition to the special exception application materials required in accordance with Article 10 of this Ordinance, applicants seeking approval of a monopole facility shall also submit the following information:
 - (A) The applicant shall provide photoimagery or other visual simulation of the proposed telecommunications monopole shown with the existing conditions of the site. This simulation shall be provided from a minimum of three (3) perspectives. The applicant shall address how the facility can be designed to mitigate the visual impact on area residents, facilities, and roads.
 - (B) The applicant for a new commercial public telecommunication monopole shall demonstrate that location on an existing telecommunications facility or structure greater than 40 feet in height is not feasible. The applicant shall evaluate telecommunications facilities and structures greater than 40 feet in within a two (2) mile radius of the proposed facility. Technological, physical, and economic constraints may be considered in determining infeasibility. Co-location may be determined to be infeasible in the following situations:
 - (1) Planned equipment would exceed the structural capacity of existing and approved telecommunications facilities, considering existing planned use of those facilities, and such facilities cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;
 - (2) Planned equipment will cause interference with other existing or planned equipment for that telecommunications facility, and that interference cannot be prevented at a reasonable cost;
 - (3) Existing or approved telecommunications facilities do not have space on which planned equipment can be placed so as to provide adequate service; and

- (4) Existing and approved telecommunications facilities will not provide adequate signal coverage.
- (C) Applicants proposing a new telecommunications monopole within one (1) mile of a County designated historic district or a Virginia Byway shall submit a minimum of three (3) visual simulations and written justification as to why the monopole could not be sited elsewhere. This requirement shall also be applied if a telecommunications monopole is proposed on a property listed on the National Register of Historic Places.
- (D) In addition to those entitled to notice under the provisions of this Ordinance, all owner(s), or their agent(s), of all properties abutting or immediately and diagonally across the street or road from those properties whose owners are entitled to notice under the provisions of this Ordinance, shall be provided with the same written notice. The applicant is also encouraged to meet with community and homeowners association groups in the area.

4-7.3 Transmission Towers

Transmission towers with related unmanned equipment may be developed subject to the performance standards below to the extent permitted by special exception in the district use list.

1. The Applicant shall demonstrate to the satisfaction of the Zoning Administrator that there is not an existing alternative structure which will reasonably meet the engineering and service of the proposed telecommunications facility.
2. The height of such tower shall not exceed 150 feet, including antennas.
3. Satellite and microwave dishes attached to the towers shall not exceed six (6) feet in diameter.
4. Towers shall be subject to the minimum yard requirements, and shall be set back one (1) foot for every five (5) feet in height from the property line. Structures and buildings may be constructed within the setback area of the tower, provided other zoning standards are met.
5. The related unmanned equipment structure(s) shall not contain more than 500 square feet of total gross floor area on each site. Structures shall not exceed twelve (12) feet in height provided that no more than two (2) structures are erected. In such cases where more than two (2) structures are erected, they shall not be more than eight (8) feet in height. The structure shall be located in accordance with the minimum yard requirements of the zoning district in which it is located. The structure shall be of a material or color which matches the exterior of the building or structure.

6. Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, towers shall have a galvanized finish or be painted a silver or gray finish.
7. No signals or lights or illumination shall be permitted on a tower, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the County.
8. No commercial advertising shall be allowed on the tower.
9. A commission permit shall be required, in accordance with Article 10 of this Ordinance.
10. All equipment and facilities from a commercial public telecommunications site shall be removed within 90 days of cessation of commercial public telecommunications use and the site shall be restored as closely as possible to its original condition.
11. New telecommunications towers shall be designed to accommodate at least three (3) providers. The applicant shall identify the conditions under which future co-location by other service providers are permitted. Co-location may not be required when the Board of Supervisors determines based on substantial evidence produced by the applicant that:
 - (a) Doing so would create unnecessary visual impact on the surrounding area; or
 - (b) No additional need is anticipated for any other potential user in the vicinity; or
 - (c) There is valid technological, economic or physical justification as to why co-location is not possible.
12. In addition to the special exception application materials required in accordance with Article 10, applicants seeking approval of a telecommunication tower shall also submit the following information:
 - (a) The applicant shall provide photoimagery or other visual simulation of the proposed telecommunications tower shown with the existing conditions of the site. This simulation shall be provided from a minimum of three (3) perspectives. The applicant shall address how the facility can be designed to mitigate the visual impact on area residents, facilities, and roads.
 - (b) The applicant for a new commercial public telecommunication tower shall demonstrate that location on an existing telecommunications facility or structure greater than 40 feet in height is not feasible. The applicant shall evaluate telecommunications facilities and structures greater than 40 feet within a two (2) mile radius of the proposed facility. Technological, physical, and economic constraints may be

considered in determining infeasibility. Co-location may be determined to be infeasible in the following situations:

- (i) Planned equipment would exceed the structural capacity of existing and approved telecommunications facilities, considering existing planned use of those facilities, and such facilities cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;
 - (ii) Planned equipment will cause interference with other existing or planned equipment for that telecommunications facility, and that interference cannot be prevented at a reasonable cost;
 - (iii) Existing or approved telecommunications facilities do not have space on which planned equipment can be placed so as to provide adequate service; and
 - (iv) Existing and approved telecommunications facilities will not provide adequate signal coverage.
- (c) Applicants proposing a new telecommunications tower within one (1) mile of a County designated historic district or a Virginia Byway shall submit a minimum of three (3) visual simulations and written justification as to why the monopole could not be sited elsewhere. This requirement shall also be applied if a telecommunications monopole is proposed on a property listed on the National Register of Historic Places.
- (d) In addition to those entitled to notice under the provisions of this Ordinance, all owner(s), or their agent(s), of all properties abutting or immediately and diagonally across the street or road from those properties whose owners are entitled to notice, shall be provided with the same written notice. The applicant is also encouraged to meet with community and homeowners association groups in the area.
- (e) Applicants for new telecommunications towers shall demonstrate that a telecommunications monopole, of comparable transmission capabilities, can not be utilized or can not provide an equivalent level of service.

4-7.4 Landscaping and Buffer Requirements for monopole and telecommunications towers.

1. Facilities shall be enclosed by security fencing not less than six (6) feet in height.
2. The telecommunications facility shall be landscaped with a mix of hedge and trees to screen internal communications buildings from adjacent properties. The standard buffer should consist of an area 10 feet in width outside of the fenced area. Plantings will comply with Zoning Ordinance landscaping requirements.
3. Existing mature tree growth and natural land forms onsite shall be preserved to the maximum extent possible. In special exception

applications, the Board of Supervisors may determine that the natural growth surrounding the property perimeter may be sufficient as the required buffer.

4. Existing trees within 200 feet of the telecommunications tower or monopole shall not be removed, except as may be authorized to permit construction of the facility and installation of vehicular access.

4-7.5 Maintenance

1. The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all required landscape materials and screening and buffering as may be required by the provisions of this Section.
2. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris.
3. Fences and walls shall be maintained in good repair. Openings within the barriers may be required by the Zoning Administrator for accessibility to an area for necessary maintenance.

4-7.6 Removal of Abandoned Antennas, Monopoles and Towers

1. The owner of each monopole or tower shall submit a report to the Zoning Administrator once a year, no later than July 1. The report shall state the current user status of the tower.
2. Any antenna or tower shall be disassembled and removed from the site within ninety (90) days of the discontinuance of the use of the monopole, tower or antenna. Removal includes the removal of antennas, telecommunications towers, fence footers, underground cables and support buildings. The buildings and foundation may remain with the landowner's approval. If there are two (2) or more users of a single tower or monopole, then this provision shall not become effective until all users cease using the tower.

4-8 Waterways. This section covers policy governing public and private water, the subaqueous beds there under and the lands adjacent thereto.

4-8.1 *Zoning District Boundary Lines.* The zoning district classification for a parcel of land adjacent to an ungranted bed under public waters located within the boundaries of Westmoreland County shall extend to the mean low-water mark as set forth in Section 62.1-2 of the Code of Virginia, 1950, as amended, and such mean low-water mark shall be the waterfront lot line for purposes of this ordinance. The zoning district classification for a parcel of land adjacent to submerged land under a river or creek which submerged land is held by a party or parties other than the Commonwealth of Virginia under a special grant or compact according to law, shall extend to include the submerged land included in the parcel by lawful survey as set forth in Section 62.1-2 of the Code of Virginia, 1950, as amended, unless otherwise provided by the county.

The zoning district classification for a parcel of land adjacent to private waters located within the boundaries of Westmoreland County shall extend to the center line of the waters unless otherwise provided by the County.

4-8.2 *Ungranted Beds.* The use of ungranted beds of bays, rivers and creeks located in Westmoreland County and which are within the jurisdiction of the Commonwealth of Virginia, 1950, as amended, shall be determined by the Marine Resources Commission as set forth in Title 62.1 of the Code of Virginia, 1950, as amended, and such other agencies as specified by law. Such subaqueous beds shall not be subject to the zoning regulations of this ordinance except as provided in paragraph 4-8.5 below.

4-8.3 *Private Waters.* The private waters in Westmoreland County are subject to the zoning regulations of this ordinance and shall have the same zoning district classification as the subaqueous bed thereunder.

4-8.4 *Public Waters.* The public waters of the Commonwealth located in Westmoreland County shall not be subject to the zoning regulations of this ordinance.

4-8.5 *Water Related Structures.* Any structure which is attached to riparian land and extends into public waters shall be subject to the pertinent regulations in this ordinance that apply to the parcel of land to which the structure is attached.

4-9 Covered Boat Slips (boat houses)

(Errata Sheet – April 12, 2006 this are do not require a Special Exception)

- 4-9.1 Covered boat slips” are permitted uses in all districts.
- 4-9.2 Criteria. Covered boat slips may be erected on or beside piers in waterways in any zoning category as authorized in this ordinance provided that the following criteria are met:
1. The size of the covered boat slip shall not exceed 700 square feet.
 2. The covered boat slip shall have a roof that does not extend more than 22 feet above the mean high water elevation.
 3. The covered boat slip shall not have sides; however, a 12 inch skirt below the soffit roof edge will be allowed.
 4. The elevation of the roof structure shall not exceed 36 inches from the bottom of the soffit to the top of the ridge line.
 5. The pitch of the roof must not exceed a 3/12 ratio.
 6. The roofing material must be non-reflective.
 7. Nothing (flagpole, antenna, cupola, etc.) shall project above the top of the roof.
 8. Any lighting shall be directed inward and downward and shielded to prevent glare from escaping from the covered boat slip.
 9. The property must have a minimum waterfront frontage of 100 feet.
 10. The covered boat slip must be constructed on the interior side of the pier (towards the center of the lot) and away from the nearest neighboring riparian area
 11. The covered boat slip shall extend no further than the most channelward of:
(a) 150 feet from the high-water mark, or (b) 150 feet channelward of the limit of vegetated wetlands, whichever is greater
 12. The body of open water on which the covered boat slip is located is not less than 500 feet wide, unless the body is manmade; said width to be measured in an arc from the centerline of the pier at the high water mark.
 13. No property can have more than one covered boat slip
 14. The covered boat slip must meet requirements of the Virginia Marine Resources Commission (VMRC) and the U. S. Army Corps of Engineers (CofE).
- 4-9.3 Permits for covered boat slips shall be approved by the Land Use Administration Office, when there is compliance with all of the criteria stated above.
- 4-9.4 In accordance with regular Zoning Ordinance administration procedures, questions of staff interpretation of the criteria or requests for variances from the criteria may be made to the Board of Zoning Appeals, as provided for by the Zoning Ordinance.
- 4-9.5 Nothing in this section prohibits an applicant from applying for a Zoning Ordinance amendment to modify, add, or delete any of the provisions of this subsection.

4-10 Temporary Family Health Care Structures

4-10.1 Purpose and Intent

The purpose of this section is to provide the option for residents to care for a mentally or physically impaired relative or person for whom they are the legally appointed guardian using a temporary family health care structure. This use is considered an accessory use to the residential use, and is intended to allow only the temporary placement of the structure with its removal when it is no longer needed for that purpose.

4-10.2 Permits Required

A zoning permit is required prior to placement of a temporary family health care structure. The application shall include the submission of a sketch plan, a certification by a physician licensed by the Commonwealth of Virginia as to the status of the impaired person, and such other documentation as deemed necessary by the zoning administrator to ensure compliance with the standards set forth below in 4-10.3 and other applicable requirements.

4-10.3 Standards for Temporary Family Health Care Structures

All temporary family health care structure shall comply with the following requirements.

- A. occupancy of the structure shall be limited one person who shall be certified to be a mentally or physically impaired person by a physician licensed by the Commonwealth of Virginia;
- B. the property is owned or occupied by the caregiver as his or her residence;
- C. the structure shall not exceed 300 square feet in gross floor area;
- D. the structure shall comply with all applicable provisions of the Industrialized Building Safety Law and the Uniform Statewide Building Code;
- E. the structure shall not be placed on a permanent foundation;
- F. only one such structure shall be permitted on a lot or parcel;
- G. placement of the structure shall comply with all setback requirements applicable to principal structures in the district in which located;
- H. such structure shall be connected to all necessary public and/or private utilities and shall comply with all applicable requirements of the Virginia Department of Health;
- I. no signage advertising or otherwise promoting the structure shall be permitted;
- J. any temporary family health care structure installed pursuant to this section shall be removed within 30 days of the occurrence of the mentally or physically impaired person no longer receiving or no longer needing the assistance of the caregiver.

4-10.4 Annual Reports and Inspections

On an annual basis, at least 30 days prior to the anniversary date of the initial permit issuance, the caregiver shall be required to provide evidence of compliance with the terms of this section and to grant zoning and code enforcement personnel the opportunity to conduct an inspection of the property and the structure at a time mutually acceptable to the caregiver and the inspection personnel. Inspections for compliance are not limited to an annual compliance confirmation.

4-10.5 Enforcement and Revocation of Permits

The zoning administrator may revoke the permit if any of the above provisions are violated and/or may pursue other enforcement action as provided in Article 11 of the Zoning Ordinance.