



# **ZONING ORDINANCE**

**Westmoreland County, Virginia**

**Amendments Adopted by the Board of Supervisors:  
March 13, 2006**

**Effective Date: April 12, 2006**

**Last amended: December 11, 2017**

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## **Notations**

**Original Zoning Code adopted and in Effect July 1, 1971  
Recorded Deeds this date start with Book 233, Page 710**

**Original Subdivision Regulations adopted June 1, 1978  
Recorded Deeds this date start with Book 274, Page 356**

**Bay Act adopted September 12, 1990 with parcels of record on  
October 1, 1989. Recorded Deeds 10-1-89 start with Book 368, Page 741**

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## ARTICLE 1 – GENERAL PROVISIONS

### 1-1 Introductory Provisions

#### 1-1.1 Title

This ordinance and the Official Zoning Map shall be officially known and cited as the "Zoning Ordinance of Westmoreland County, Virginia." It is hereinafter referred to as the "Zoning Ordinance" or "this Ordinance." The regulations included in this Zoning Ordinance shall constitute Chapter 70 of the Code of the County of Westmoreland, Virginia.

#### 1-1.2 Authority

This Zoning Ordinance is adopted pursuant to the powers granted and limitations imposed by §15.2-2280 et seq., of the Code of Virginia, 1950, as amended.

#### 1-1.3 Purpose and Intent

This Zoning Ordinance is intended to protect the health, safety, and welfare of the citizens of Westmoreland County; to advance the objectives set out in §15.2-2200 and 15.2-2283 of the Code of Virginia, 1950, as amended; and to implement the Westmoreland County Comprehensive Plan.

#### 1-1.4 Objectives

This Ordinance has been designed to assure retention and protection of present property uses, as well as to guide the future use of property by giving reasonable consideration to the following objectives, where applicable:

- 1-1.4.1 to provide for adequate light, air, convenience of access, and safety from fire, flood, crime and other dangers;
- 1-1.4.2 to reduce or prevent congestion in the public streets;
- 1-1.4.3 to facilitate the creation of a convenient, attractive and harmonious community;
- 1-1.4.4 to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- 1-1.4.5 to protect against destruction of or encroachment upon historic areas;
- 1-1.4.6 to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic or other dangers;

- 1-1.4.7 to encourage economic development activities that provide desirable employment and enlarge the tax base;
- 1-1.4.8 to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment;
- 1-1.4.9 to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities;
- 1-1.4.10 to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the County as well as a reasonable proportion of the current and future needs of the planning district within which the County is situated;
- 1-1.4.11 to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard; and
- 1-1.4.12 to protect surface water and ground water as defined in § 62.1-255, of the Code of Virginia, provided such provisions are not inconsistent with applicable state water quality standards.

**1-1.5 Effective Date**

This Zoning Ordinance is an amendment to the current Zoning Ordinance and shall be effective at 12:01 a.m. April 12, 2006, at which time the Zoning Ordinance of Westmoreland County with an effective date of July 1, 1971, is amended. Unless otherwise noted herein, the term "effective date," when used in this Ordinance is April 12, 2006, or the effective date of an applicable amendment.

**1-1.6 Conflicting Provisions**

1-1.6.1 Conflict with State or Federal Regulations

If any provision of this Zoning Ordinance is inconsistent with Virginia or federal law, the more restrictive provision shall control, to the extent permitted by law.

1-1.6.2 Conflict with Other County Regulations

If the provisions of this Zoning Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the County, the more restrictive provision will control. No text amendment, zoning variance or condition of approval attached to any form of development approval under this Zoning Ordinance shall have the effect of nullifying, abrogating or diminishing the provisions of any other County ordinance.

1-1.6.3 Conflict with Private Easements, Agreements or Covenants; Enforcement

This Zoning Ordinance is not intended to abrogate, annul, or otherwise interfere with any private easement, agreement, covenant, restriction or other private legal relationship. However, where the regulations of this Zoning

Ordinance are in conflict with, or more restrictive or impose higher standards than such easements, agreements, covenants or other private legal relationships, the regulations of this Zoning Ordinance shall govern. The County is responsible for enforcing this Zoning Ordinance; it does not enforce private agreements, easements, covenants or restrictions.

**1-1.7 Severability**

If any article, section, clause, or provision of this Zoning Ordinance is declared to be invalid or unconstitutional by any Virginia or Federal court, such decision shall not affect the validity of this Zoning Ordinance as a whole, or any part thereof other than the part which is declared to be unconstitutional or invalid.

**1-1.8 Certified Copy on File**

A certified copy of the Zoning Ordinance and Zoning Map of Westmoreland County, Virginia, shall be filed in the office of the zoning administrator and in the office of the Clerk of the Circuit Court of Westmoreland County, Virginia.

**1-2 Application of Regulations**

**1-2.1 Jurisdiction**

The provisions of the Zoning Ordinance shall apply to all property, structures, and body of water within the unincorporated territory of the County of Westmoreland, Virginia, except those areas and structures determined by law to be under the sovereign control of the Commonwealth of Virginia, the State of Maryland or the United States of America or specifically exempted from local regulation by the Code of Virginia and/or Federal Statute.

**1-2.2 General Application**

No structure shall be erected and no existing structure shall be moved, altered or enlarged, nor shall any land, body of water, or structure be used for any purpose other than those included in the uses listed in the zoning district in which the structure, land or body of water is located.

**1-2.3 General Prohibition**

No building or structure; no use of any building, structure, land, or body of water; and no lot of record now or hereafter existing shall hereafter be established, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this Ordinance.

**1-2.4 Exemptions**

The following are exempt from this Ordinance:

- 1-2.4.1 Electrical transmission lines of 150 kV or more, approved by the State Corporation Commission.

- 1-2.4.2 Poles, wires, cables, conduits, vaults, laterals, pipes, valves, meters or any other similar equipment when used for the purpose of distributing service to individual customers within an approved or established service area, but not including telecommunications towers, plants or substations.
- 1-2.4.3 The height limitations of this Ordinance shall not apply to cupolas, barns, silos, farm buildings, chimneys, flag poles, water tanks, and monuments and necessary mechanical appurtenances not exceeding in height the distance therefrom to the nearest lot line.

### **1-2.5 Violations Continue**

Any violation of the previous County zoning regulations shall continue to be a violation under this Zoning Ordinance and shall be subject to enforcement and penalties under Article 11, unless the use, development, construction or other activity complies with the express terms of this Zoning Ordinance.

### **1-2.6 Application to Existing and Approved Variances**

Any variance lawfully approved prior to (effective date), shall continue to be valid after such date. Development in accordance with an approved variance shall meet the requirements of this Zoning Ordinance, provided that in the event of any inconsistency between an approved variance and the requirements of this Zoning Ordinance, development in accordance with the approved variance shall be permitted.

### **1-2.7 Application to Existing and Approved Special Exception Uses**

#### **1-2.7.1 Existing Use**

Any use in legal existence prior to the effective date of these Ordinance amendments, and still in legal existence on that date and is classified as a special exception use under this Zoning Ordinance shall be deemed to have special exception approval. Any expansion of such use shall require a new special exception approval in compliance with the procedures set out in Article 10 for Special Exceptions.

#### **1-2.7.2 Approved Special Exception**

Any special exception lawfully approved prior to the effective date of these Ordinance amendments, or any amendment thereof, shall continue to be valid after that date, subject to the period of validity provided for as part of the special exception approval or subject to Article 10. Development in accordance with an approved special exception shall meet the requirements of this Zoning Ordinance, provided that if there is any inconsistency between an approved special exception plat and the requirements of this Zoning Ordinance, development in accordance with the special exception plat shall be permitted.

### **1-2.8 Application to Proffered Conditions**

The text of this Zoning Ordinance shall apply to any parcel covered by a previous grant of zoning with proffered conditions pursuant to §15.2 -2296 through 2303 of Va. Code Ann. except where the imposition of the requirements of this Ordinance would be in conflict with a specific proffered condition, in which case, the proffered condition would supersede the requirements of this Ordinance.

### **1-3 Interpretation of Regulations and Language**

#### **1-3.1 Provisions are Minimum Requirements**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals and general welfare, as set forth in the provisions hereof establishing the intent and purpose of this Ordinance in general and its various sections in particular.

#### **1-3.2 Unspecified Uses**

Subject to the Zoning Administrator's interpretive powers as provided for herein, no uses are permitted unless included in a district use list or accessory use list.

#### **1-3.3 Adding Unspecified Uses to the District Regulations**

Uses other than those allowed in the applicable district may be added to district upon adoption of a text amendment approved by the Board of Supervisors, in accordance with Article 10 Administration and Procedures.

#### **1-3.4 Interpretation of Terms**

For the purpose of this Ordinance, certain words and terms are to be interpreted as follows:

- 1-3.4.1 The words "shall," "will," and "must" are mandatory. The words "may" and "should" are advisory and discretionary terms, except for the phrase "may not" which is mandatory.
- 1-3.4.2 Unless the wording and context clearly indicate otherwise, words used in one tense (past, present, or future) include all other tenses; the singular includes the plural, and the plural includes the singular; and words used in the masculine gender include the feminine and neuter.
- 1-3.4.3 The word "lot" includes the word plot; the word "used" includes designed, intended, or arranged to be used; the term "erected" includes constructed, reconstructed, altered, placed, relocated or removed.
- 1-3.4.4 The terms "land use" and "use of land" shall be deemed also to include building use and use of building.
- 1-3.4.5 Unless otherwise specifically indicated, lists of items or examples that use terms such as "including," "such as," or similar language are intended to provide examples and not to be exhaustive lists of all possibilities.

- 1-3.4.6 Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows: the word “and” indicates that all connected items, conditions, provisions, or events apply; and the word “or” indicates that one or more of the connected items, conditions, provisions, or events may apply.
- 1-3.4.7 Unless otherwise expressly stated, the word "day" shall mean a calendar day. The term "business day" shall mean a day that the County agency administering this Ordinance is open for business and shall exclude Saturday, Sunday and any holiday observed by the County.
- 1-3.4.8 Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that have acquired a particular and appropriate meaning in law, or that are specifically defined in this Ordinance, shall be construed and understood according to such meaning.

**1-3.5 References to Other Regulations and Publications**

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, ordinance, statute, or document or to the relevant successor document, unless otherwise expressly stated.

**1-3.6 Delegation of Authority**

Whenever a provision appears to require the head of a department or another officer or employee of the County to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate that responsibility to others over whom the department head or officer has authority.

**1-3.7 Public Officials and Agencies**

All public officials, bodies, and agencies referenced in this Ordinance are those of the County of Westmoreland unless otherwise expressly stated. Whenever reference is made to a public official’s title or the name of a public agency, that reference shall be construed as referring to the most up-to-date title or agency name, or to the relevant successor official or agency.

**1-3.8 Interpretation by Zoning Administrator**

In case of any dispute over the meaning of a word, phrase or sentence, whether defined herein or not, the Zoning Administrator is hereby authorized to make a definitive determination thereof, being guided in such determination by the purposes and intent of this ordinance as set forth in Section 1.1; provided however, that an appeal may be taken from any such determination as provided in Article 10.

## 1-4 Zoning Districts and Boundaries

### 1-4.1 Zoning Districts, General

The following zoning districts, presented and fully defined in Articles 2 and 3 of this Ordinance, are hereby established:

#### 1-4.1.1 Existing Base Zoning Districts

The following Base Zoning Districts currently exist in the County. These districts are not intended to be applied to any additional land that is not zoned as such at the time of adoption of this amended Ordinance. All new zoning map changes should be to one of the New Base Zoning Districts set forth in 1-4.1.2.

- 1-4.1.1 (A) A-1, Agricultural District
- 1-4.1.1 (B) C-1, Conservation District
- 1-4.1.1 (C) C-2, Campground, Mobile Home Parks and Travel Trailer District
- 1-4.1.1 (D) R-1, General Uses Residential District
- 1-4.1.1 (E) R-2, Limited Uses Residential District
- 1-4.1.1 (F) R-3, Planned Development Residential District
- 1-4.1.1 (G) R-4, Townhouse, Condominium, Apartment District
- 1-4.1.1 (H) B-1, General Business District
- 1-4.1.1 (I) B-2, Restricted Business District
- 1-4.1.1 (J) B-3, Open Land Business District
- 1-4.1.1 (K) I-PUD, Industrial Planned Unit Development District
- 1-4.1.1 (L) M-1, Industrial District
- 1-4.1.1 (M) S-1, Seafood District

#### 1-4.1.2 New Base Zoning Districts

The following Base Zoning Districts are new districts upon adoption of these amendments.

- 1-4.1.2 (A) AC, Agricultural Conservation District
- 1-4.1.2 (B) RC, Rural Conservation District
- 1-4.1.2 (C) RR, Rural Residential District
- 1-4.1.2 (D) RN, Residential Neighborhood District
- 1-4.1.2 (E) PRD, Planned Residential Development District
- 1-4.1.2 (F) PVD, Planned Village Development District
- 1-4.1.2 (G) BN, Business Neighborhood District
- 1-4.1.2 (H) BG, Business General District
- 1-4.1.2 (I) IG, Industrial General District
- 1-4.1.2 (J) PIP, Planned Industrial Park District
- 1-4.1.2 (K) WC, Water-Related Commercial District
- 1-4.1.2 (L) RU, Residential Urban District

#### 1-4.1.3 Overlay Zoning Districts

- 1-4.1.3 (A) CB-OD, Chesapeake Bay Preservation Area Overlay District

### **1-4.2 Zoning Map**

The boundaries of all zoning districts are hereby fixed and established as shown on the map entitled "Official Zoning Map, Westmoreland County, Virginia." The Official Zoning Map is hereby adopted and shall be deemed a part of this Ordinance as fully as if it were set out herein in detail. A copy of the Official Zoning Map shall be maintained in the office of the Zoning Administrator.

### **1-4.3 Zoning of Entire Jurisdiction**

It is the intent of this Zoning Ordinance that the entire incorporated area of the County of Westmoreland, including all land, submerged land, water areas, and waterways be included in the zoning districts established by this Zoning Ordinance.

#### **1-4.3.1 Excluded Areas**

Any area not shown on the Official Zoning Map as being included in any district shall be deemed to be in the A-1 District.

#### **1-4.3.2 Adjacent Areas**

If not otherwise specifically designated or defined in this Ordinance, water areas, waterways, alleys, roads, streets, highways, railroads and public-rights-way shall be deemed to be in the same zoning district as the immediately abutting property.

### **1-4.4 Interpretation of Zoning District Boundaries**

The boundaries of the various districts as shown on the Official Zoning Map shall be determined by the boundaries as shown and outlined thereon, or as indicated on a plat accompanying a rezoning. The Zoning Administrator shall interpret such information in order to determine zoning district boundaries. The following rules shall apply in the determination of zoning district boundaries:

1-4.4.1 Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow center lines except where such location would change the zoning status of a lot or parcel, in which case the boundary shall be interpreted in such manner to avoid changing the zoning of any lot or parcel or portion thereof. In case of closure of a street or alley, or vacation of an easement, the boundary shall be construed as remaining at its prior location.

1-4.4.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

1-4.4.3 Boundaries indicated as following County limit lines shall be construed as following such County limits.

1-4.4.4 Boundaries indicated as following railroad lines shall be construed to be at the center line of the railroad right-of-way.

1-4.4.5 Boundaries indicated as following shorelines of bodies of water shall be construed to follow such shorelines, and in the event of change in the shoreline



shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines, unless otherwise specified in 1.4.3.9 or 1.4.3.10 below.

- 1-4.4.6 Boundaries indicated as parallel to or extensions of features indicated in sections 1.4.3.1 through 1.4.3.6 above shall be so construed. Distances and dimensions not specifically indicated on the Official Zoning Map shall be determined from the scale of the map.
- 1-4.4.7 Where natural or man-made features actually existing on the ground are at variance with those shown on the official zoning map, the Zoning Administrator shall interpret the district boundaries.
- 1-4.4.8 Where a zoning district boundary divides a parcel of land, the location of such boundary, unless dictated by dimensions shown on the Zoning Map, shall be determined by use of the scale appearing on the Zoning Map, and scaled to the nearest foot.
- 1-4.4.9 Where a property is adjacent to an ungranted bed under public waters located within the County boundary, the zoning district boundary shall extend to the mean low-water mark as set forth in §28.2-1201 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.
- 1-4.4.10 Where a property is adjacent to submerged land under a river or creek held by a party or parties other than the Commonwealth of Virginia under a special grant or compact according to law, the zoning district boundary shall extend to include the submerged land included in the parcel by lawful survey as set forth in §28.2 –1201 of the Code of Virginia, 1950, as amended.

## **1-5 Limitations and Methods for Measurements of Lots, Yards and Related Terms**

### **1-5.1 Lot Access Requirements**

No structure requiring a building permit shall be erected upon any lot which does not have frontage on a public road, as specified in the individual district regulations, except as may be specifically provided in this Ordinance or in the Subdivision Ordinance.

### **1-5.2 Regular Lots, Width Measurements**

The width of a regular lot shall be determined by measurement across the rear of the required front yard. The distance between side lot lines at the points where they intersect with a street line shall not be less than eighty percent (80%) of the required width, measured along the street line. However, in cases where lots front on curved or circular (cul-de-sac) streets, the radii of which do not exceed ninety (90) feet, the distances between side lot lines where they intersect with the street line may be reduced to sixty percent (60%) of the required width, measured along the street line. Yards and street lines shall be measured along the arc of the curve for curvilinear yards and street lines. Lot width shall be measured only along continuous frontage facing one street. The minimum width of

a lot on a private road shall be determined by measurement along the front yard around the private road.

### **1-5.3 Regular Lots, Determination of Front Yard**

- 1-5.3.1 On regular interior lots, the front shall be construed to be the portion nearest the street.
- 1-5.3.2 On regular corner lots, except as provided for in 1.5.3.3 below, the front for purposes of setbacks shall be both boundaries that front a street.
- 1-5.3.3 In an agricultural or conservation zoning district (A-1, C-1, AC, RC) the front of the lot shall be determined and shown on the subdivision plat or site plan by the prevailing building pattern, or prevailing lot pattern if a building pattern has not been established, provided that the shortest boundary fronting on a street in an agricultural zoning district is eighty percent (80%) or more of the required lot width.
- 1-5.3.4 On regular through corner lots, the front shall be construed to be the shorter boundary fronting the street, provided that if the shortest boundary fronting on a street is eighty percent (80%) or more of the length of the longest boundary fronting on a street, the applicant may select either frontage if lot width requirements are met.
- 1-5.3.5 On regular lots, unless otherwise determined by the Zoning Administrator due to the prevailing building pattern, the front shall be construed to be the shorter boundary fronting on a street. If the lot has equal frontage on two streets, the front of the lot shall be determined and shown on the preliminary and final subdivision plats and site plans by the prevailing building pattern, or the prevailing lot pattern if a building pattern has not been established.

### **1-5.4 Regular Lots, Yards Adjacent to Street**

- 1-5.4.1 A front yard setback of at least the depth required in the district shall be provided across the entire frontage of a regular lot.
- 1-5.4.2 Other yards adjacent to streets shall be provided across or along the entire portion of the lot adjacent to the street.
- 1-5.4.3 Street line shall be used for measurement of required yards adjacent to streets. Where the lot line adjacent to a street is straight, required yards shall be measured from such line, extended in the case of rounded corners. On convex or concave lots, front, side and rear yards, as applicable, shall be parallel to or concentric with, the street line. Depth of required yards adjacent to streets shall be measured perpendicular or radially to such straight street lines.

### **1-5.5 Rear Yards on Interior Regular Lots**

Rear yards on interior regular lots shall be provided of at least the depth required for the district, and shall run across the full width of the lot at the rear. Depth of a required rear yard shall be measured in such a manner that the yard is a strip of land with minimum depth required by district regulations with its inner edge parallel to or concentric with its outer edge.

### **1-5.6 Yards on Corner Lots**

Corner lots shall be deemed to have no rear yards, only two (2) front yards which are adjacent to the streets and two (2) side yards, provided that if two (2) different side yards are required in a district, the larger available yard shall be used. Notwithstanding anything to the contrary contained in this Ordinance, setbacks on corner lots shall be sufficiently large to comply with VDOT sight distance requirements.

### **1-5.7 Side Yards on Regular Lots**

Side yards on regular lots are defined as running from the required front yard line to the required rear yard line. On regular through lots the required side yard shall run from the required front yard line to the second required front yard line. On corner lots the required side yards shall run from the point where side yard lines intersect, to the required front yard lines.

### **1-5.8 Irregular Lots, Dimensional Requirements**

An irregular lot shall be considered to meet the dimensional requirements of the district in which located, provided:

- 1-5.8.1 Lot area shall meet district requirements for the proposed use. Lot width need not meet district requirements if requirements set forth below are met.
- 1-5.8.2 Open space in required yards and elsewhere on the lot shall be not less than as required for the use in the district on a regular rectangular lot of required minimum width and area.
- 1-5.8.3 Building area remaining after required yards have been provided shall have dimensions and locations appropriate for all buildings proposed.

### **1-5.9 Irregular Lots, Yard Requirements**

In general, all yards shall provide at least the same separation from all lot lines as required for minimum side yards in the district, provided, however, that where district regulations permit building to the lot line of a regular lot under specified circumstances, the same regulations shall apply on an irregular lot. Additionally, if an irregular lot abuts a street at any point, a distance equal to the required yard on a regular lot adjacent to a street in the district shall be provided.

**1-5.10 Setback Measurement From Streets**

All setbacks from public streets shall be measured from the wider of (a) the existing dedicated right-of-way (front lot line), or (b) the right-of-way proposed in the Comprehensive Plan or (c) the minimum dedicated right-of-way permitted for VDOT acceptance of the right-of-way for maintenance. If no dedicated right-of-way exists, or if no construction plans are approved for the road or if less than the minimum right-of-way exists, the right-of-way shall be assumed to be centered on the existing travelway.

**1-5.11 Length to Width Ratio Measurement**

The width of a regular lot shall be determined by measurement across the rear of the required front yard. If the lot is of regular dimensions, the lot depth is the horizontal distance between the front lot line and the rear lot line. If the lot is of irregular dimensions, the lot depth is defined by determining the average of a representative number of distances between the front lot line and the rear lot line as measured in a straight line.

**1-5.12 Height Regulations**

No new building, nor the enlargement of any building, shall hereafter be erected to exceed either forty-five (45) feet or to exceed three (3) stories in height.

**1-5.13 Pipestem Lots**

The front setback line of pipestem lots as defined herein shall be measured from the point at which the pipestem portion of the lot meets the bulk portion of the lot. All other setback and yard requirements shall also be measured from the boundaries of the bulk portion of the lot, excluding the pipestem portion.

**1-5.14 Development on Multiple Lots**

When development is proposed which is on more than one parcel with a common owner, setbacks for any structures shall be determined and the required yard maintained for each parcel individually. Structures shall not cross property lines and shall not encroach on any required yard, except as otherwise provided for in this ordinance. In order to reduce the setback and encroach on the required yard, a variance would have to be obtained. The owner also has the option of pursuing a boundary line adjustment or of combining the parcels, such that the property line would be moved or vacated and the proposed development would no longer encroach on the required yard.

## ARTICLE 2 Base District Regulations

### 2-1. Agricultural Conservation (AC)

#### 2-1.1 Purpose and Intent

This district is intended to preserve and protect areas of Westmoreland County that are predominantly in agricultural or forestal use, and to maintain the land base and support facilities necessary to support agricultural activity. This district is designed to protect the agricultural industry and related uses from encroachment by rural residential development that fragments agricultural land. The district permits rural uses compatible with and supportive of agriculture, including agriculturally related and small rural businesses appropriate to a rural, farm and forest setting and clustered residential uses that preserve significant amounts of open land. Residential development that occurs in these areas is intended to locate in woodland areas and on the least productive agricultural land, where conflicts between residential uses and agricultural activities can be minimized. Land in this district is not intended to be served with public water or wastewater systems or located in proximity to other public services.

#### 2-1.2 Permitted Uses (by-right)

1. Accessory Uses, subject to Article 4
2. Accessory Structures, subject to Article 4
3. Agriculture, General
4. Agriculture, Intensive, subject to Article 4
5. Bed and Breakfast Homestays
6. Boathouses (Covered Boat Slip), subject to Article 4
7. Boat Wharves, Private, for unloading but not boat storage
8. Cemeteries
9. Churches not more than 50,000 square feet
10. Conservation Areas
11. Dwellings, Accessory
12. Dwelling, Caretaker's
13. Dwellings, Single Family detached
14. Dwellings, Manufactured housing, subject to Article 4
15. Family Day Care Homes
16. Farm Brewery
17. Farm Enterprise
18. Farm Winery
19. Feed Mills
20. Florists– April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.
21. Home Occupation, Minor, subject to Article 4
22. Kennels, private, subject to Article 4
23. Nurseries, production
24. Parks, unlighted
25. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
26. Playgrounds, unlighted

27. Residential Cluster Option
28. Sawmills, temporary or portable
29. Seafood Facilities, Non-Processing
30. Signs, subject to Article 7
31. Water-Related Structures (jetties, seawalls, piers, etc.), subject to Article 4
32. Wayside Stands
33. Wineries

### 2-1.3 Permissible Uses (by Special Exception)

By Special Exception Approval by the Board of Supervisors:

1. Airports, private
2. Alternative Sewage Treatment Systems
3. Bed and Breakfast Inns
4. Biosolids Composting
5. Boat Building and repair
6. Boat Sales and Service
7. Boat Wharves, Public
8. Camps, day or boarding
9. Churches, 50,000 square feet or more
10. Civic Clubs
11. Community Water Systems for Cluster Development
12. Country Clubs
13. Country Inns
14. Country Store or Specialty Shop, not to exceed 3,000 square feet
15. Day Care Centers
15. Dwelling, Dormitory, associated with school, camp only
16. Farm Machinery Repair, subject to Article 4
17. Farm Machinery Sales, Rental, Service, subject to Article 4
18. Fire, police or rescue stations
19. Flea Markets
20. Funeral Homes
21. Golf Courses
22. Golf Driving Ranges
23. Grain and Fertilizer Storage, Commercial
24. Group Housing for Farm Labor, Seasonal or Year Round
25. Home Occupation, Major
26. Hospitals, subject to Article 4
27. Houses, Boarding or Rooming
28. Kennels, Commercial, subject to Article 4
29. Nurseries, retail (Florists – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.
30. Nurseries, wholesale
31. Produce Processing Plants, Agricultural
32. Public Landings
33. Public utility trunk lines and system components (electrical and gas)
34. Restaurants, not to exceed 3,000 square feet, subject to Article 4
35. Rural Small Business, subject to Article 4
36. Sand and Gravel Pits
37. Sawmills, Permanent
38. Schools, elementary, middle or high

- 39. Seafood Facilities, Processing
- 40. Service Stations, subject to Article 4
- 41. Swimming Pools, Public
- 42. Telecommunications towers, attached
- 43. Telecommunications towers, free-standing, subject to Article 4
- 44. Tourist Homes
- 45. Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.
- 46. Veterinary Clinic, Kennels and Hospital

2-1.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use/Lot	Minimum		Maximum Lot Coverage			Setbacks		
	Lot Size	Lot Frontage (at front setback)				Minimum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District					
Single-Family Dwelling	10 acres not in 100-year floodplain	200 ft.				100 ft.	40 ft.	40 ft.
Single-Family Dwelling (Cluster Lot)	25,000 sq. ft.	80 ft.				30 ft.	15 ft. on one side; 35 ft. total	30 ft.
Single-Family Dwelling (Conservancy Lot)	30 acres	100 ft.				50 ft.	40 ft.	40 ft.
Accessory Structures	n/a	n/a				100 ft. (30 ft. for Cluster)	15 ft.	40 ft. (30 ft. for Cluster)
Other Permitted Uses	10 acres	200 ft.				100 ft.	50 ft.	50 ft.

2-1.5 Building Regulations

2-1.5.1 Maximum Building Height

Thirty-five (35) feet, except for agricultural structures and height exceptions provided in Article 1.

2-1.5.2 Utility Requirements

A. Water and wastewater must be provided by on-site individual well and septic fields or an alternative on-site sewage treatment system, in accord with County and State regulations, and as set forth in Article 4.

- B. Residential uses located on lots developed under the residential cluster option in accordance with Section 2-1.6 may be served by a community water system, subject to special exception approval.

#### 2-1.5.3 Access Requirements

Lots in subdivisions of more than two (2) lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system. A forty foot (40) right of way is sufficient if approved by VDOT.

### 2-1.6 Residential Cluster Development Option

#### 2-1.6.1 General Provisions

Cluster development in the Agricultural Conservation (AC) District is permitted in order to promote innovative and creative design of residential development; to preserve agricultural lands and natural features, to preserve the rural atmosphere and visual character of the County; and, to encourage a more efficient use of land and services in order to reduce construction costs, reflect changes in the technology of land development and minimize maintenance costs of service delivery and utility systems.

#### 2-1.6.2 General Standards

- A. The proposed Residential Cluster development must contain a minimum of thirty-one (31) contiguous acres located within the AC District.
- B. The maximum gross density of the Residential Cluster tract may not exceed one (1) principle dwelling per five (5) acres (100 year floodplain may not be included in the calculation of gross density).
- C. A minimum of 75% of the site, must be Cluster Conservation Lots of a minimum of 30 acres each, which shall be restricted from further development by the establishment of permanent conservation easements held in perpetuity by a public or private entity acceptable to the County, pursuant to 2-1.6.3. Up to 25% of the site may be Cluster Development Lots, for residential use pursuant to 2-1.6.4. (100 year floodplain may not be included in the calculation of gross density).
- D. All cluster lots must be accessed either by an internal road network that is connected to an existing public road, or by an existing public road. The majority of cluster lots must be accessed by an internal road. Internal roads must be designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system. A forty (40) foot right of way is sufficient if approved by VDOT.
- E. The average of the minimum widths of waterfront lots created must be at least 150 feet at the 100 foot RPA line.



- F. Residential Cluster Developments may be served by a community water system, subject to special exception approval and subject to the utility regulations set forth in Article 4
- G. An individual well or septic field may be located on a lot separate from the lot which is served by that well or septic field, provided that an easement is provided to ensure access for maintenance purposes.

#### 2-1.6.3 Cluster Conservation Lot Regulations

##### A. Ownership

Each required Conservation Lot is permitted to have a maximum of one principle dwelling unit and each such lot must be permanently restricted from future subdivision and development by a permanent conservation easement held by a public or private entity acceptable to the County. A Conservation Lot may be privately or publicly owned.

##### B. Use Regulations

Uses permitted on a Cluster Conservation Lot shall be as follows:

- (1) The following uses may be permitted on Conservation Lots owned by a private entity:
  - (a) Single Family Dwelling and associated accessory uses and structures
  - (b) Accessory Dwelling
  - (c) Agriculture, General (includes forestry)
  - (d) Conservation Area as defined in this Ordinance
  - (e) Other passive open space uses as may be identified in the easement agreement.
  - (f) Bed and Breakfast Homestay
  - (g) Home Occupations, Minor (by-right) and Major (subject to Special Exception Approval)
  - (h) Family Day Care Home
- (2) The following uses may be permitted on Conservation Lots held as Common Open Space by a Homeowners or Property Owners Association:
  - (a) Agriculture, General (includes forestry)
  - (b) Conservation Area as defined in this Ordinance
  - (c) Playgrounds and other passive and active recreational facilities, for use by residents of the cluster development.

2-1.6.4 Cluster Development Lot Use Regulations

Uses within the Cluster Development Lots shall be limited as follows:

- A. Bed and Breakfast Homestay
- B. Home Occupations, Minor (by-right) and Major (subject to Special Exception Approval)
- C. Family Day Care Home
- D. Single Family Dwelling and associated accessory dwelling, uses and structures

2-1.6.5 Cluster Development on Parent Tracts of less than 31 acres.

A tract of less than 31 acres may be developed under the cluster development option provided that the following requirements are met:

- A. The parent tract has not been previously divided or subdivided since the date of adoption of the Amended Zoning Ordinance.
- B. Cluster lots meet the requirements set forth in 2-1.4.
- C. At least 50% of the original area of the parent tract is retained as a single conservation lot.
- D. All other requirements of 2-1.6 are met.

## 2-2. Rural Conservation (RC)

### 2-2.1 Purpose and Intent

This district is intended to maintain Westmoreland County's predominately rural character and open space, and to preserve productive farm and timberland while accommodating limited low-density, large lot and clustered residential development. This district is designed to allow a variety of less intense agricultural and rural uses that are compatible with rural residential development. The district also permits a variety of rural uses that support rural residents and smaller scale agricultural operations. Land in this district is generally not intended to be served with public water or wastewater or located in proximity to other public services, except for public or community water systems associated with cluster developments.

### 2-2.2 Permitted Uses (by-right)

1. Accessory Uses
2. Accessory Structures
3. Agriculture, General
4. Bed and Breakfast Homestay
5. Boathouse (Covered Boat Slip), subject to Article 4
6. Boat Wharves, Private, for unloading but not boat storage
7. Cemeteries
8. Conservation Areas
9. Dwellings, Accessory
10. Dwellings, Caretaker's
11. Dwellings, Single Family detached
12. Family Day Care Homes
13. Farm Brewery
14. Farm Enterprise
15. Florists – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.
16. Home Occupations, Minor
17. Kennels, private, subject to Article 4.
18. Nurseries, production
19. Parks, unlighted
20. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
21. Playgrounds, unlighted
22. Residential Cluster Option
23. Sawmills, temporary or portable
24. Signs, subject to Article 7
25. Water-related Structures (jetties, seawalls, piers etc.), subject to Article 4.
26. Wayside Stands
27. Wineries

### 2-2.3 Permissible Uses (by Special Exception)

By Special Exception Approval by the Board of Supervisors:

1. Airport, Private
2. Alternative Sewage Treatment Systems

3. Bed and Breakfast Inn
4. Biosolids Composting
5. Boat Building and repair
6. Boat Sales and Service
7. Boat Wharves, Public
8. Camps, day or boarding
9. Churches
10. Civic Clubs
11. Community Water System for Residential Cluster Option
12. Country Clubs
13. Country Inns
14. Country Store or Specialty Shop, not to exceed 3,000 square feet
15. Day Care Centers
15. Dwellings, Dormitory associated with school, camp only
16. Farm Machinery Repair
17. Farm Machinery Sale, Rental, Service
18. Feed Mills
19. Fire, Police or rescue stations
20. Flea Market
21. Funeral Homes
22. Golf Courses
23. Golf Driving Ranges
24. Home Occupation, Major
25. Hospitals, subject to Article 4
26. Houses, Boarding or Rooming
27. Kennels, Commercial
28. Museums
29. Nurseries, retail (Florists – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
30. Nursing Homes
31. Playgrounds, lighted
32. Parks, lighted
33. Post Office
34. Public Landings
35. Restaurants, not to exceed 3,000 square feet
36. Rural Small Business
37. Sawmills, Permanent
38. Seafood Facility, Non-Processing
39. Schools, elementary, middle, high, post-secondary
40. Service Stations, subject to Article 4
41. Swimming Pools, Public
42. Telecommunications towers, attached
43. Telecommunications towers, free-standing, subject to Article 4
44. Tourist Homes
45. Travel Trailer Parks
46. Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.
47. Veterinary Clinics, Kennels and Hospital
48. Public utility trunk lines and system components (electrical and gas)

2-2.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use/Lot	Minimum		Maximum Lot Coverage			Setbacks		
	Lot Size	Lot Frontage (at front setback)				Minimum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District					
Single-Family Dwelling	5 acre	150 ft.				50 ft.	40 ft.	40 ft.
Single-Family Dwelling (Cluster Lot)	25,000 s.f.	80 ft.				30 ft.	25 ft.	30 ft.
Single-Family Dwelling (Conservancy Lot)	20 acres	100 ft.				50 ft.	25 ft.	30 ft.
Accessory Structures	n/a	n/a				125 ft. (100 ft. for cluster option)	15 ft.	40 ft.
Other Permitted Uses	5 acre	150 ft.				50 ft.	40 ft.	40 ft.

2-2.5 Building Regulations

2-2.5 (A) Maximum Building Height

Thirty-five (35) feet, except for agricultural structures.  
Also see height exceptions in Article 1.

2-2.5 (B) Utility Requirements

1. Water and wastewater must be provided by on-site individual well and septic fields or an alternative on-site sewage treatment system, in accord with County and State regulations, and as set forth in Article 4.
2. Residential uses located on lots developed under the residential cluster option in accordance with Section 2-2.6 may be served by a community water system, subject to special exception approval.

2-2.5 (C) Access Requirements

Lots in subdivisions of more than two (2) lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT)

system or from a road to be designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system. A forty (40) foot right of way is sufficient if approved by VDOT.

## 2-2.6 Residential Cluster Development Option

### 2-2.6.1 General Description

Cluster development in the Rural Conservation (RC) District is encouraged to promote innovative and creative design of residential development; to preserve open space that enhances the rural atmosphere and visual character of the county; and, to encourage a more efficient use of land and services in order to reduce construction costs, reflect changes in the technology of land development and minimize maintenance costs of service delivery and utility systems.

### 2-2.6.2 General Standards

- A. The proposed Residential Cluster development must contain a minimum of twenty-one (21) contiguous acres located within the RC District.
- B. The maximum gross density of the Residential Cluster tract must not exceed one (1) unit per two and one-half (2.5) gross acres, not including floodplain in the calculation of gross density.
- C. A minimum of 60% of the site, must be Cluster Conservation Lots, of a minimum of twenty (20) acres each, which must be restricted from further development by the establishment of permanent conservation easements held in perpetuity by a public or private entity acceptable to the County, pursuant to 2-1.6 (C). Up to 40% of the site may be the Cluster Development Lots, for residential use, pursuant to 2-2.6 (D).
- D. All cluster lots must be accessed either by an internal road network that is connected to an existing public road, or by an existing public road. The majority of cluster lots must be accessed by an internal road. Internal roads must be designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system. A forty (40) foot right of way is sufficient if approved by VDOT.
- E. The average of the minimum widths of waterfront lots created must be at least 150 feet at the 100 foot RPA line.
- F. Residential Cluster Developments may be served by a community water system, subject to special exception approval and subject to the utility regulations set forth in Article 4.
- G. An individual well or septic field may be located on a lot separate from the lot which is served by that well or septic field, provided that an easement is provided to ensure access for maintenance purposes.

### 2-2.6.3 Cluster Conservation Lot Regulations

#### A. Ownership

Each required Conservation Lot is permitted to have a maximum of one principle dwelling unit and each such lot must be permanently restricted from future subdivision and development by a permanent conservation easement held by a public or private entity acceptable to the County. A Conservation Lot may be privately or publicly owned.

#### B. Use Regulations

Uses within the Cluster Conservation Lot shall be as follows:

- (1) The following uses may be permitted on Conservation Lots held under easement by a public or private entity:
  - (a) Single Family Dwelling and associated accessory dwelling, uses and structures
  - (b) Conservation Area as defined in this Ordinance
  - (c) Agriculture, general
  - (d) Other mutually acceptable passive open space uses identified in the easement agreement.
  - (e) Bed and Breakfast Homestay
  - (f) Home Occupations, Minor (by-right) and Major (subject to Special Exception Approval)
  - (g) Family Day Care Home
- (2) The following uses may be permitted on Conservation Lots held as Common Open Space by an HOA or POA:
  - (a) Conservation Area as defined in this Ordinance
  - (b) Playgrounds and other passive and active recreational facilities, for use by residents of the cluster.

### 2-2.6.4 Cluster Development Lot Use Regulations

Uses within the Cluster Development Area shall be limited as follows:

- A. Bed and Breakfast, Homestay
- B. Home Occupations, Minor and Major (subject to Special Exception Approval)
- C. Family Day Care Home
- D. Single Family Dwelling and associated accessory dwelling, uses and structures

### 2-2.6.5 Cluster Development on Parent Tracts of less than 21 acres.

A tract of less than 21 acres may be subdivided and developed under the cluster development option provided that the following requirements are met:

- A. The parent tract has not been previously divided or subdivided since the date of adoption of the Amended Zoning Ordinance.
- B. Cluster lots meet the requirements set forth in 2-2.4.
- C. At least 50% of the original area of the parent tract is retained as a single conservation lot.
- D. All other requirements of 2-2.6 are met.



## 2-3. Rural Residential (RR)

### 2-3.1 Purpose and Intent

The Rural Residential District (RR) is intended to provide an area for low-density residential uses and a limited range of other uses compatible with a rural residential environment. This district is not to be served by large scale public water or by wastewater treatment systems. It is intended to complement the more rural, lower density Agricultural and Conservation Districts by providing a location for residential development of a rural nature. The RR District is generally intended to provide a transition of land uses between the Agricultural and Conservation Districts and other, more intensive districts.

### 2-3.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Agriculture, Limited
4. Bed and breakfast, homestays
5. Boathouses (Covered Boat Slip), subject to Article 4
6. Boat wharves, private for unloading but not for boat storage
7. Dwellings, single family detached
8. Home occupations, minor, subject to standards of Article 4
9. Marinas, private
10. Parks, unlighted
11. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
12. Playgrounds, unlighted
13. Signs, subject to Article 7
14. Water-related Structures (jetties, seawalls, piers, etc.), subject to Article 4

### 2-3.3 Permissible Uses (by Special Exception)

1. Additional accessory structures in excess of number permitted in Article 4
2. Alternative Sewage Treatment Systems
3. Bed and Breakfast Inns
4. Cemeteries
5. Churches
6. Civic Clubs
7. Community water systems
8. Country Clubs
9. Dwellings, accessory, subject to Article 4
10. Family day care homes
11. Fire, police or rescue stations
12. Golf courses
13. Golf Driving Ranges
14. Group Homes
15. Home occupations, major, subject to standards of Article 4.
16. Parks, lighted
17. Playgrounds, lighted
18. Public utility trunk lines and system components, other (gas, electric, etc.)

- 19. Recycling collection points
- 20. Schools, elementary
- 21. Solid waste collection points
- 22. Telecommunications towers, attached
- 23. Telecommunications towers, freestanding, subject to Article 4.

2-3.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Maximum Lot Coverage		Setbacks			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)			Minimum Front (ft.)	Maximum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District					
Single-Family Dwelling	40,000	100 ft.			40 ft.	n/a	20 ft.	40 ft.
Accessory Structures	n/a	n/a			55 ft.	n/a	15 ft.	40 ft.
Other Permitted Uses	60,000	150 ft.			40 ft.	n/a	20 ft.	40 ft.

2-3.5 Building Regulations

2-3.5.1 Maximum Building Height

Thirty-five (35) feet. Also see height exceptions in Article 1.

2-3.5.2 Utility Requirements

Water and wastewater treatment service must be provided by individual private wells or community water systems, and by individual septic systems, in accord with County and State regulations, and as set forth in Article 4.

2-3.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-4. Residential Neighborhood (RN)

### 2-4.1 Purpose and Intent

The Residential Neighborhood District (RN) is intended to provide an area for moderate density residential uses and a limited range of other uses compatible with a residential environment. It is intended to encourage the construction of, and continued use of the land for single-family dwellings and to prohibit commercial, industrial or uses that would substantially interfere with development or continuation of single-family dwellings in the district. The Residential Neighborhood District (RN) must be served by a public or community water system and by a public, central wastewater treatment system.

### 2-4.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Boathouse (Covered Boat Slip), subject to Article 4.
4. Boat wharves, private, for unloading but not for boat storage
5. Dwellings, single family detached
6. Home occupation, minor, subject to standards of Article 4.
7. Marinas, private
8. Parks, unlighted
9. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
10. Playgrounds, unlighted
11. Signs, subject to Article 7
12. Water-related Structures (jetties, seawalls, etc.), subject to Article 4.

### 2-4.3 Permissible Uses (by Special Exception)

1. Additional accessory structures in excess of number permitted in Article 4.
2. Bed and Breakfast homestays
3. Cemeteries
4. Churches
5. Civic Clubs
6. Community Water Systems
7. Country Clubs
8. Dwellings, accessory, subject to Article 4.
9. Fire, police or rescue stations
10. Florists – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.
11. Golf courses
12. Golf Driving Ranges
13. Group Homes
14. Home occupation, major, subject to standards of Article 4.
15. Parks, lighted
16. Playgrounds, lighted
17. Public utility trunk lines, other, and system components (gas, electric)
18. Public utility trunk lines, water or wastewater

- 19. Public Wastewater Treatment Plant,
- 20. Public Water Treatment Plant,
- 21. Recycling collection points
- 22. Schools, elementary, middle, high
- 23. Solid waste collection points
- 24. Telecommunications towers, attached
- 25. Telecommunications towers, freestanding, subject to Article 4.

2-4.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Maximum Lot Coverage		Setbacks			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)			Minimum Front (ft.)	Maximum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District					
Single-Family Dwelling	12,000	70 ft.			20 ft.	n/a	15 ft.	20 ft.
Accessory Structures	n/a	n/a			35 ft.	n/a	10 ft.	20 ft.
Other Permitted Uses*	12,000	70 ft.			20 ft.	n/a	25 ft.	20 ft.

\* some permitted uses will be located on portions of lots with other permitted uses

2-4.5 Building Regulations

2-4.5.1 Maximum Building Height

Thirty-five (35) feet. Also see height exceptions in Article 1.

2-4.5.2 Utility Requirements

Water and wastewater treatment service must be provided by public or community water and wastewater treatment systems which meet the guidelines and standards of the County’s Comprehensive Plan and all design standards set by the County and State.

2-4.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-5. Planned Residential Development (PRD)

### 2-5.1 Purpose and Intent

The Planned Residential Development (PRD) is intended to provide residential opportunities at a higher density than the Rural Residential (RR) and Residential Neighborhood (RN) Districts, but yet in a quiet residential character with a mix of different residential types. The PRD district is generally intended to apply to land designated in the Comprehensive Plan as being planned for higher density residential uses. Land in this district is intended to be served with public water and wastewater services.

### 2-5.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Boathouse (Covered Boat Slip), subject to Article 4.
4. Boat wharves, private, for unloading but not for boat storage
5. Dwellings, accessory, subject to standards of Article 4.
6. Dwellings, multi-family
7. Dwellings, single family attached
8. Dwellings, single family detached
9. Dwellings, two-family
10. Home occupations, minor, subject to standards of Article 4.
11. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
12. Signs, subject to Article 7
13. Water-related Structures (jetties, seawalls, etc.), subject to Article 4.

### 2-5.3 Permissible Uses (by Special Exception)

1. Additional accessory structures in excess of number permitted in Article 4.
2. Assisted Living Facility
3. Bed and Breakfast homestays
4. Cemeteries
5. Churches
6. Civic Clubs
7. Country Clubs
8. Day Care Facilities
9. Fire, police or rescue stations
10. Golf courses
11. Golf Driving Ranges
12. Group Homes
13. Home occupations, major, subject to standards of Article 4.
14. Libraries
15. Marinas, private
16. Parks, lighted or unlighted
17. Playgrounds, lighted or unlighted
18. Public utility trunk lines, other, and system components (gas, electric)
19. Public utility trunk lines, water or wastewater

- 20. Public Wastewater Treatment Plant,
- 21. Public Water Treatment Plant,
- 22. Recycling collection points
- 23. Retail, Office and Personal Service Businesses not exceeding 10,000 square feet (Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
- 24. Schools, elementary, middle, high, post-secondary
- 25. Solid waste collection points
- 26. Telecommunications towers, attached
- 27. Telecommunications towers, freestanding, subject to Article 4.

2-5.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Maximum Lot Coverage		Setbacks			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)			Minimum Front	Min. Side	Min. Total of both Sides	Min. Rear
			in accord with Article 3 Chesapeake Bay Overlay District					
Single-Family Dwelling	8,000	60 ft.			20 ft.	5 ft.	15 ft.	25 ft.
Two-family Dwelling**	14,000	100 ft.			20 ft.	8 ft.	15 ft.	25 ft.
Attached Dwelling***	2,000	18 ft.			5 ft.	n/a; 15 ft. for end units		25 ft.
Multi-family Structure	40,000	120 ft.			5 ft.	5 ft.	15 ft.	25 ft.
Accessory Structures for single and two-family	n/a	n/a			35 ft.	5 ft.	15 ft.	25 ft.
Accessory Structures for attached & multi-family	n/a	n/a			40 ft.	0 ft.	0 ft.	15 ft.
Other Permitted Uses*	60,000	150 ft.			40 ft.	5 ft.	15 ft.	25 ft.

\* permitted uses may be located on portions of lots with other permitted uses

\*\* two-family dwellings must be on separate lots but may share a common wall at the lot line

\*\*\* a maximum of eight (8) units are permitted in a single attached group of units.

2-5.5 Building Regulations

2-5.5.1 Maximum Building Height

Thirty-five (35) feet, except forty-five (45) feet for multi-family structures. Also see height exceptions in Article 1.

#### 2-5.5.2 Utility Requirements

Water and wastewater treatment service must be provided by public or community water system and public wastewater treatment systems which meet the guidelines and standards of the County's Comprehensive Plan and all design standards set by the County and State.

#### 2-5.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system. Access for emergency and maintenance must be provided at the rear of multi-family dwellings and may be required for attached units if needed due to surrounding road access configurations.

#### 2-5.5.4 Density Requirements

A Planned Residential Development (PRD) may have a density of up to a maximum of five units per gross acre, if the proposed development is in accord with the County's Comprehensive Plan. Maximum internal, net densities for each allowable dwelling type are as follows:

- (A) For multifamily dwelling structures: Twelve (12) units per net acre of land devoted to multi-family uses.
- (B) For attached dwellings: Eight (8) units per net acre of land devoted to attached units.
- (C) Multi-family dwelling units and attached dwelling units may not exceed seventy-five (75) percent individually or collectively of the total number of dwelling units in the Planned Residential Development (PRD). The remaining units must be single family detached.

#### 2-5.5.5 Open Space Requirements.

- (A) A minimum of at least twenty (20) percent of the gross area of the Planned Residential Development (PRD) tract must be maintained in open space as defined in this Ordinance, in conjunction with approval of the rezoning.
- (B) Not more than twenty-five (25) percent of the minimum open space required in 2-5.5.5. A may consist of any of the following: 100 year flood plain, wetlands, above ground utility uses including stormwater management facilities, or slopes in excess of sustained thirty-five (35) percent.

- (C) A minimum of ten (10) percent of the total minimum amount of required open space must be in the form of public greens, fronted on at least two sides by residential streets and structures.

2-5.5.6 Ownership and Management of Common Open Space and Common Facilities

- (A) All common open space and facilities must be preserved for the intended purpose as expressed in the Concept Development Plan. The developer shall choose prior to approval of the first record plat or final site plan, one (1) or a combination of the following methods of administering common open space.

- (1) Public dedication to the County of the common open space, subject to acceptance by the Board of Supervisors.
- (2) Establishment of a non-profit association, corporation, trust, or foundation of all owners of residential property within the planned development. Such organization must conform to the following requirements:
  - (a) The organization must be established prior to approval of the first record plat or site development plan in the proposed development, whichever is first. The documents establishing such organization are subject to review and approval by the County.
  - (b) Membership in the organization shall be mandatory for all residential property owners, present or future, within the planned community and said organization shall not discriminate in its members or shareholders.
  - (c) The organization shall manage, maintain, administer and operate all open space and improvements and other land not publicly or privately owned, including the adoption and administration of design guidelines and procedures for review and approval of structures, shall secure adequate liability insurance on the land and such improvements and must provide for adequate, on-going funding to maintain all common areas and facilities.

- (3) Retention of ownership, control, and maintenance of common open space and improvements by the developer.

- (B) All common open space not dedicated to the County must be subject to restrictive covenants running with the land restricting its use to that specified in the approved Development Plan. Such restrictions must be for the benefit of, and enforceable by, all present or future residential property owners and the Board of Supervisors.



(C) All common open space, as well as public recreational facilities, must be specifically included in the development schedule and be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.

2-5.6 Standards for Planned Residential Development (PRD)

- 2-5.6.1 A Planned Residential Development (PRD) must include at least ten (10) gross contiguous acres with frontage upon a paved collector or arterial highway. The entire tract for a PRD application must consist of contiguous parcels.
- 2-5.6.2 The applicant must prepare and submit a PRD Concept Development Plan in accord with Article 10 (Administration and Procedures) of this Ordinance.. The Concept Development Plan shall include maps and narrative text that describe the location of and relationships between all land uses, public facilities, roadways, open space and recreation areas, and other proposed major facilities.
- 2-5.6.3 The Concept Development Plan must be submitted as part of the application for rezoning, including submission and procedural requirements for the rezoning process shall be as set forth in Article 10 (Administration and Procedures) of this Ordinance.
- 2-5.6.4 The Concept Development Plan must provide for at least two different dwelling types.
- 2-5.6.5 The Concept Development Plan must be in general conformity with the County's adopted Comprehensive Plan, and shall not create an adverse effect on adjacent land uses.
- 2-5.6.6 Recreational and open space uses must be incorporated into each phase or stage of development in the manner prescribed by the Concept Development Plan. Applicable recreational facilities shall be completed prior to construction of the next phase.
- 2-5.6.7 The applicant must designate geographic sections and identify the number and type of dwellings of each section and of the entire tract proposed to be developed as a Planned Residential Development.
- 2-5.6.8 The unique nature of a proposal for Planned Residential Development may require that the specifications for the width and surfacing of streets, alleys, ways for public utilities, and curbs, gutters, sidewalks, street lights, public parks and playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established by the County. The Board of Supervisors may therefore waive or modify the specifications otherwise applicable for a particular public facility where the Board finds that such specifications are not required in the interest of the residents of the Planned Residential Development and that the requested modifications of such specifications would better meet the

purpose and intent of the PRD District and of the County's Comprehensive Plan. If any such modifications are approved by the Board such modifications shall be shown on the approved Concept Development Plan and shall govern the development of the project.

## 2-6. Planned Village Development (PVD)

### 2-6.1 Purpose and Intent

The purpose of the Planned Village Development (PVD) is to provide opportunities for the creation of new neighborhoods that have the desirable qualities of older neighborhoods that were a common form of development in the United States from early settlements until the 1940's. These neighborhoods feature a mix of land uses and building types, closely linked by an interconnected street network framed by buildings and thus convenient for pedestrians.

The purpose of this district is to provide a flexible set of land use and design regulations that will allow traditional neighborhoods to be built subject to County rezoning review and approval.

Upon approval, a Planned Village Development (PVD) Plan and design guidelines become the basis for all continuing land use controls and supercede all other provisions of this Ordinance.

The PVD option is intended for areas planned for medium or high density residential uses adjacent to urbanizing areas and served with public utilities.

Objectives of these Planned Village Development provisions are to:

- Allow residents to carry out many of life's activities within their neighborhood, including working, shopping, education and recreation.
- Provide a range and mix of land uses and dwelling types.
- Provide a transportation system that provides safe and convenient movement for all forms of traffic, including motor vehicles, pedestrians and bicycles.
- Provide a system of civic spaces including parks, squares and public structures to create a sense of community.

### 2-6.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Boathouse (Covered Boat Slip), subject to Article 4.
4. Boat wharves, private, for unloading but not boat storage
5. Dwellings, accessory, subject to standards of Article 4.
6. Dwellings, single family attached
7. Dwellings, single family detached
8. Dwellings, multi-family
9. Dwellings, two-family
10. Home occupation, minor, subject to standards of Article 4.
11. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
12. Signs, subject to Article 7
13. Water-related Structures (jetties, seawalls, etc.), subject to Article 4.

## 2-6.3 Permissible Uses (by Special Exception)

1. Additional accessory structures in excess of number permitted in Article 4.
2. Assisted Living Facilities
3. Bed and Breakfast homestays
4. Cemeteries
5. Churches
6. Civic Clubs
7. Country Clubs
8. Day Care Facilities
9. Fire, police or rescue stations
10. Golf courses
11. Golf Driving Ranges
12. Group Homes
13. Home occupations, major, subject to standards of Article 4.
14. Libraries
15. Marinas, private
16. Nursing Homes
17. Offices, subject to Section 2-6.4
18. Parks, lighted or unlighted
19. Playgrounds, lighted or unlighted
20. Post office
21. Public utility trunk lines, other, and system components (gas, electric)
22. Public utility trunk lines, water or wastewater
23. Public Wastewater Treatment Plant,
24. Public Water Treatment Plant,
25. Recycling collection points
26. Retail, offices, services not more than 10,000 square feet  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
27. Schools, elementary, middle, high, or post-secondary
28. Solid waste collection points
29. Telecommunications towers, attached
30. Telecommunications towers, freestanding, subject to Article 4.

2-6.4 Land Use Mix, Density, Lot and Yard Regulations

	Minimum	Maximum
<b>Neighborhood Size</b>	Ten (10) acres for a new PVD; Two (2) acres for expanding an existing PVD	none
<b>Overall Gross Density</b>	n/a	
<b>% of Net Development Area</b>		
<b>Land Use Mix:</b>	<b>Minimum</b>	<b>Maximum</b>
Residential uses	50%	80%
Retail or office uses	2%	15%
Civic uses***	2%	n/a
Parks, greens, open space	10%	n/a
<b>Minimum</b>		
<b>Maximum</b>		
<b>Net Density:</b>		
Total Residential	n/a	5.0 du/ac
Single Family Detached	n/a	4.0 du/ac
Two-family dwelling	n/a	5.0 du/ac
Townhouse	n/a	7.0 du/ac
Multi-Family	n/a	12.0 du/ac
<b>Building Floorplate:****</b>		
Retail or office	n/a	20,000 s.f.**
<b>Minimum</b>		
<b>Maximum</b>		
<b>Lot Coverage: *****</b>		in accord with Article 3 Chesapeake Bay Overlay District

\*no maximum front setback for lots of 20,000 square feet or greater

\*\*maximum area of building floorplate; 50,000 square feet by special use permit

\*\*\*Public utility uses shall not be included in this required percentage.

\*\*\*\* Floorplate is the same as “footprint” of the building

Note: fifty (50) feet minimum buffer area required between PVD district and existing residential neighborhoods

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

<b>Lot Area Requirements</b>	<b>Minimum</b>	<b>Maximum</b>
<b>Single Family Detached</b>		
Lot Size	8,500 s.f.	n/a
Lot Width	60 ft	n/a
Front Setback	10 ft	25 ft*
Side Yard	10 ft.	n/a
Rear Yard	25 ft	n/a
<b>Two-Family</b>		
Lot Size	14,000 s.f.	n/a
Lot Width	90 ft.	n/a
Front Setback	10 ft	25 ft*
Side Yard	10 ft.	n/a
Rear Yard	25 ft	n/a
<b>Attached</b>		
Lot Size	1,600 s.f.	n/a
Lot Width	18 ft.	n/a
Front Setback-edge	10 ft.	n/a
Side Yard	10 ft.	n/a
Rear Yard	25 ft	n/a
<b>Multi-Family</b>		
Lot Size	8,500 s.f.	n/a
Lot Width / Frontage	90 ft.	n/a
Front Setback	0 ft.	25 ft
Side Yard	10 ft.	n/a
Rear Yard	25 ft	n/a
<b>Retail or Office</b>		
Lot Size	8,500 sf	n/a
Lot Width	70 ft	n/a
Front Setback	0 ft	15 ft
Side Yard	5 ft	n/a
Rear Yard	35 ft	n/a
<b>Civic Uses</b>		
Front Setback	10 ft.	25 ft.
Side Yard	5 ft.	n/a
Rear Yard	25 ft	n/a
<b>Accessory Structures</b>		
Front Setback	n/a	n/a
Side Yard	5 ft.	n/a
Rear Yard	20 ft	n/a
<b>Impervious Surfaces</b>		
		in accord with Article 3 Chesapeake Bay Overlay District

\*no maximum front setback for lots of 20,000 square feet or greater

\*\*maximum area of building floorplate; 50,000 square feet by special use permit

Note: fifty (50) feet minimum buffer area required between PVD district and existing residential neighborhoods

2-6.5 Building Regulations

2-6.5.1 Maximum Building Height

Thirty-five (35) feet.

Also see height exceptions in Article 1.

2-6.5.2 Utility Requirements

Water and wastewater treatment service must be provided by a public or community water system and a public wastewater treatment system which meet the guidelines and standards of the County's Comprehensive Plan and all design standards set by the County and State.

2-6.5.3 Access and Street Requirements

(A) Grid Network Required. The transportation system in the PVD District shall generally be in the form of a grid of interconnected streets, alleys and paths, modified as necessary to accommodate topography and parcel shape.

(B) Cul-de-sacs shall not exceed ten (10) percent of the total length of streets in the PVD. Alleys are exempt from this calculation.

(C) Block Size. The blocks created by the grid of streets shall have a maximum block perimeter of 1,800 lineal feet, measured along the interior edge of the street right-of-way, except in locations where a street must cross areas of steep slopes in excess of ten (10) percent natural grade. In such cases, the block length may be extended as necessary to circumvent the steep area.

(D) Street Design. Street sections in the PVD shall be designed to serve multiple purposes, including movement of motor vehicle traffic, safe and convenient pedestrian and bicycle movement, areas for public gathering and interaction, and areas for placement of street trees, street furniture and landscaping. Streets shall be designed to balance the needs of all users and promote efficient and safe movement of all modes of transportation.

The following street designations and sections shall be used as guidelines in designing streets that fit the land uses and densities of the proposed network.

Type of Street	Typical ADT*	Design Speed	Right of Way	Paving	Parking
Neighborhood Boulevard	> 3,000	30 mph	72 feet	Two lanes @ 18'; 8' median	Two sides
Neighborhood Main Street	> 2,000	20 mph	64 feet	36 feet	Two sides
Neighborhood Avenue	1,000 to 2,000	20 mph	60 feet	34 feet	Two sides
Mixed Residential Street	< 1,000	20 mph	48 feet	28 feet	One side
Mixed Residential Lane	< 500	20 mph	46 feet	26 feet	One side
Mixed Residential Side Street	< 500	20 mph	28 feet	20 feet	None

\*Average Daily Traffic volume projected to occur at the time of completion of development of PVD

- (E) Sidewalks. Sidewalks shall be provided on at least one side of the street. Paved area of sidewalk shall be not less than six (6) feet wide, with total sidewalk area width not less than twelve (12) feet.
- (F) Pedestrian and/or Bicycle Routes. Pedestrian and bicycle routes shall be provided to connect all uses, so that pedestrians and bicyclists can move comfortably and safely from any site within the PVD to any other site within the PVD. Pedestrian traffic shall be accommodated through the provision of sidewalks and paths. Bicycle traffic shall be accommodated through the provision of designated, well-marked bicycle lanes and/or paths suitable for bicycle traffic.
- (G) Parking. Parking and loading spaces shall be provided as required in Article 5. On-street as well as off-street parking spaces shall be counted toward satisfying the requirements. On-street parking spaces assigned to a building or use shall be those spaces that abut the lot containing that building or use. All required handicapped parking spaces shall be provided off-street. Shared parking shall be permitted upon approval by the Zoning Administrator of a shared parking plan prepared and submitted by the applicant. Off-street parking and loading spaces shall be located behind or to the side of principal structures and may be served directly or indirectly by alleys.
- (H) Private Streets. Private streets and alleys, built to standards approved by the Board of Supervisors, are permitted in the PVD. Such private streets and alleys may serve multiple lots and uses, allowing lots to share entrances on to the public street. A property owners association approved by the Board in accord with Section 2-6.5.5 shall maintain private streets and alleys.

2-6.5.4 Open Space Requirements



(A) Total Land Areas for Parks, Greens and Other Open Space Uses. A minimum of ten (10) percent of the net development area must be designated for Parks, Greens or Other Open Space uses as defined herein. Natural (undisturbed) open space shall count toward no greater than twenty (20) percent of the total required area for parks, greens or other open space uses.

(B) Minimum Lot Area for Parks, Greens and Other Open Space Uses. A park, square or open space area shall be at least 10,000 square feet. No residential dwelling unit of the neighborhood shall be located more than 1,400 feet from the boundary of a park, green or open space property.

2-6.5.5 Property Owners Association

A Property Owners Association shall be established in accord with the provisions of Section 2.5.5.6.

2-6.5.6 Use Limitations

(A) Public Water and Sewer Service. All development within a PVD is required to be served by public water and sewer facilities.

2-6.6 Standards and Procedures for Planned Village Development (PVD)

2-6.6.1 A Planned Village Development (PVD) must include at least ten (10) gross contiguous acres with frontage upon an existing paved collector or arterial highway.

2-6.6.2 The applicant must prepare and submit a PVD Concept Development Plan. The Concept Development Plan shall include maps and narrative text that describe the location of and relationships between all land uses, public facilities, roadways, open space and recreation areas, and other proposed major facilities.

2-6.6.3 The Concept Development Plan shall be submitted as part of the application for rezoning. Submission and procedural requirements for the rezoning process shall be as set forth in Article 10 of this Ordinance.

2-6.6.4 The Concept Development Plan shall provide for at least two different dwelling types.

2-6.6.5 The Concept Development Plan shall be in general conformity with the County's adopted Comprehensive Plan, and shall not create an adverse effect on adjacent land uses.

2-6.6.6 Recreational and open space uses shall be incorporated into each phase or stage of development in the manner prescribed by the Concept Development Plan. Applicable recreational facilities shall be completed prior to construction of the next phase.

- 2-6.6.7 The applicant shall designate geographic sections and identify the number and type of dwellings of each section and of the entire tract proposed to be developed as a Planned Village Development.
  
- 2-6.6.8 The unique nature of a proposal for Planned Village Development may require that the specifications for the width and surfacing of streets and highways, alleys, ways for public utilities, for curbs, gutters, sidewalks, street lights, public parks and playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established by the County. The Board of Supervisors may therefore waive or modify the specifications otherwise applicable for a particular public facility where the Board finds that such specifications are not required in the interest of the residents of the Planned Residential Development and that the modifications of such specifications are not inconsistent with the interests of the County. Any such modifications that may be approved by the Board shall be shown on the approved Concept Development Plan and shall govern the development of the project.

## 2-7. Business Neighborhood (BN)

### 2-7.1 Purpose and Intent

This district is intended to provide for convenience commercial uses to serve rural residents and supplement neighborhood and community areas. Uses include facilities such as a country store providing essential goods and services in the rural area at crossroads and historic rural centers rather than spread out along the highway or isolated as home occupations. The convenience center is the first stage of commercial services and is intended for consolidated development in a limited area of service.

### 2-7.2 Permitted Uses (by-right)

1. Accessory Uses
2. Accessory Structures
3. Antique shops
4. Banks, not including drive-in
5. Bed and breakfast Inn
6. Boat Building and repair
7. Boathouses (Covered Boat Slip)
8. Churches not greater than 50,000 square feet
9. Convenience center or general store (maximum 8,000 s.f., individual or collectively)
10. Farm Machinery Repair
11. Farm Machinery Sale, Rental, Service
12. Funeral Homes
11. Golf Cart Sales
12. Nurseries, production
13. Offices
14. Playgrounds, unlighted
15. Retail sales and personal services not greater than 10,000 s.f.  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
16. Restaurants, not including drive-in
17. Schools, commercial, technical
18. Signs, subject to Article 7
19. Water-related structures

### 2-7.3 Permissible Uses (by Special Exception)

1. Alternative Sewage Treatment System
2. Boat Sales and Service
3. Camps, day or boarding
4. Civic Clubs
5. Churches 50,000 square feet or greater
6. Community Water System
7. Country Inns
8. Day Care Centers
9. Drive-in facility as part of retail, restaurant, bank or office use
10. Dwellings, Caretaker's
11. Feed Mills
12. Fire, Police or rescue stations

- 13. Nurseries, retail  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
- 14. Nursing homes
- 15. Parks, lighted or unlighted
- 16. Playgrounds, lighted
- 17. Post Office
- 18. Public utility trunk lines, other, and system components (gas, electric)
- 19. Public utility trunk lines, water or wastewater
- 20. Public Wastewater Treatment Plant
- 21. Public Water Treatment Plant
- 22. Recycling collection point
- 23. Service Station, subject to Article 4.
- 24. Swimming Pools, Public
- 25. Telecommunications towers, attached
- 26. Telecommunications towers, free-standing, subject to Article 4.
- 27. Tourist Home
- 28. Veterinary Clinics, Kennels and Veterinary Hospitals

2-7.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Maximum Lot Coverage	Setbacks			
	Lot Size	Lot Frontage (at front setback)		Minimum Front (ft.)	Maximum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District				
Commercial uses	25,000 sq. ft.	none		25 ft.	n/a	15 ft.	25 ft.
Accessory Structures	n/a	n/a		125 ft.	n/a	15 ft.	40 ft.
Other Permitted Uses	25,000 square feet	100 ft.		100 ft.	n/a	20 ft.	40 ft.

2-7.5 Building Regulations

2-7.5.1 Maximum Building Height

Thirty-five (35) feet. Also see height exceptions in Article 1.

2-7.5.2 Utility Requirements

A. Water and wastewater must be provided by on-site individual well and septic fields or an alternative on-site sewage treatment system, or public water systems and public wastewater systems in accord with County and State regulations, and as set forth in Article 4

B. Residential uses located on lots developed in this District may be served by a community water system, subject to special exception approval.

2-7.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-8. Business General (BG)

### 2-8.1 Purpose and Intent

The Business General District (BG) provides for general commercial uses which serve community-wide needs for goods, services and shopping in the county. Such facilities should be consolidated to provide for the appropriate infrastructure and offer competitive services within the market. A full range of commercial services are encouraged with central access and services. The result may be intense uses that require buffering, land coordination and community or public water and wastewater system support.

### 2-8.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Antique shops
4. Auto, trailer sales and service
5. Boathouses (Covered Boat Slip)
6. Boat building and repair
7. Boat sales and service
8. Building materials (indoor storage only)
9. Car wash, self service
10. Convenience center
11. Retail stores of not more than 100,000 gross square feet  
(Errata Sheet April 12, 2006 – this included within item #21 below)
12. Small Engine Repair and Sales
12. Fire, police or rescue stations
13. Funeral Homes
14. Contractor office and storage (screened equipment storage)
15. Motel and hotel
16. Nursery Horticultural Production
17. Nursery Retail
18. Nursery Wholesale
19. Offices
20. Printing Plants
21. Retail, office and services not greater than 100,000 square feet  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
22. Restaurants, not including drive-in services
23. Schools, commercial, technical
24. Signs, subject to Article 7
25. Water-related Structures (jetties, seawalls, etc.), subject to Article 4
26. Wholesale stores not greater than 100,000 gross square feet

### 2-8.3 Permissible Uses (by Special Exception)

1. Auction house
2. Bed and Breakfast Inns
3. Cemeteries
4. Churches
5. Civic and membership clubs
6. Commercial Recreation

7. Community water systems
8. Drive-in facility as part of retail, restaurant, bank or office use
9. Flea Markets
10. Golf driving ranges
11. Hospital
12. Manufactured home sales
13. Nursing homes
14. Public utility trunk lines, other, and system components (gas, electric)
15. Public utility trunk lines, water or wastewater
16. Public Wastewater Treatment Plant, public
17. Public Water Treatment Plant, public
18. Recycling collection point
19. Service station, may include auto repair
20. Solid waste collection point, transfer station
21. Storage yards, outdoor
22. Telecommunications towers, attached
23. Telecommunications towers, freestanding, subject to Article 4

2-8.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Maximum Lot Coverage		Setbacks			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)			Minimum Front (ft.)	Maximum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District					
Commercial Uses	10,000	100 ft.			25 ft.	n/a	10 ft.	25 ft.
Accessory Structures	n/a	n/a			25 ft.	n/a	5 ft.	10 ft.
Other Permitted Uses	20,000	150 ft.			30 ft.	n/a	15 ft.	30 ft.

2-8.5 Building Regulations

2-8.5.1 Maximum Building Height

Thirty-five (35) feet. Also see height exceptions in Article 1..

2-8.5.2 Utility Requirements

Water and wastewater treatment service must be provided by community or public water systems and public wastewater systems, in accord with County and State regulations, and as set forth in Article 4.

2-8.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

Interparcel access must be provided and coordinated between adjacent sites so as to limit the number of entrances onto the public road to the minimum number necessary to provide safe ingress and egress.

## **2-9. Industrial General (IG)**

### **2-9.1 Purpose and Intent**

The Industrial General (IG) is intended to provide an area for heavy commercial and industrial uses which may create some nuisance and which may not be compatible with residential, institutional and neighborhood activities. This District is intended to encourage the construction of and continued use of land for industrial uses and prohibit residential and neighborhood commercial uses which could substantially interfere with the development, continuation or expansion of heavy commercial and industrial uses in the District. The Industrial General District (IG) must be served by public or community water and wastewater treatment systems.

### **2-9.2 Permitted Uses (by-right)**

1. Accessory uses
2. Accessory structures
3. Assembly plants
4. Automotive repair garage
5. Boat building and repair
6. Boat dock and commercial marine
7. Boathouse (Covered Boat Slip)
8. Boat sales and service
9. Cabinet and furniture shops
10. Canneries
11. Concrete plants and distribution
12. Contractor's storage yards (screened)
13. Dairies
14. Feed mills
15. Grain and fertilizer storage, commercial
16. Laboratory, pharmacy and medicine
17. Laboratory, research and development
18. Lumber and building supplies
19. Machine shops
20. Manufacture, assembly or processing from previously prepared materials, or of edible products, drugs, perfumes, cosmetics and toiletries
21. Manufacture of pottery, ceramics, rubber or metal stamps, novelties, toys and musical instruments
22. Manufacture of wood products
23. Marine services and repair
24. Nursery, Wholesale
25. Nursery, Horticultural Production
26. Office buildings
27. Printing Plants
28. Produce processing plants
29. Research and development
30. Restaurant not greater than 3,000 square feet
31. Sawmills, permanent
32. Signs, subject to Article 7
33. Veterinary clinic, kennel and hospital
34. Warehouses
35. Welding shops



36. Wholesale and processing facility
37. Water-related structures

#### 2-9.3 Permissible Uses (by Special Exception)

1. Airport, private or public
2. Auto, trailer sales and service
3. Building materials (indoor storage only)
4. Bulk storage and tank facility
5. Cemeteries
6. Churches
7. Civic Clubs
8. Community water systems
9. Fire, police or rescue stations
10. Landfill, sanitary
11. Public Wastewater Treatment Plant
12. Public Water Treatment Plant
13. Public utility trunk lines, other, and system components (gas, electric)
14. Public utility trunk lines, water or wastewater
15. Recycling collection points
16. Restaurants, with or without drive-in facility
17. Schools, Technical
18. Self-storage facilities, including mini storage units
19. Service station, may include auto repair
20. Solid waste collection points and transfer stations
21. Storage yards, outdoor
22. Telecommunications towers, attached
23. Telecommunications towers, freestanding, subject to Article 4
24. Trucking terminals
25. Yards, coal and lumber

#### 2-9.4 Prohibited Uses

All residential structures and uses shall be prohibited in the IG District, except for night watchman, caretaker or resident security restricted to five (5) percent of the structure in which it is housed.

#### 2-9.5 Performance Standards

All industrial uses shall comply with the following performance standards as part of the development and operation in the District:

##### 2-9.5.1 *Performance Standards.*

No building, structure or land in the IG District shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazardous condition; noise or vibration; smoke, dust, odor or other form of air pollution; electrical or other disturbance; glare or heat; liquid or solid refuse or wastes; condition conducive to the breeding of rodents or insects; or other substance, condition or

elements in a manner or amount as to adversely affect the surrounding area..

2-9.5.2 *Noise.*

All noise shall be muffled so as not to be objectionable due to intermittence, frequency or shrillness. In no case shall the sound-pressure level of noise radiated from any establishment, measures at the lot line, exceed maximum permissible level as adopted by the Westmoreland Board of Supervisors.

2-9.5.3 *Vibration.*

No vibration that can be detected at the lot line without the aid of instruments shall be permitted. Vibration caused by any use on any lot shall not result in acceleration exceeding 0.1g not shall it produce a combination of amplitudes and frequencies beyond the "safe range" as specified in Bulletin #442, United States Bureau of Mines.

2-9.5.4 *Smoke.*

There shall not be discharged into the atmosphere from any operation on any lot visible smoke of a shade darker than No. 2 on the Ringelmann Smoke Chart, as published by the United States Bureau of Mines.

2-9.5.5 *Other Air Pollutants.*

There shall not be discharged into the atmosphere from any operation on any lot fly ash, dust, dirt, fumes, vapors or gases to any extent that could result in damage to the public health or to animals or vegetation or to other forms of property.

2-9.5.6 *Odor.*

There shall not be discharged or permitted to escape into the atmosphere from any operation on any lot odorous or noxious has or any other material in such quantity as to be offensive beyond the premises from which the odor emanates.

2-9.5.7 *Radioactivity.*

There shall be no radioactive emission that would be dangerous to the health and safety of persons on or beyond the premises where such radioactive material is used. Neither shall there be allowed the discharge of any radioactive material into the soil, surface or ground water, drainage channels, sewer systems or the disposal of any such material in a manner other than prescribed by the regulations of the United States Atomic Energy Commission.

2-9.5.8 *Electrical Interference.*

There shall be no electrical disturbance emanating from any lot that would adversely affect the operation of any equipment on any other lot or premises, or adversely affect the navigation or control of aircraft in accordance with the regulation of the Federal Aviation Administration.

2-9.5.9 *Liquid or Solid Wastes.*

There shall be no discharge of any liquid or solid wastes from any establishment into any stream, except as authorized by the Virginia State Water Control Board and/or the Board of Supervisors, nor shall any wastes, debris or other discarded material be permitted to accumulate in any yard or open space on the premises.

2-9.5.10 *Glare and Heat.*

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes, such as combustion, welding or otherwise, shall be permitted to be visible beyond the lot line, except for signs, parking lot lighting and other lighting permitted by this ordinance or required by other applicable regulations. All lighting shall be diffused, down-cast or hooded so as not to spread to adjacent properties. There shall be no discharge of heat or heated air from any establishment so as to be detected beyond the lot line.

2-9.6 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Maximum Lot Coverage	Setbacks			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)		Minimum Front (ft.)	Maximum Front (ft.)	Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District				
Commercial and Industrial Uses	15,000	70 ft.		50 ft.	n/a	15 ft. *	25 ft. *
Accessory Structures	n/a	n/a		35 ft.	n/a	10 ft.	20 ft.
Other Permitted Uses	12,000	70 ft.		20 ft.	n/a	20 ft. *	30 ft. *

\* An additional 25 feet of setback is required when adjacent to an Agricultural, Rural, Conservation or Residential District

2-9.7 Building Regulations

2-9.7.1 Maximum Building Height

Forty-five (45) feet. Also see height exceptions in Article 1.

2-9.7.2 Utility Requirements

Water and wastewater treatment service must be provided by public or community water systems and public wastewater treatment systems which meet the guidelines and standards of the County's Comprehensive Plan and all design standards set by the County and State.

2-9.7.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-10. Planned Industrial Park (PIP)

### 2-10.1 Purpose and Intent

The Planned Industrial Park (PIP) is intended to provide limited commercial, research and development, light industrial and related opportunities in a planned park setting at appropriate locations within the county. The PIP District is generally intended to incorporate the uses within the current BN, BG and IG Districts to provide for multiple uses and an integrated layout with specifically controlled use, circulation and phasing of development. The District is designed as a planned unit development to permit greater flexibility in the use and design of structures and land development in accordance with the intent and land designated in the Comprehensive Plan. Land in this district is intended to be served with public water and wastewater services. General guidelines for development in this District shall include, among others:

1. Create projects with both individual sites and common property and open space for allowable uses which are planned as a unit with buildings related to each other.
2. Provide for the protection of industries, workers and adjacent uses from the harmful effects of industrial operations and encourage the creation of a high-quality environment throughout the District.
3. Separate and buffer commercial and light industrial uses from the heavy industrial operations in an integrated environment free from the nuisance of noise, odor, pollution and other harmful effects.
4. Prevent encroachment on surrounding uses and avoid adverse influence from surrounding uses that would interfere with the development of uses within the District.

### 2-10.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Assembly plants
4. Boat building and repair
5. Boat dock and commercial marine
6. Boathouse (Covered Boat Slip)
7. Boat Sales and Service
8. Cabinet and furniture shops
9. Contractor (screened equipment storage)
10. Convenience center or general store (maximum 3,000 square feet, individual or collectively)
11. Dairies
12. Dwellings, accessory for night watchman or caretaker, subject to standards of Article 4
13. Laboratory, pharmacy and medicine
14. Laboratory, research and development
15. Machine shops
16. Manufacture, assembly or processing from previously prepared materials, or of edible products, drugs, perfumes, cosmetics and toiletries

17. Manufacture of pottery, ceramics, rubber or metal stamps, novelties, toys and musical instruments
18. Marine services and repair
19. Nursery, Horticultural Production
20. Nursery, Wholesale
21. Offices
22. Playgrounds, unlighted
23. Printing Plants
24. Produce processing plants
25. Research and development
26. Restaurants
27. Retail sales and personal services not greater than 5,000 s.f.  
(Florists – Upholsters – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
28. Schools, Commercial, Technical
29. Signs, subject to Article 7
30. Veterinary clinic, kennel and hospital
31. Warehouse
32. Water-related Structures (jetties, seawalls, etc.), subject to Article 4
33. Welding shop
34. Wholesale and processing facility

#### 2-10.3 Permissible Uses (by Special Exception)

1. Additional accessory structures in excess of number permitted in Article 4
2. Auction house
3. Auto, trailer sales and service
4. Automotive repair garage
5. Building materials (indoor storage only)
6. Camp, day or boarding
7. Cemeteries
8. Churches
9. Civic clubs
10. Commercial Recreation
11. Community water systems
12. Concrete plants and distribution
13. Day Care Centers
14. Drive-in Facility as part of retail, restaurant, bank or office use
15. Fire, Police or rescue stations
16. Flea Market
17. Golf driving ranges
18. Hospitals
19. Lumber and building supplies
20. Parks, lighted or unlighted
21. Post Office
22. Public utility trunk lines, other, and system components (gas, electric)
23. Public utility trunk lines, water or wastewater
24. Public Wastewater Treatment Plant
25. Public Water Treatment Plant
26. Service station
27. Solid waste collection points, transfer station
28. Storage yards, outdoor

- 29. Swimming Pools, Public
- 30. Telecommunications towers, attached
- 31. Telecommunications towers, freestanding, subject to Article 4

#### 2-10.4 Lot and Yard Regulations

The minimum area for development in the PIP District is five (5) acres, except where the development is being added to an existing project and can be integrated into the existing planned development. In such cases, the minimum land for addition to an existing planned development is 20,000 square feet.

Setbacks are generally as prescribed in the district within the use is first allowed. The Planning Commission can exercise flexibility in resolving conflicting setbacks between designated districts to provide consistency of development and continuity of the design of the overall planned site.

#### 2-10.5 Building Regulations

##### 2-10.5.1 Maximum Building Height

Forty-five (45) feet or three (3) stories. Also see height exceptions in Article 1.

##### 2-10.5.2 Utility Requirements

Water and wastewater treatment service must be provided by community or public water systems and public wastewater treatment systems which meet the guidelines and standards of the County's Comprehensive Plan and all design standards set by the County and State.

##### 2-10.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

##### 2-10.5.4 Density Requirements

A Planned Industrial Park (PIP) development may have a maximum floor area ratio 0.30 for the entire development. Any individual site is limited to a maximum floor area ratio of 0.45, if the proposed development is in accord with the County's Comprehensive Plan.

##### 2-10.5.5 Open Space Requirements.

- (A) A minimum of at least thirty (30) percent of the gross area of the proposed development in the PIP District tract must be maintained

in open space as defined in this Ordinance, in conjunction with approval of the rezoning.

- (B) Not more than fifty (50) percent of the minimum open space required in 2-11.5 (E) may consist of any of the following: 100 year flood plain, wetlands, above ground utility uses including stormwater management facilities, or sustained slopes in excess of twenty-five (25) percent.

#### 2-10.6 Standards and Procedures for Planned Industrial Park (PIP)

- 2-10.6.1 A Planned Industrial Park (PIP) must include at least five (5) gross contiguous acres with frontage upon an existing paved collector or arterial highway.
- 2-10.6.2 The applicant must prepare and submit a PIP Concept Development Plan. The Concept Development Plan shall include maps and narrative text that describe the location of and relationships between all land uses, public facilities, roadways, open space and recreation areas, and other proposed major facilities.
- 2-10.6.3 The Park Concept Development Plan shall be submitted as part of the application for rezoning. Submission and procedural requirements for the rezoning process shall be as set forth in Article 10 (Administration and Procedures) of this Ordinance.
- 2-10.6.4 The Park Concept Development Plan shall be in general conformity with the County's adopted Comprehensive Plan, and shall not create an adverse effect on adjacent land uses.
- 2-10.6.5 The applicant shall designate geographic sections and identify the number and type of structures of each section and of the entire tract proposed to be developed as a Planned Industrial Park.
- 2-10.6.6 The unique nature of a proposal for Planned Industrial Park development may require that the specifications for the width and surfacing of streets, alleys, ways for public utilities, and curbs, gutters, sidewalks, street lights, public parks and playgrounds, school grounds, storm water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established by the County. The Board of Supervisors may therefore waive or modify the specifications otherwise applicable for a particular public facility where the Board finds that such specifications are not required in the interest of the public for a Planned Industrial Park and that the requested modifications of such specifications would better meet the purpose and intent of the PIP District and of the County's Comprehensive Plan. If any such modifications that are approved by the Board such modifications shall be shown on the approved Park Concept Development Plan and shall govern the development of the project.



## 2-11. Water-Related Commercial (WC)

### 2-11.1 Purpose and Intent

Uses in the WC District provide for the integration of specialized activities relating to the unique opportunities along the waterfront and for certain uses that are dependent upon water resources even though they may be located some distance from the water. Recreation and commercial marine uses and structures are accommodated in this District and are regulated consistent with the access to water resources, protection of the shoreline and economic utilization of the waterfront. Development of the shoreline and waterfront must be consistent with the sensitivity of the water resource and protection of the environmental features of the waterfront as regulated by the Chesapeake Bay Act. Land in this district is generally intended to be served with public or community water systems or public wastewater systems or located in proximity to other public services to reduce the potential for environmental impact to every extent possible.

### 2-11.2 Permitted Uses (by-right)

1. Accessory Uses, subject to Article 4
2. Accessory Structures, subject to Article 4
3. Boathouses (Covered Boat Slip), subject to Article 4
4. Boat Building and repair
5. Boat Sales and Service
6. Boat Wharves, Private, for unloading but not for boat storage
7. Boat Wharves, Public or Commercial
8. Commercial recreation facilities
9. Conservation Areas [*includes Preserves*]
10. Country Inns
11. Country Stores or Specialty Shops, not to exceed 3,000 square feet
12. Dwellings, Accessory
13. Marinas, public or private including dock, launch ramp and support services and structures
14. Marine services and repair
15. Parks, playgrounds and waterfront related recreation facilities, unlighted
16. Office, branch or professional small business relating to the waterfront, maximum 2,500 square feet
17. Restaurants, excluding drive-in service
18. Seafood Facilities, Non-Processing
19. Signs, subject to Article 7
20. Water-related structures (jetties, seawalls, etc.), subject to Article 4
21. Wineries

### 2-11.3 Permissible Uses (by Special Exception)

1. Bed and Breakfast Inns
2. Camps, day or boarding
3. Civic Clubs
4. Community water systems
5. Country Clubs
6. Day Care Centers
7. Dwellings, Single Family Attached

8. Dwellings, Single Family Detached
9. Dwellings, Manufactured housing, subject to Article 4
10. Fire, Police or rescue stations
11. Gasoline sales associated with an existing or proposed marina
12. Home Occupations, Major
13. Hotels, motels or boarding houses
14. Parks, playgrounds and waterfront related recreation facilities, lighted
15. Public Landings
16. Public utility trunk lines, other, and system components (gas, electric)
17. Public utility trunk lines, water or wastewater
18. Public Wastewater Treatment Plant,
19. Public Water Treatment Plant,
20. Seafood Processing Facilities
21. Service Stations subject to Article 4
22. Self-Storage facilities – structures or outdoor, marine or other
23. Swimming Pools, Public
24. Wastewater treatment plant, private
25. Wastewater system trunk lines, private

2-11.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use**	Minimum		Maximum Lot Coverage	Setbacks			
	Lot Size	Lot Frontage		Minimum Front (ft.)	Maximum Front (ft.)	Side (ft.)	Rear (ft.) *
			in accord with Article 3 Chesapeake Bay Overlay District				
Commercial uses	10,000 sq. ft.	100 ft. along waterfront; 50 ft. on road		40 ft.	n/a	15ft.	100 ft.
Single-Family Detached Dwelling and Manufactured Housing	6,000 sq. ft.	50 ft.		50 ft.	n/a	25 ft.	50 ft.
Single-Family Attached Dwelling	2,000 sq. ft.	20 ft.		10 ft.	n/a	n/a	20 ft.
Accessory Structures	n/a	n/a		75 ft.	n/a	15 ft.	20 ft.
Other Permitted Uses	20,000 sq. ft.	100 ft.		50 ft.	n/a	30 ft.	100 ft.

\* Setback from shoreline (high water line)

\*\*Public wastewater service required for all new principal uses

2-11.5 Building Regulations

2-11.5.1 Maximum Building Height

Thirty-five (35) feet, except for agricultural structures.  
Also see height exceptions in Article 1

2-11.5.2 Utility Requirements

Water and wastewater must be provided from community or public water systems and public sewer systems for all newly constructed residential and non-residential uses.

2-11.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-12. Residential Urban (RU)

### 2-12.1 Purpose and Intent

The Residential Urban (RU) is intended to provide an area for moderate to higher density residential uses and a limited range of other uses compatible with a residential environment. It is intended to provide for infill development, redevelopment, and single use, higher density developments on smaller size tracts than would be appropriate for the PRD and PVD districts. The Residential Urban (RU) must be served by a public or community water system and by a public wastewater treatment system.

### 2-12.2 Permitted Uses (by-right)

1. Accessory uses
2. Accessory structures
3. Boathouse (Covered Boat Slip), subject to Article 4.
4. Boat wharves, private, for unloading but not for boat storage
5. Dwellings, single family detached
6. Dwellings, single family attached
7. Dwellings, two-family
8. Dwellings, multi-family
9. Home occupation, minor, subject to standards of Article 4.
10. Marinas, private
11. Parks, unlighted
12. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
13. Playgrounds, unlighted
14. Signs, subject to Article 7
15. Water-related Structures (jetties, seawalls, etc.), subject to Article 4.

### 2-12.3 Permissible Uses (by Special Exception)

1. Additional accessory structures in excess of number permitted in Article 4.
2. Bed and Breakfast homestays
3. Cemeteries
4. Churches
5. Civic Clubs
6. Community Water Systems
7. Country Clubs
8. Day Care Facilities
9. Fire, police or rescue stations
10. Group Homes
11. Home occupation, major, subject to standards of Article 4.
12. Parks, lighted
13. Playgrounds, lighted
14. Public utility trunk lines, other, and system components (gas, electric)
15. Public utility trunk lines, water or wastewater
16. Public Wastewater Treatment Plant
17. Public Water Treatment Plant
18. Recycling collection points
19. Schools, elementary, middle, high

- 20. Solid waste collection points
- 21. Telecommunications towers, attached
- 22. Telecommunications towers, freestanding, subject to Article 4.

2-12.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use*	Minimum		Maximum Lot Coverage		Setbacks			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)			Minimum Front (ft.)	Min Side (ft.)	Total Side (ft.)	Rear (ft.)
			in accord with Article 3 Chesapeake Bay Overlay District					
Single-Family Dwelling, Detached	8,000	60 ft.			20 ft.	5 ft.	15 ft.	25 ft.
Two Family Dwelling**	14,000	100 ft			20 ft.	8 ft	15 ft	25 ft
Single-Family Dwelling, Attached***	2,000	18 ft			5 ft	n/a	n/a; 15 ft. for end units	25 ft
Multi-family dwelling	20,000	100 ft.			20 ft.	10 ft.	20 ft.	25 ft.
Accessory Structures	n/a	n/a			30 ft.	5 ft	5 ft.	20 ft.

- \* permitted uses may be located on portions of lots with other permitted uses
- \*\* two-family dwellings must be on separate lots but may share a common wall at the lot line
- \*\*\* a maximum of eight (8) units are permitted in a single attached group of units.

2-12.5 Building Regulations

2-12.5.1 Maximum Building Height

Thirty-five (35) feet; forty-five (45) feet for multi-family structures. Also see height exceptions in Article 1.

2-12.5.2 Utility Requirements

Water and wastewater treatment service must be provided by public or community water and public wastewater treatment systems which meet the guidelines and standards of the County’s Comprehensive Plan and all design standards set by the County and State.

2-12.5.3 Access Requirements

Any RU tract must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

#### 2-12.5.4 Open Space Requirements.

- (A) A minimum of at least fifteen (15) percent of the gross area of the tract must be maintained in open space as defined in this Ordinance, in conjunction with approval of the rezoning.
- (B) Not more than twenty-five (25) percent of the minimum open space required in 2-12.5.4 (A) may consist of any of the following: 100 year flood plain, wetlands, above ground utility uses including stormwater management facilities, or slopes in excess of sustained thirty-five (35) percent.
- (C) A minimum of fifty (50) percent of the total minimum amount of required open space must be in the form of public greens, fronted on at least two sides by residential streets and structures.
- (D) Ownership and Management of Common Open Space and Common Facilities shall be in accord with the provisions of section 2-5.5.6 of this Ordinance.

#### 2-12.5.5 Standards for Residential Urban (RU)

- 2-12.5.5 A A Residential Urban Development (RU) tract must have frontage upon a paved collector or arterial highway. The entire tract for a RU application must consist of contiguous parcels.
- 2-12.5.5 B The applicant must prepare and submit a Concept Development Plan in accord with Article 10 (Administration and Procedures) of this Ordinance, which must be submitted as part of the application for rezoning, including submission and procedural requirements for the rezoning process shall be as set forth in Article 10 (Administration and Procedures) of this Ordinance.
- 2-12.5.5 C The Concept Development Plan must be in general conformity with the County's adopted Comprehensive Plan, and shall not create an adverse effect on adjacent land uses.
- 2-12.5.5 D The applicant must designate geographic sections and identify the number and type of dwellings of each section and of the entire tract proposed to be developed as a Residential Urban Development.
- 2-12.5.5 E The unique nature of a proposal for Residential Urban Development may require that the specifications for the width and surfacing of streets, alleys, ways for public utilities, and curbs, gutters, sidewalks, street lights, public parks and playgrounds, school grounds, storm water drainage, water

supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established by the County. The Board of Supervisors may therefore waive or modify the specifications otherwise applicable for a particular public facility where the Board finds that such specifications are not required in the interest of the residents of the Residential Urban Development and that the requested modifications of such specifications would better meet the purpose and intent of the District and of the County's Comprehensive Plan. If any such modifications that are approved by the Board such modifications shall be shown on the approved Concept Development Plan and shall govern the development of the project.

- 2-12.5.5 F A Residential Urban (RU) District may have a density of up to a maximum of eight (8) units per gross acre if there are no multi-family dwellings and a maximum of up to ten (10) units per gross acre if the development includes multi-family dwellings.

## 2-13. Agriculture (A-1)

### 2-13.1 Purpose and Intent

These areas are used primarily for farming. This district is established to protect existing and future agricultural activities.

### 2-13.2 Permitted Uses

1. Accessory Uses
2. Agriculture
3. Animal or Poultry Husbandry
4. Bed and Breakfast
5. Boat Wharves, Private
6. Bulkheads
7. Churches
8. Church Bulletin Boards
9. Conservation Areas
10. Conventional Sewage Treatment Works
11. Dwelling, Accessory
12. Dwelling, Single
13. Farm Brewery
14. Farm Enterprise
15. Farm Winery
16. Florists
17. Forestry
18. Golf Courses
19. Historical Areas
20. Home Occupation, Minor
21. Jetties
22. Laboratory, Research and Development
23. Libraries
24. Mobile Homes
25. Museums
26. Nursery, Horticultural
27. Off-Street Parking
28. Parking Areas
29. Parks
30. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
31. Playgrounds
32. Preserves
33. Private Well
34. Public Utilities Serving Individual User
35. Recreational Area, Private
36. Retaining Walls
37. Schools
38. Seafood Facility - Non-Processing
39. Seawalls
40. Septic Disposal System, Conventional



41. Sign, Advertising
42. Sign, Business
43. Sign, Directional
44. Sign, Home Occupation
45. Sign, Temporary Structure
46. Swimming Pool, Private
47. Warehouse
48. Wayside Stands
49. Well, Private

### 2-13.3 Permissible Uses (by Special Exception)

1. Administrative Offices
2. Airport, Private
3. Airport, Public
4. Alternative Sewage Treatment Works
5. Antique Shop
6. Automotive Repair Garage
7. Biosolids Composting
8. Blacksmith Shop
9. Boat Building
10. Boat Sales and Service
11. Boat Wharves, Public
12. Boathouse
13. Cabinet and Furniture Shops
14. Carwash
15. Canneries
16. Cemeteries
17. Central Wastewater Treatment Works
18. Central Water System
19. Child Care Centers
20. Clubs
21. Communication Facilities and/or Tower
22. Community Waterworks
23. Concrete Works
24. Contractors Office
25. Dairies
26. Dwelling, Dormitory
27. Dwelling, Multi-Family
28. Dwelling, Two-Family
29. Engine Repair and Sales, Small
30. Family Day - Care Home
31. Firehouses
32. Flea Market
33. Funeral Homes
34. ~~Golf Courses~~ (Errata Sheet – April 12, 2006 this is a by-right use)
35. Golf, Driving Range
36. Grain and Fertilizer Storage Commercial
37. ~~Historical Areas~~ (Errata Sheet – April 12, 2006 this is a by-right use)
38. Home Doctors Office
39. Home Occupation, Major

40. Home Professional Office
41. Hospitals
42. Houses, Boarding or Rooming
43. Kennel
44. Machine Shops
45. Motels and Hotels
46. Non community Waterworks
47. Nursing Homes
48. Post Offices
49. Produce Processing Plant
50. Professional Offices
51. Public Landings
52. Public Utility Facilities
53. Rescue Squad
54. Restaurant
55. Sand and Gravel Pits
56. Sawmill, Portable
57. Seafood Facility -- Processing
58. Service Station
59. Shops, Retail Sales and Personal Services  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
60. Stone Works
61. Stores, Retail Sales and Services  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
62. Swimming Pool, Public
63. Subdivision Sales Offices
64. Tourist Homes
65. Upholsterers
66. Veterinary Clinic, Kennels and Hospital
67. Water and Sewer Facilities, Public
68. Water Well Drilling
69. Welding Shops
70. Wholesale and Processing Facility
71. Wood Products, Manufacturing

2-13.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)			
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft.) (from c/l)	Max. Front (ft.)	Min. Side (ft.)	Min. Rear (ft.)
<b>Single-Family Dwelling</b>	25,000	100 ft.	75 ft <sup>2</sup>	n/a	15 ft. <sup>3</sup> 35 ft. <sup>4</sup>	20 ft.
<b>Accessory Structures</b>	n/a	n/a	>75 ft	n/a	>5 ft. <sup>3</sup> >35 ft. <sup>4</sup> and 5 ft. back from side lot line	5 ft. back from rear lot line
<b>Other Permitted Uses</b>	25,000	100 ft.	75 ft*	n/a	15 ft. <sup>3</sup> 35 ft. <sup>4</sup>	20 ft.

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line. <sup>3</sup> Interior Lot <sup>4</sup> Street side of a corner lot.

2-13.5 Building Regulations

2-13.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height.

Height exceptions are provided in Article 1.

2-13.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Section 4-6.3 and 4-6.4

2-13.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-14. Conservation (C-1)

### 2-14.1 Purpose and Intent

These areas are occupied by various open uses as forests, parks, lakes and marshes; This district is established to conserve water and natural resources, reduce soil erosion, preserve historical and wildlife areas, protect watersheds and reduce hazards from flood and fire.

### 2-14.2 Permitted Uses (by-right)

1. Accessory Uses
2. Agriculture
3. Animal or Poultry Husbandry
4. Boat Wharves, Private
5. Bulkheads
6. Churches
7. Church Bulletin Boards
8. Conservation Areas
9. Conventional Sewage Treatment Works
10. Dwelling, Accessory
11. Dwelling, Single
12. Forestry
13. Historical Areas
14. Home Occupation, Minor
15. Jetties
16. Libraries
17. Mobile Homes
18. Nursery, Horticultural
19. Off-Street Parking
20. Parking Areas
21. Parks
22. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
23. Playgrounds
24. Preserves
25. Private Well
26. Public Utilities Serving Individual User
27. Recreational Area, Private
28. Retaining Walls
29. Schools
30. Seawalls
31. Septic Disposal System, Conventional
32. Sign, Home Occupation
33. Sign, Temporary Structure
34. Swimming Pool, Private
35. Wayside Stands
36. Well, Private

### 2-14.3 Permissible Uses (by Special Exception)

1. Biosolids Composting

2. Boat Building
3. Boat Wharves, Public
4. Boathouse (See pier as an allowed use and Section 4-9)
5. Cemeteries
6. Central Wastewater Treatment Works
7. Central Water System
8. Clubs
9. Community Waterworks
10. Family Day - Care Home
11. Farm Brewery
12. Farm Enterprise
13. Farm Winery
14. Firehouses
15. Florists
16. Golf Courses
17. Home Doctors Office
18. Home Occupation, Major
19. Home Professional Office
20. Noncommunity Waterworks
21. Public Landings
22. Public Utility Facilities
23. Sawmill, Portable
24. Sign, Advertising
25. Sign, Business
26. Sign, Directional
27. Swimming Pool, Public
28. Water and Sewer Facilities, Public

2-14.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. setback from c/l	Min. Side (ft.)	Min. Rear (ft.)
<b>Single-Family Dwelling</b>	43,560 (1 acre)	150 ft.	100ft <sup>2</sup>	25 ft. <sup>3</sup> 35 ft. <sup>4</sup>	20 ft.
<b>Accessory Structures</b>	n/a	n/a	>75 ft	>5 ft. <sup>3</sup> >35 ft. <sup>4</sup> and 5 ft. back from side lot line	5 ft. back from side lot line
<b>Other Permitted Uses</b>	n/a	150 ft.	75 ft <sup>2</sup>	25 ft. <sup>3</sup> 35 ft. <sup>4</sup>	20 ft.

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services

to individual customers may be erected up to property line. <sup>3</sup> Interior Lot <sup>4</sup> Street side of a corner lot

## 2-14.5 Building Regulations

### 2-14.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height.

Height exceptions are provided in Article 1.

### 2-14.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Section 4-6.3 and 4-6.4.

### 2-14.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

**2-15. Campgrounds, Mobile Home Parks and Travel Trailer Parks District (C-2):**

## 2-15.1 Purpose and Intent

This district is reserved for the following activities: campgrounds, travel trailer parks and mobile home parks. The intent of this district is to describe standards and conditions on the location of the above stated activities.

## 2-15.2 Permitted Uses (by-right)

1. Conventional Sewage Treatment Works
2. Home Occupation, Minor
3. Parks
4. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
5. Private Well
6. Septic Disposal System, Conventional
7. Well, Private

## 2-15.3 Permissible Uses (by Special Exception)

1. Boathouse (*See pier as an allowed use and Section 4-9*)
2. Campground
3. Central Wastewater Treatment Works
4. Central Water System
5. Community Waterworks
6. Home Occupation, Major
7. Mobile/Manufactured Home Parks
8. Non community Waterworks
9. Travel Trailer Parks
10. Water and Sewer Facilities, Public

2-15.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Minimum		Setbacks <sup>1</sup>		
	Lot Size (in acres)	Lot Frontage (at front setback)	Individual Space/Lot Size	Lot Width	Min. setback from ROW of State and Co. roads and perimeter prop. lines	Min. Setback from all interior roads	Min. setback from individual lot lines
<b>Mobile/Manufactured Home Park</b>	5 acres for entire development	100 ft. for entire development	5,000 sf for each manuf/mobile home lot	50 ft. for each manuf/mobile home lot	75 ft	20 ft	10 ft
<b>Campground/Travel Trailer Park</b>	5 acres for entire development	100 ft. for entire development	2,000 sf for each camper, tent, trailer	25 ft. for camper or travel trailer site	75 ft	20 ft	5 ft
<b>Accessory Uses<sup>3</sup></b>	n/a	n/a	n/a	n/a	50 ft. <sup>2</sup>	20 ft. <sup>2</sup>	5 ft. <sup>2</sup>

<sup>1</sup> For structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard. <sup>2</sup> Unless otherwise specified in the special exception.

<sup>3</sup>not listed as a permitted or special exception use but there are standards for setbacks for accessory structures

2-15.5 Building Regulations

2-15.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height.

Height exceptions are provided in Article 1.

2-15.5.2 Utility Requirements

(A) *Sanitary Facilities.* Pit privies shall not be permitted in a C-2 zoned district. Where municipal or public sanitary facilities are not available, Health Department approved individual sewage disposal systems shall provide each space, site, or facility with adequate sewage disposal capacity based on Health Department regulations.

(B) *Water System.* All manufactured home sites, travel trailer sites and campground sites shall have available water from a public water system designed in accordance with regulations of appropriate state and county agencies. The owner or developer shall furnish construction and maintenance bonds for the construction of the public water supply and water works. The bond shall be in the form of cash, certified check or checks made payable to the Treasurer of



Westmoreland County, surety bonds or letters of credit from approved companies in an aggregated amount equal to the total construction cost, with provisions made for bonding subsequent maintenance and operation. The amount of the construction and maintenance bond will be determined by the governing body.

#### 2-15.5.1 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

#### 2-15.5.2 Maximum Density Regulations

- (A) Mobile/Manufactured Home Park: Eight (8) manufactured home spaces per acre.
- (B) Campground/Travel Trailer Park: Twenty (20) home spaces/sites per acre.

#### 2-15.6.1 Additional Regulations For C-2

- (A) *Recreation Area.* At least ten percent of the gross park area, other than the 50 foot perimeter area, shall be designated and reserved for suitable recreational area. At least fifty percent of such areas shall be provided outside of any established floodplain.
- (B) *Refuse Disposal.* The storage and collection of refuse shall be managed so as not to create a health or fire hazard. Refuse collection and disposal shall be the responsibility of the park management in accordance with the provisions of the Manufactured Home Lot Rental Act, Title 55, Chapter 13.3 of the Code of Virginia.
- (C) *Fire Protection.* Each park or campground shall provide fire protection equipment as may be required by the County or State Fire Marshall. All parks and Campgrounds shall be kept free of litter, rubbish, and other flammable materials. Portable fire extinguisher rated for Class A, B and C shall be kept in service buildings and at other locations conveniently and readily accessible for use by all occupants and shall be maintained in good operating condition. Their capacity shall not be less than required by applicable codes. Fires shall be made only in stoves, incinerators, and other equipment intended for such purposes.

## 2-16 Residential, General Uses District (R-1):

### 2-16.1 Purpose and Intent

These are primarily low-density residential areas, plus certain open areas where similar development is planned. This district is established to stabilize its residential characteristic by permitting low-concentration single family dwellings; mobile homes and trailers; two family and multi-family dwellings under special exceptions, plus related uses such as schools, churches, parks and public facilities to serve residents of the district.

### 2-16.2 Permitted Uses (by-right)

1. Accessory Uses
2. Agriculture, Limited
3. Boat Wharves, Private
4. Bulkheads
5. Churches
6. Church Bulletin Boards
7. Conventional Sewage Treatment Works
8. Dwelling, Accessory
9. Dwelling, Single
10. Golf Courses
11. Historical Areas
12. Home Occupation, Minor
13. Jetties
14. Libraries
15. Mobile Homes
16. Museums
17. Off-Street Parking
18. Parking Areas
19. Parks
20. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
21. Playgrounds
22. Private Well
23. Public Utilities Serving Individual User
24. Retaining Walls
25. Schools
26. Seawalls
27. Septic Disposal System, Conventional
28. Sign, Temporary Structure
29. Swimming Pool, Private
30. Well, Private

### 2-16.3 Permissible Uses (by Special Exception)

1. Administrative Offices
2. Bed and Breakfast
3. Boat Building
4. Boat Wharves, Public
5. Boathouse (*See pier as an allowed use and Section 4-9*)
6. Central Wastewater Treatment Works

7. Central Water System
8. Child Care Centers
9. Clubs
10. Community Waterworks
11. Dwelling, Multi-Family
12. Dwelling, Two-Family
13. Family Day - Care Home
14. Firehouses
15. Florists
16. Home Doctors Office
17. Home Occupation, Major
18. Home Professional Office
19. Houses, Boarding or Rooming
20. Marinas, Private
21. Non-community Waterworks
22. Post Offices
23. Public Landings
24. Public Utility Facilities
25. Recreational Area, Private
26. Rescue Squad
27. Sign, Business
28. Sign, Directional
29. Swimming Pool, Public
30. Subdivision Sales Offices
31. Tourist Homes
32. Water and Sewer Facilities, Public

2-16.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft.) (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Single Family Dwelling</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	100 ft. 100 ft. 80 ft.	60 ft <sup>2</sup>	10 ft. each, 25 ft. total <sup>3</sup>  35 ft. <sup>4</sup>	20 ft.
<b>Accessory Structures</b>	n/a	n/a	>60 ft	>5 ft. <sup>3</sup> >25 ft. <sup>4</sup> and 5 ft. back from side lot line	5 ft. back from rear lot line
<b>Other Permitted Uses</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	100 ft. 100 ft. 80 ft	60 ft <sup>2</sup>	10 ft. each, 25 ft. total <sup>3</sup> 35 ft. <sup>4</sup>	20 ft.

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line. <sup>3</sup> Interior Lot <sup>4</sup> Street side of a corner lot.

2-16.5 Building Regulations

2-16.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height.

Height exceptions are provided in Article 1.

2-16.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Section 4-6.3 and 4-6.4

2-16.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

**2-17 Residential, Limited Uses District (R-2):**

## 2-17.1 Purpose and Intent

These are low-density residential areas, plus certain open areas where similar development is planned; . The district is established to stabilize its residential character by permitting low concentration single family dwellings, as well as two family and multi-family dwellings under special exceptions, plus related uses such as schools, churches, parks and public facilities to serve residents of the district, but specifically excluding mobile homes, trailers, campers and tents.

## 2-17.2 Permitted Uses (by-right)

1. Accessory Uses
2. Agriculture, Limited
3. Boat Wharves, Private
4. Bulkheads
5. Churches
6. Church Bulletin Boards
7. Conventional Sewage Treatment Works
8. Dwelling, Accessory
9. Dwelling, Single
10. Golf Courses
11. Historical Areas
12. Home Occupation, Minor
13. Jetties
14. Libraries
15. Off-Street Parking
16. Parking Areas
17. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
18. Playgrounds
19. Private Well
20. Public Utilities Serving Individual User
21. Retaining Walls
22. Seawalls
23. Septic Disposal System, Conventional
24. Sign, Temporary Structure
25. Swimming Pool, Private
26. Well, Private

## 2-17.3 Permissible Uses (by Special Exception)

1. Boat Wharves, Public
2. Boathouse (See pier as an allowed use and Section 4-9)
3. Central Wastewater Treatment Works
4. Central Water System
5. Clubs
6. Community Waterworks
7. Dwelling, Multi-Family
8. Dwelling, Two-Family

- 9. Family Day-Care Home
- 10. Firehouses
- 11. Florists
- 12. Home Doctors Office
- 13. Marinas, Private
- 14. Noncommunity Waterworks
- 15. Public Utility Facilities
- 16. Recreational Area, Private
- 17. Rescue Squad
- 18. Schools
- 19. Swimming Pool, Public
- 20. Subdivision Sales Offices
- 21. Tourist Homes
- 22. Water and Sewer Facilities, Public

2-17.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft.) (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Single Family Dwelling</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	100 ft. 100 ft. 80 ft.	60 ft <sup>2</sup>	10 ft. each, 25 ft. total <sup>3</sup>  35 ft. <sup>4</sup>	20 ft.
<b>Accessory Structures</b>	n/a	n/a	>60 ft	>5 ft. <sup>3</sup> >25 ft. <sup>4</sup> and 5 ft. back from side lot line	5 ft. back from rear lot line
<b>Other Permitted Uses</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	100 ft. 100 ft. 80 ft.	60 ft <sup>2</sup>	10 ft. each, 25 ft. total <sup>3</sup>  35 ft. <sup>4</sup>	20 ft.

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line. <sup>3</sup> Interior Lot <sup>4</sup> Corner Lot

2-17.5 Building Regulations

2-17.5 (A) Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height. Height exceptions are provided in Article 1.

2-17.5 (B) Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Section 4-6.3 and 4-6.4

2-17.5 (C) Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.



**2-18 Residential, General Uses District (R-3):****2-18.1 Purpose and Intent**

This district is intended for tracts of land developed, or to be developed, as a unit under single ownership or unified control, to provide low to medium density residential dwellings plus certain secondary uses which are incidental and ancillary to the residential uses. The dwelling types specifically allowed are single and two-family dwellings and multi-family dwellings, including townhouses, apartments, and condominiums as defined in section 55-79.41 of the code of Virginia, 1950, as amended. The R-3 zoning district is established to encourage innovative and creative design and to facilitate use of the most advantageous construction techniques in the development of land for residential use. The additional district regulations, are designed to insure ample provisions and efficient use of open space; to promote high standards in the layout, design and construction of residential development; to promote balanced development of mixed housing types; and to otherwise implement the stated purpose and intent of this ordinance.

**2-18.2 Permitted Uses (by-right)**

1. Conventional Sewage Treatment Works
2. Home Occupation, Minor
3. Libraries
4. Private Well
5. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
6. Septic Disposal System, Conventional
7. Well, Private

**2-18.3 Permissible Uses (by Special Exception)**

1. Accessory Uses
2. Boathouse
3. Central Wastewater Treatment Works
4. Central Water System
5. Child Care Centers
6. Churches
7. Clubs
8. Community Waterworks
9. Dwelling, Multi-Family
10. Dwelling, Single
11. Dwelling, Two-Family
12. Family Day - Care Home
13. Firehouses
14. Golf Courses
15. Golf, Driving Range
16. Home Occupation, Major
17. Home Professional Office
18. Marinas, Private
19. Noncommunity Waterworks
20. Parking Areas
21. Parks

22. Playgrounds
23. Recreational Area, Private
24. Recreational Area, Public
25. Rescue Squad
26. Schools
27. Sign, Directional
28. Sign, Home Occupation
29. Swimming Pool, Private
30. Swimming Pool, Public
31. Subdivision Sales Offices
32. Water and Sewer Facilities, Public

#### 2-18.4 Additional Regulations

Planned development for residential purposes is permitted by special exception in any R-3 zoning district provided the following minimum general conditions are met together with any additional special conditions imposed by the Board of Supervisors in conjunction with the issuance of a special exception.

##### 2-18.4.1 Minimum Lot Area

- (A) The minimum total project area required for an R-3 zoning district is 70,000 square feet.
- (B) The gross project density in the R-3 zoning district shall not exceed 8 dwelling units per net project acre.
- (C) The maximum impervious cover standards set in section 7-11(B)(3) shall not apply to the R-3 zoning district. Instead, impervious cover shall be limited, in accordance with other requirements of Article VII, such that the coverage of net project area by impervious surfaces shall not exceed 50 percent.
- (D) At least 10 percent of the net project area shall be dedicated as common open space as herein defined.
- (E) No subdivision plat may be approved for an R-3 zoned area, or portion thereof, until the Board of Supervisors shall have approved a special exception for the area or portion thereof. A special exception and a corresponding subdivision plat may be processed concurrently.
- (F) At the time of a request for a special exception, it must be demonstrated by the applicant that each and every lot being created contains an area outside of the Resource Protection Area as defined in Article 3 Chesapeake Bay Preservation Area Overlay District, Article 3 of this ordinance, which area is adequate in size for the construction of a residential dwelling.
- (G) Prior to approval of a subdivision plat or special exception for a project, or a section thereof, which includes a road crossing through into the Resource Protection Area, a Major Water

Quality Impact Assessment must be submitted and approved, in accordance with Article 3 of this ordinance.

- (H) At the time of a request for a special exception it must be demonstrated by the applicant that each and every lot being created is buildable on land of slopes of 25 percent or less as measured in a natural state before any development. No grading shall be permitted to meet this requirement. This requirement shall not apply to individual on site sewage disposal systems provided that the location of such systems has been approved by the Westmoreland County Health Department.
- (I) Any application for a special exception in an R-3 zoning district must be accompanied by 10 copies of a Plan of Development prepared in accordance with the standards set in Article 3 of this ordinance.
- (J) For purposes of this section, the terms Total Project Area, Net Project Area, and Common Open Space shall have the following meanings:
- (a) Total Project Area means the area of the tract which is zoned R-3.
- (b) Total Project Acreage means the size of the total project area as measured in acres.
- (c) Net Project Area means the area defined as:
- $$NPA = TPA - a - b$$
- where,
- NPA* is the Net Project Area
- TPA* is the Total Project Area
- a* is the area of the site which consists of components of the Resource Protection Area as defined in *Article 3* of this ordinance;
- b* is the area of the site which contains slopes of 25% or greater and which is not included in the area of "a" above;
- (d) Net Project Acreage means the size of the net project area measured in acres. An applicant for a Conditional Change of Zoning District Classification to R-3, Residential, Planned Development, may voluntarily proffer to restrict the development to a smaller net project acreage. In no case, however, may the net project area include lands which are prohibited by the definition in item 10(c) above.

- (e) Common Open Space is open space within the boundaries of a tract of land zoned R-3 that is designed and set aside for the use and enjoyment of the residents of the development. To be considered as common open space, the property so considered must be conveyed, with appropriate restrictions on use, to a bona fide home owners association. Such conveyances may be delayed until such time as the development of the project is sufficient to insure the operation and maintenance of the common open spaces.

- 2.18.4.2 *Minimum General Conditions.* The size of the tract of land included in the planned development shall not be less than 70,000 square feet provided that the ratio of land used for buildings shall not exceed 40 percent of the total of land in the tract less the land required for a well lot and/or septic system if such are to be located on the tract of land involved.
- 2.18.4.3 *Other Dimensional Requirements.* Dimensional requirements such as setbacks, yard requirements, and minimum lot frontage shall be shown on the site plan submitted by the developer and shall be subject to approval or revision by the Board of Supervisors as a part of a special exception, if issued.
- 2.18.4.4 *Solid Waste Disposal.* The Developer shall provide for adequate solid waste disposal.
- 2.18.4.5 *Other Approval Authorities.* The approval of all other pertinent local, state and/or federal authorities, including but not limited to the Wetlands Board, Health Official and Highway Engineer, shall be required wherever applicable. Disapproval by any of these required authorities shall automatically nullify any special exception approved by the Board of Supervisors for the development involved.

## 2-19 Townhouse, Condominium, Apartment District (R-4)

### 2-19.1 Purpose and Intent

The intent of the R-4 classifications to provide high density, single family attached and multiple family residence in cluster which will encourage development on minimum lot areas while providing adequate open spaces and green areas for the health, safety, welfare and pleasure of those residing therein.

### 2-19.2 Permitted Uses (by-right)

1. Conventional Sewage Treatment Works
2. Home Occupation, Minor
3. Private Well
4. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
5. Septic Disposal System, Conventional
6. Swimming Pool, Private
7. Well, Private

### 2-19.3 Permissible Uses (by Special Exception)

1. Boathouse (*See pier as an allowed use and Section 4-9*)
2. Central Wastewater Treatment Works
3. Central Water System
4. Community Waterworks
5. Dwelling, Multi-Family
6. Home Occupation, Major
7. Marinas, Private
8. Noncommunity Waterworks
9. Swimming Pool, Public
10. Water and Sewer Facilities, Public

### 2-19.4 Additional Regulations

Planned development for residential purposes is permitted by special exception in any R-4 zoning district provided the following minimum general conditions are met together with any additional special conditions imposed by the Board of Supervisors in conjunction with the issuance of a special exception.

2.19.4.1 *Minimum General Conditions.* The size of the tract of land included in the planned development shall not be less than 70,000 square feet provided that the ratio of land used for buildings shall not exceed 40 percent of the total of land in the tract less the land required for a well lot and/or septic system if such are to be located on the tract of land involved.

2.19.4.2 *Other Dimensional Requirements.* Dimensional requirements such as setbacks, yard requirements, and minimum lot frontage shall be shown on the site plan submitted by the developer and shall be subject to

approval or revision by the Board of Supervisors as a part of a special exception, if issued.

2.19.4.3 *Solid Waste Disposal.* The Developer shall provide for adequate solid waste disposal.

2.19.4.4 *Other Approval Authorities,.* The approval of all other pertinent local, state and/or federal authorities, including but not limited to the Wetlands Board, Health Official and Highway Engineer, shall be required wherever applicable. Disapproval by any of these required authorities shall automatically nullify any special exception approved by the Board of Supervisors for the development involved.

**2-20. Business, General District (B-1):**

## 2-20.1 Purpose and Intent

These areas are used for general business to which the public requires direct and frequent access, and which is characterized by trucking primarily for stocking and delivery of light retail goods as well as the lack of nuisance factors other than those occasioned by incidental light and noise of passenger vehicles and congregated people. Also includes business related residential uses as set forth below.

## 2-20.2 Permitted Uses (by-right)

1. Accessory Uses
2. Administrative Offices
3. Antique Shop
4. Auto Sales and Service
5. Bakeries
6. Banks
7. Bed and Breakfast
8. Boat Sales and Service
9. Boat Wharves, Private
10. Boat Wharves, Public
11. Bulkheads
12. Cabinet and Furniture Shops
13. Carwash
14. Child Care Centers
15. Churches
16. Church Bulletin Boards
17. Communication Facilities and/or Tower
18. Contractors Office
19. Conventional Sewage Treatment Works
20. Dry Cleaners
21. Firehouses
22. Florists  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
23. Funeral Homes
24. Historical Areas
25. Home Occupation, Minor
26. Houses, Boarding or Rooming
27. Jetties
28. Laboratory, Research and Development
29. Laundry
30. Libraries
31. Lumber and Building Supply
32. Motels and Hotels
33. Museums
34. Office Buildings
35. Off-Street Parking
36. Parking Areas
37. Post Offices

38. Printing Plants
39. Private Well
40. Professional Offices
41. Public Utilities Serving Individual User
42. Rescue Squad
43. Restaurant
44. Retaining Walls
45. Seafood Facility - Non-Processing
46. Seawalls
47. Septic Disposal System, Conventional
48. Service Station
49. Shops, Retail Sales and Personal Services  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
50. Sign, Advertising
51. Sign, Business
52. Sign, Directional
53. Sign, Temporary Structure
54. Stores, Retail Sales and Services  
(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)
55. Swimming Pool, Public
56. Theaters, Other Than Drive-In
57. Upholsterers
58. Warehouse
59. Well, Private

#### 2-20.3 Permissible Uses (by Special Exception)

1. Amusement Enterprise
2. Automotive Repair Garage
3. Boathouse (*See pier as an allowed use and Section 4-9*)
4. Central Wastewater Treatment Works
5. Central Water System
6. Clubs
7. Community Waterworks
8. Dairies
9. Engine Repair and Sales, Small
10. Farm Machinery Sales and Services
11. Home Occupation, Major
12. Hospitals
13. Manufactured Homes, Sales & Services
14. Marinas, Commercial
15. Mobile Homes
16. Noncommunity Waterworks
17. Nursing Homes
18. Pawnbrokers Shop
19. Precious Metals Dealer's Shop
20. Public Landings
21. Public Utility Facilities
22. Schools
23. Self Storage Facility



- 24. Veterinary Clinic, Kennels and Hospital
- 25. Water and Sewer Facilities, Public
- 26. Wholesale and Processing Facility

2-20.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min Front (ft) (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Commercial Use</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	none	35 ft <sup>2</sup>	10 ft. if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  35 ft. <sup>4</sup>	10 ft. if abutting A-1, C-1, R-1, R-2
<b>Accessory Structures</b>	n/a	n/a	>35 ft	>10 ft. <sup>3</sup> if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  >35 ft. <sup>4</sup> and 5 ft. back from side lot line	5 ft. back from rear lot line
<b>Other Permitted Uses</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	none	35 ft <sup>2</sup>	10 ft. if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  35 ft. <sup>4</sup>	10 ft. if abutting A-1, C-1, R-1, R-2

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line. <sup>3</sup> Interior Lot <sup>4</sup> Corner Lot

2-20.5 Building Regulations

2-20.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height. Height exceptions are provided in Article 1.

2-20.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Article 4.

2-20.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

2-20.6 Business Related Residential Use

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

## 2-21 Business, Restricted District, (B-2)

### 2-21.1 Purpose and Intent

These areas are intended for non-industrial businesses not considered compatible with nor desirable to be located near those businesses included in B-1.

### 2-21.2 Permitted Uses (by-right)

1. Accessory Uses (Errata Sheet – April 12, 2006 this are by-right uses)
2. Bed and Breakfast
3. Conventional Sewage Treatment Works
4. Home Occupation, Minor
5. Lumber and Building Supply
6. Private Well
7. Seafood Facility - Non-Processing
8. Seafood Facility -- Processing
9. Septic Disposal System, Conventional
10. Sign, Advertising
11. Sign, Business
12. Sign, Directional
13. Sign, Temporary Structure
14. Warehouse
15. ~~Water and Sewer Facilities, Public~~ (Errata Sheet – April 12, 2006 this requires a Special exception approval as #23 below)

### 2-21.3 Permissible Use (by special exception)

1. ~~Accessory Uses~~ (Errata Sheet – April 12, 2006 this are by-right uses)
2. Auto Sales and Service
3. Boathouse (*See pier as an allowed use and Section 4-9*)
4. Carwash
5. Central Wastewater Treatment Works
6. Central Water System
7. Clubs
8. Community Waterworks
9. Engine Repair and Sales, Small
10. Home Occupation, Major
11. Junk Yard
12. Laboratory, Research and Development
13. Landfill, Sanitary
14. Manufacture, Assembly or processing from previously prepared materials, or of edible products, drugs, perfumes, cosmetics, and toiletries
15. Manufacture of pottery, ceramic items, rubber and metal stamps, novelties, toys and musical instruments
16. Manufactured Homes, Sales & Services
17. Marinas, Private
18. Noncommunity Waterworks
19. Self Storage Facility
20. Shops, Retail Sales and Personal Services

(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)

21. Stores, Retail Sales and Services

(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)

22. Water and Sewer Facilities, Public

2-21.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft). (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Commercial Use</b>	None, unless established thru Special Exception	None, unless established thru Special Exception	35 ft <sup>2</sup>	None, unless set by Special Exception	None, unless set by Special Exception
<b>Accessory Uses<sup>3</sup></b>	None, unless set by Special Exception	None, unless set by Special Exception	>35 ft	None, unless set by Special Exception	None, unless set by Special Exception
<b>Other Permitted Uses</b>	None, unless set by Special Exception	None, unless set by Special Exception	35 ft <sup>2</sup>	None, unless set by Special Exception	None, unless set by Special Exception

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines.

<sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line.

<sup>3</sup>(not listed as a permitted or special exception use but there are standards for setbacks for acc. Structures)

**2-22. Business, Open Land District (B-3):**

## 2-22.1 Purpose and Intent

These areas are intended for non-industrial businesses not related to agriculture but which requires large tracts of open land.

## 2-22.2 Permitted Uses (by-right)

1. Bed and Breakfast
2. Contractors Office
3. Contractors Storage Yard
4. Conventional Sewage Treatment Works
5. Home Occupation, Minor
6. Lumber and Building Supply
7. Machine Shops
8. Private Well
9. Seafood Facility - Non-Processing
10. Septic Disposal System, Conventional
11. Sign, Advertising
12. Sign, Business
13. Sign, Directional
14. Sign, Temporary Structure
15. Warehouse
16. Well, Private

## 2-22.3 Permissible Use (by special exception)

1. Accessory Uses
2. Auction Yard
3. Boathouse *(See pier as an allowed use and Section 4-9)*
4. Carwash
5. Central Wastewater Treatment Works
6. Central Water System
7. Clubs
8. Community Waterworks
9. Flea Market
10. Home Occupation, Major
11. Hospital, Special Care
12. Kennel
13. Laboratory, Research and Development
14. Manufacture, Assembly or processing from previously prepared materials, or of edible products, drugs, perfumes, cosmetics, and toiletries
15. Manufacture of pottery, ceramic items, rubber and metal stamps, novelties, toys and musical instruments
16. Marinas, Private
17. Noncommunity Waterworks
18. Nursing Homes
19. Race Track, Automotive
20. Recreational Area, Public
21. Self Storage Facility

22. Theaters, Drive-In  
 23. Water and Sewer Facilities, Public

2-22.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft.) (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Commercial Use</b>	None, unless established thru Special Exception	None, unless established thru Special Exception	35 ft <sup>2</sup>	None, unless set by Special Exception	None, unless set by Special Exception
<b>Accessory Uses<sup>3</sup></b>	None, unless set by Special Exception	None, unless set by Special Exception	>35 ft	None, unless set by Special Exception	None, unless set by Special Exception
<b>Other Permitted Uses</b>	None, unless set by Special Exception	None, unless set by Special Exception	35 ft <sup>2</sup>	None, unless set by Special Exception	None, unless set by Special Exception

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line.

<sup>3</sup>(not listed as a permitted or special exception use but there are standards for setbacks for acc. Structures)

2-22.5 Building Regulations

2-22.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height.

Height exceptions are provided in Article 1.

2-22.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Section 4-6.3 and 4-6.4

2-22.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

**2-23. Industrial, General (M-1)**

## 2-23.1 Purpose and Intent

The land in this district is used for commercial and industrial operations which do not present potential nuisances or hazards to the health, welfare and safety of the public.

## 2-23.2 Permitted Uses (by-right)

1. Accessory Uses
2. Administrative Offices
3. Assembly Plants
4. Auto Sales and Service
5. Automotive Repair Garage
6. Blacksmith Shop
7. Boat Building
8. Boat Wharves, Private
9. Boat Wharves, Public
10. Bulkheads
11. Cabinet and Furniture Shops
12. Canneries
13. Church Bulletin Boards
14. Concrete Works
15. Contractors Storage Yard
16. Conventional Sewage Treatment Works
17. Dairies
18. Engine Repair and Sales, Small
19. Feed Mills
20. Firehouses
21. Grain and Fertilizer Storage Commercial
22. Historical Areas
23. Home Occupation, Minor
24. Jetties
25. Laboratory, Pharm. and Medicine
26. Laboratory, Research and Development
27. Lumber and Building Supply
28. Machine Shops
29. Manufacture, Assembly or processing from previously prepared materials, or of edible products, drugs, perfumes, cosmetics, and toiletries
30. Manufacture of pottery, ceramic items, rubber and metal stamps, novelties, toys and musical instruments
31. Office Buildings
32. Off-Street Parking
33. Parking Areas
34. Private Well
35. Produce Processing Plant
36. Public Utility Facilities
37. Public Utilities Serving Individual User
38. Rescue Squad
39. Retaining Walls
40. Sawmill, Permanent



41. Seafood Facility - Non-Processing
42. Seafood Facility - Processing
43. Seawalls
44. Septic Disposal System, Conventional
45. Sign, Advertising
46. Sign, Business
47. Sign, Directional
48. Sign, Temporary Structure
49. Trucking Terminals
50. Upholsterers
51. Veterinary Clinic, Kennels and Hospital
52. Warehouse
53. Water Well Drilling
54. Welding Shops
55. Well, Private
56. Wholesale and Processing Facility
57. Yards, Coal and Lumber

#### 2-23.3 Permissible Use (by special exception)

1. Airport, Private
2. Airport, Public
3. Boathouse (*See pier as an allowed use and Section 4-9*)
4. Central Wastewater Treatment Works
5. Central Water System
6. Community Waterworks
7. Home Occupation, Major
8. Marinas, Commercial
9. Mobile Homes
10. Noncommunity Waterworks
11. Petroleum Bulk Storage
12. Public Landings
13. Self Storage Facility
14. Water and Sewer Facilities, Public

2-23.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft.) (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Industrial Use</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	none	50ft <sup>2</sup>	50 ft. if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  10 ft. if abutting A-1, C-1, R-1, R-2. <sup>4</sup>	10 ft. if abutting A-1, C-1, R-1, R-2
<b>Accessory Structures</b>	n/a	n/a	>50 ft	>50 ft. <sup>3</sup> if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  >10 ft. <sup>4,3</sup> if abutting A-1, C-1, R-1, R-2 and 5 ft. back from side lot line	5 ft. back from rear lot line
<b>Other Permitted Uses</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	none	50 ft <sup>2</sup>	50 ft. if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  10 ft. if abutting A-1, C-1, R-1, R-2. <sup>4</sup>	10 ft. if abutting A-1, C-1, R-1, R-2

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line. <sup>3</sup> Corner Lot <sup>4</sup> Interior Lot

2-23.5 Building Regulations

2-23.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height. Height exceptions are provided in Article 1.

2-23.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Section 4-6.3 and 4-6.4.

2-23.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-24. Industrial Planned Unit Development District (IPUD)

### 2-24.1 Purpose and Intent

The intent of Westmoreland County in creating this zoning district classification and in setting forth the particular regulations and performance standards is:

- (1) To protect the health, safety, and welfare of the citizens of Westmoreland County by assuring that industrial uses are located within the County and operated so as to minimize the impacts to adjacent and nearby properties as well as to the County at large; and
- (1) To promote the health, safety, and welfare of the citizens of Westmoreland County by encouraging economic development through designation of certain areas where industry will be welcomed to locate and operate.

The purpose of the Industrial Planned Unit Development zoning district classification is to encourage and promote the economic development of the County by designating certain areas, industrial parks, where industry is welcomed and encouraged to locate in the County and to simplify the process of approving uses within the district while setting forth performance standards designed to protect the health, safety, and welfare of the citizens of the County. The purpose of the district is to encourage economic development by adopting a performance standard basis for regulating the operation of industrial uses. The district regulations set forth, up front, the general parameters under which such industry shall operate thereby streamlining the permit and public review process.

The provisions of this article shall apply in all of those areas which have been included in an Industrial Planned Unit Development zoning district by action of the Board of Supervisors in accordance with section 6-18 of this Ordinance.

### 2-24.2 Special Definitions

For the purposes of this District, the following words, terms and phrases shall have the meaning ascribed to them.

*Approval Date* means the date of the public hearing at which the Board of Supervisors changes the zoning district classification to Industrial Planned Unit Development.

*Daytime Hours* means the time of day between 7:00 AM and 10:00 PM local prevailing time.

*Development of an Industrial Planned Unit Development* means the construction and completion of roads and sidewalks, streetlights, water and sewer infrastructure, and stormwater management necessary for the ultimate build out of the industrial park.

*Industrial Park* is the generic term referring to the overall development, including infrastructure, buildings, utilities, and amenities, which takes place on properties within a particular Industrial Planned Unit Development zoning district.

*Retail Sales and Retail Services* means those establishments engaged in selling goods or merchandise, or in providing services or entertainment to the general public, on-site, for personal or household consumption or use.

(Florists – Upholsterers – April 12, 2006 Errata Sheet –are considered retail uses not listed but does not mean they are not allowed.)

#### 2-24.3 Creation of an Industrial Planned Unit Development Zoning District

Article 10 of this Ordinance sets forth the process to be followed when the zoning district classification of a property or a group of properties is changed. That procedure is to be followed when the zoning district classification of a property or a group of properties is to be changed to Industrial Planned Unit Development. This section sets forth additional standards, requirements, and considerations to supplement and augment the requirements of Article 10.

Industrial parks are an intensive land use and their development includes many complicated and often inter-relating issues. Applicants for a change in zoning district classification are hereby strongly encouraged to consider a conditional change in zoning district classification. Traditional changes in zoning allow for only a yes or no vote on the application. Conditional zoning, however, allows a much more flexible review and response from the governing body.

2-24.4 *Required Submittals*. In addition to the submittals required pursuant to Article 10 of this Ordinance, no application for a change in zoning district classification shall be deemed to be complete until the Zoning Administrator finds that each of the items described below are included and complete.

1. Narrative. The application shall include a written narrative which describes:
  - a. The general nature of the proposed development and the types of uses anticipated;
  - b. The existing conditions and development of the subject property; and
  - c. The nature and extent of the proposed development including, but not limited to all structures to be constructed during the initial development, the quantity and types of roads to be developed, the quantity and types of water, sewer, power, and telecommunications infrastructure to be developed.
2. Environmental Assessment. The application shall include an environmental assessment which describes: (i) the existence and extent of the following resources on or near the subject property; (ii) the extent and probability to which the ultimate development might impact and will impact these resources; and (iii) measures to be undertaken to minimize and/or avoid such impacts:
  - (a) historic and archaeological resources

- (b) threatened and endangered species
  - (c) wetlands
  - (d) wildlife habitat
  - (e) air quality
  - (f) water quality
  - (g) prime agricultural land
  - (h) toxic or hazardous wastes
  - (i) noise from operations
  - (j) transportation
  - (k) water supply
  - (l) waste water disposal
  - (m) stormwater runoff
  - (n) groundwater
  - (o) marine resources
  - (p) all other relevant environmental resources
3. Review by Relevant Agencies. In addition to the environmental assessment described above, the applicant shall also advise the following public agencies of the proposed development and afford the agencies a minimum of thirty (30) days to provide written comments.
- a. U.S. Army Corps of Engineers
  - b. U.S. Fish and Wildlife Service
  - c. Virginia Department of Conservation and Recreation
  - d. Virginia Department of Environmental Quality
  - e. Virginia Department of Historic Resources
  - f. Virginia Marine Resources Commission
4. Public Impacts. The application shall also identify the public impacts of the proposed development, including the benefits to accrue to the public and the impacts to public services and resources.
- a. Economic Development. The application should describe to what extent the proposed development will further the purposes of the County's Overall Economic Development Program, including expanded employment opportunities and an expanded and diversified economic base.
  - b. Water and Sewer Infrastructure. The application should describe the means of providing water and disposing of waste water. When the public provision of water and sewer will be required, the application shall indicate that the existing infrastructure and capacity is adequate for the proposed development.
  - c. Other Public Utilities. The application should identify those public utilities which are available and which are needed for the proposed development. The application should indicate whether or not there currently exist the capacity to serve the proposed development.
  - d. Transportation. The application should describe and identify the impacts to the existing transportation system. The application should

also include written verification from the Virginia Department of Transportation that access from the subject property to public roads can meet the minimum standards required by VDOT for industrial uses.

5. Additional Information. The application shall also include the following information.
  - a. Ownership. The application shall identify each individual, firm, and/or corporation which has any interest in the title to the subject property(s). Copies of the deed shall also be included. When any corporation has any interest in the title, all officers of the corporation and all shareholders with a greater than ten percent (10%) interest in the corporation shall also be identified.
  - b. Contracts. Any and all contracts or agreements to convey any portion of the title to the subject property shall be a part of the application. A copy of such contract shall be included with the application. If at any time prior to the action of the Board of Supervisors on the request for the change in zoning district classification, such a contract or agreement is made or agreed to, or altered or amended in any way, then such contract or agreement, or alteration or amendment shall become a part of the application and shall be immediately added to the application and made public. Any violation of this requirement is hereby deemed to be of a substantial nature and shall be grounds to rescind the change in zoning district classification if approved.
  - c. Long Term Maintenance and Operation. The application shall describe the institutional framework which is intended to assure the long term maintenance and operation of the facilities.
  - d. A preliminary site plan shall be prepared in accordance with section 7-13(B) of this Ordinance and shall be submitted with the application.
  - e. Nearby Properties. The application shall include a map which identifies each property which is located in part, or in whole, within one thousand (1000) feet of any property boundary line of the subject property. If and when the application is scheduled for public hearing, the Zoning Administrator shall provide a notice of the public hearings to the applicant. The applicant shall be responsible for sending, by certified mail with return receipt, this notice to each of these property owners. Such notice shall be postmarked twenty one (21) days prior to the date of the first scheduled public hearing. Proof of the mailing of these notices and proof of receipt shall be submitted to the Zoning Administrator at least one business day prior to the first public hearing.

2-24.5 Public Review Process. Once the Zoning Administrator finds that the application is complete as described in paragraphs (A), (B), and (C) above, the application will be advertised as required, scheduled for public hearing and reviewed and acted upon in accordance with Article 10 of this Ordinance.

2-24.6 *Time for Development.* Any proposed development for an Industrial Planned Unit Development should generally have three (3) years from the date of approval of the change in zoning district classification to be developed, although it might take a longer time period for an industry to actually locate in the industrial park and to commence operations. Any Industrial Planned Unit Development which fails to be developed in such three year time period may be subject to a change in zoning district classification to a less intensive zoning district as part of a comprehensive plan revision.

2-24.7 *Development Standards for an Industrial Planned Unit Development.* The development of an industrial park shall comply with all other requirements of this Ordinance as well as the requirements of any other relevant ordinances, laws, and regulations. In addition to such other requirements, the development within any Industrial Planned Unit Development shall comply with all of the standards and requirements contained in this section.

1. *Minimum Property Size.* The minimum size for an Industrial Planned Unit Development is twenty five (25) acres.
2. *Buffer Area.* There shall be a buffer area around the perimeter of the Industrial Planned Unit Development zoning district in accordance with the standards and requirements set forth below.
  - (a) When the buffer area consist of a naturally wooded area, the buffer area shall be a minimum fifty (50) feet in width. The natural buffer area shall be managed so as to be kept free from weeds and noxious vegetation such as Johnson Grass and Kudzu.
  - (b) When there is no naturally wooded area as per item (1) above, then there shall be established a vegetated buffer area which shall be a minimum of twenty five (25) feet in width and which shall be established as follows:
    - (i) Over-story trees, such as oaks, gums, maples, and so forth, measuring a minimum of two (2) inches in basal diameter at the time of planting shall be planted sporadically throughout the buffer area, and maintained, at a rate of one (1) tree per one hundred (100) square feet of established buffer area.
    - (ii) Under-story trees, such as cedars, hollies, and dogwoods, measuring a minimum of one (1) inch in basal diameter at the time of planting shall be planted sporadically throughout the buffer area, and maintained, at the rate of one (1) tree per fifty (50) square feet of established buffer area.
    - (iii) Shrubbery measuring a minimum of eighteen (18) inches in height at the time of planting shall be planted sporadically throughout the buffer area, and maintained, at a rate of one (1) shrub per thirty three (33) square feet of established buffer area.



- (iv) The entire established buffer area shall be completely covered with adequate ground cover vegetation or mulch. The established buffer area shall be managed so as to be kept free from weeds and noxious vegetation such as Johnson Grass and Kudzu.
  - (v) When the development of an Industrial Planned Unit Development zoning district requires more than three (3) acres of established buffer area, then the establishment of that buffer area shall be based on a landscaping plan prepared by a licensed landscape architect. The developer shall provide a guarantee in the form of cash escrow, insurance bond with corporate security, or irrevocable letter of credit, in the amount of one hundred fifty percent (150%) of the estimated cost of implementing the landscaping plan. The establishment of the buffer area in accordance with the approved plan shall be certified as complete by a licensed landscape architect. The guarantee shall be held for two (2) years from the date that the establishment of the buffer area is certified as complete.
  - (c) There shall be no buffer area required adjacent to property which is zoned for industrial or commercial uses. When the zoning district classification of property adjacent to an Industrial Planned Unit Development is changed from a non-commercial or non-industrial zoning district classification to a commercial or industrial zoning district classification then any buffer area required pursuant to this section may be removed.
  - (d) There shall be no buffer area required adjacent to property which is designated in the comprehensive plan for commercial or industrial use unless that property is used for residential purposes at the time of the change in zoning district classification.
  - (e) There shall be no structures located in the buffer area. The buffer area is intended to be a natural, vegetated buffer to screen and shield the view of the industrial park.
3. *Impervious Cover and Stormwater Management.* Prior to the construction of any structures within an industrial park, the developer shall implement stormwater management and erosion and sediment control plans in accordance with Article 3, Plan of Development, of this Ordinance. These plans will be based on the impervious cover expected at build out of the industrial park and account for seventy five percent (75%) of the usable land being impervious cover. The provisions of section 7-11(B)(3) notwithstanding, there is no maximum amount of impervious cover in an Industrial Planned Unit Development.
4. *Fire Protection.* The development of the industrial park shall include fire hydrants located every one thousand (1000) feet along each public road.

5. *Installation and Bonding.* The installation and bonding requirements set forth in Article 3 shall include all water infrastructure, sewer infrastructure, road construction, and landscaping.
6. *Roads.* All internal roads shall be built to the standards of the Virginia Department of Transportation for industrial roads and shall be dedicated to the public use. Each and every lot within an Industrial Planned Unit Development shall have a minimum of one hundred (100) feet of road frontage. The owners of property adjacent to such roads shall be completely responsible for all maintenance until such roads are taken into the State System of Secondary Roads.
7. *Property Owners Association and Deed Covenants.* There shall be established in each Industrial Planned Unit Development a property owners association with mandatory membership. The deed covenants, conditions, and restrictions shall address minimum landscaping requirements, minimum development standards, sign controls and restrictions, restrictions or conditions relating to the location of loading docks and parking areas, fencing restrictions, and outside lighting. Such deed covenants, conditions and restrictions shall be included with site plan documents during the plan of review process.

2-24.8 Development Standards for Individual Lots Within an Industrial Planned Unit Development Zoning District. The development of individual lots within an Industrial Planned Unit Development zoning district shall comply with each and all of the following standards and requirements.

- (1) *Minimum Lot and Yard Requirements.*
  - (a) The minimum size of a lot is two (2) acres. A one (1) acre minimum lot size may be approved, on an individual lot basis, by special exception.
  - (b) The minimum road frontage is one hundred (100) feet.
  - (c) The minimum lot depth is two hundred fifty (250) feet.
  - (d) Each lot shall maintain open, grassed or landscaped yards around the perimeter of the property lines for a depth of 10 feet, with the exception of areas for ingress and egress.
  - (e) All structures shall be located at least thirty five (35) feet from any and all public road rights-of-way.
- (B) *Parking Requirements.* The minimum off-street parking requirements set forth in Article 5 of this Ordinance notwithstanding, on each lot within the Industrial Planned Unit Development zoning district there shall be provided off street parking in accordance with the standards set forth below.
  - a. Parking areas shall be hard surfaced with lanes and parking spaces clearly marked and visible. All areas used or intended to be used by motor vehicles shall be hard surfaced.

- b. The minimum number of parking spaces shall be the greater of the following:
  - (i) One (1) parking space per one thousand (1000) square feet of floor area;
  - (ii) One (1) parking space per one and one-half (12) employees on major shift, plus one (1) space per company vehicle or equipment.

(C) *Height Restrictions.* No structure, with the exception of communication and utility structures, and exhaust and chimney structures, shall exceed a height of forty five (45) feet as measured from the lowest point of elevation of natural ground level within 10 feet of the structure.

D. *Impervious Cover.* The provisions of Article 3 notwithstanding, development of an individual lot within the Industrial Planned Unit Development zoning district shall not exceed seventy five percent (75%). Exceptions to this maximum may be approved in accordance with Article 3 of this Ordinance.

2-24.9 *Allowable Uses.* Uses described below, and which are not prohibited by 2-24.10 or 2-24.11, are permitted by right in the Industrial Planned Unit Development zoning district.

- (1) Those uses which are classified as Manufacturing or Wholesale Trade in the current Standard Industrial Classification Code Manual, or any successor document. Such use described in the Manual shall be the primary activity located on the property. Accessory uses which are clearly incidental and ancillary to the existing primary use shall be permitted.
- (2) Those uses which are classified as Services or Finance, Insurance and Real Estate in the current Standard Industrial Classification Code Manual, or any successor document provided that such use is internal to the firm or establishment and that no retail sales and no retail services are provided at the property.

2-24.10 *Prohibited Uses.* Uses described below are specifically prohibited in the Industrial Planned Unit Development zoning district.

- 1. Retail sales and retail services as defined herein.
- 2. Incineration.
- 3. Abattoirs and rendering.
- 4. Quarries and any other facilities for the extraction and mining of rocks and minerals.
- 5. Stockyards.
- 6. Petroleum, asphalt, or related refineries.
- 7. Landfill.
- 8. Any use or handling of class B biosolids.

2-24.11 *Uses by Special Exception.* Uses described below may be permitted within the Industrial Planned Unit Development zoning district if the Board of Supervisors first approves a special exception in accordance with the requirements set forth in Article 10.

1. Handling, storage, or processing of waste, solid waste, or waste by-products, including class A biosolids.
2. Any facility, firm, establishment, or process requiring a Title V air pollution control permit.
3. Manufacturing, storage, or handling of explosives or flammable materials.
4. Any use which requires utilization of radioactive materials. Any special exception granted shall include a specific limit on the amounts, quantities and qualities of any and all radioactive materials.

2-24.12 *Performance Standards.* The performance standards set forth in the remainder of this section apply to all land and uses within the Industrial Planned Unit Development zoning district. Any violation of any of these performance standards is prohibited. Any violation of any of these performance standards shall constitute a violation of this Ordinance.

1. *Noise.* At no point on the boundary line of an individual lot or parcel or beyond shall sound pressure level resulting or emitting from any use, operation, or activity on any lot or parcel exceed the maximum sound levels during daylight hours, nor exceed the maximum permitted sound level minus 10dB during non-daytime hours.

Octave Band in Cycles per Second	Maximum Permitted Sound Level in Decibels
0 to 75	72
76 to 150	67
151 to 300	61
301 to 600	56
601 to 1200	50
1201 to 2400	45
2401 to 4800	41
above 4800	38

2. *Vibration.* At no point on the boundary line of an individual lot or parcel or beyond, shall the earthborn vibration resulting from any use, operation, or activity on the subject lot or parcel exceed the maximum displacement levels during daytime hours, nor exceed 2 of the maximum displacement levels during non-daytime hours.

Frequency in Cycles per Second	Maximum Displacement Level in Inches	
	<i>Steady State</i>	<i>Impact</i>
Under 10	.0055	.0010
10 B 19	.0044	.0008
20 B 19	.0033	.0006
30 B 39	.0002	.0004
40 and over	.0001	.0002

3. *Air Pollution.* No use, operation, nor activity which results in visible air emissions at ground level at the property boundary line or at other properties within the Industrial Planned Unit Development zoning district or at any property within one thousand (1000) feet of the Industrial Planned Unit Development zoning district, with the exception of steam, shall be permitted.
4. *Odor.* At no point on the boundary line of an individual lot or parcel or beyond, shall the emission of odors resulting from any use, operation, or activity be detectable when diluted in the ratio of one volume of odorous air to eight volumes of clean air.
5. *Glare.* At no point on the boundary line of an individual lot or parcel or beyond shall glare nor light pollution resulting from any use, operation or activity exceed 50 foot lamberts during daylight hours, nor exceed 20 foot lamberts during non-daylight hours.
6. *Electrical Interference.* At no point on the boundary line of an individual lot or parcel or beyond shall the interference with normal radio and television reception resulting in whole or in part from any use, operation or activity be permitted.
7. *Enclosure of Uses.* All use, activity, storage, and operation within the Industrial Planned Unit Development zoning district shall take place within a fully enclosed structure. Above ground storage of any materials, supplies, equipment, or other items with the exception of motor vehicles, shall only be permitted if the storage area is surrounded by solid fencing which effectively blocks the entire view of stored items from all adjacent and nearby properties. In no case shall an out-door storage area encompass more than twenty five percent (25%) of a lot or parcel. There shall be no below ground storage.
8. *Outdoor Storage and Waste Disposal.* A dumpster area shall be provided for each lot or parcel. Such dumpster shall have a concrete pad throughout, and shall be fully surrounded by a privacy fence at least six (6) feet in height. A gate shall be provided and it shall remain closed at all times when solid waste is

not being placed into or removed from the dumpsters. All solid waste shall be placed in the dumpster and no solid waste shall be placed on the ground. No solid waste or other material shall be placed in the dumpster area in a manner that it may or it is carried out of the dumpster area by natural causes or forces.

## 2-25. Seafood District (S-1)

### 2-25.1 Purpose and Intent

These areas are used in part for seafood businesses, either processing and/or non-processing as defined herein, as well as low and medium density residential uses. This district also encompasses several uses which are incidental and ancillary to the seafood and residential uses. This district is established to stabilize those communities and areas with a mixture of seafood and residential areas.

### 2-25.2 Permitted Use (by-right)

1. Accessory Uses
2. Agriculture, Limited and Aquaculture
3. Boat Wharves, Private
4. Bulkheads
5. Churches
6. Church Bulletin Boards
7. Conventional Sewage Treatment Works
8. Dwelling, Accessory
9. Dwelling, Single
10. Golf Courses
11. Historical Areas
12. Home Occupation, Minor
13. Jetties
14. Mobile Homes
15. Museums
16. Off-Street Parking
17. Parking Areas
18. Parks
19. Pier plus boat slip, covered boat slip (boat house), electricity, and well on the lot, without concurrent authorization for other accessory uses as regulated in Article 4.
20. Playgrounds
21. Private Well (Errata Sheet – April 12, 2006 this is redundant with item #30 below)
22. Public Utilities Serving Individual User
23. Retaining Walls
24. Schools
25. Seafood Facility - Non-Processing
26. Seafood Facility -- Processing
27. Seawalls
28. Septic Disposal System, Conventional
29. Sign, Home Occupation
30. Sign, Temporary Structure
31. Swimming Pool, Private
32. Well, Private (Errata Sheet – April 12, 2006 this is redundant with item #19 above)

### 2-25.3 Permissible Uses (by special exception)

1. Administrative Offices
2. Boat Building

3. Boat Wharves, Public
4. Boathouse (See pier as an allowed use and Section 4-9)
5. Central Wastewater Treatment Works
6. Central Water System
7. Child Care Centers
8. Clubs
9. Community Waterworks
10. Dwelling, Multi-Family
11. Dwelling, Two-Family
12. Family Day - Care Home
13. Firehouses
14. Florists
15. Home Doctors Office
16. Home Occupation, Major
17. Home Professional Office
18. Houses, Boarding or Rooming
19. Machine Shops
20. Marinas, Commercial
21. Noncommunity Waterworks
22. Post Offices
23. Public Landings
24. Public Utility Facilities
25. Recreational Area, Private
26. Rescue Squad
27. Sign, Business
28. Sign, Directional
29. Swimming Pool, Public
30. Subdivision Sales Offices
31. Tourist Homes
32. Water and Sewer Facilities, Public
33. Welding Shops



2-25.4 Lot and Yard Regulations

Modifications to frontage and setback requirements by Special Exception (Variance) Approval by the Board of Zoning Appeals:

Use	Minimum		Setbacks <sup>1</sup> (permanent structures)		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Min. Front (ft.) (from c/l)	Min. Side (ft.)	Min. Rear (ft.)
<b>Commercial Use</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	n/a	60ft <sup>2</sup>	10 ft. if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  20 ft. <sup>4</sup>	20 ft
<b>Accessory Structures</b>	n/a	n/a	>60 ft	>10 ft. <sup>3</sup> if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  >20 ft <sup>4</sup> and 5 ft. back from side lot line	5 ft. back from rear lot line
<b>Other Permitted Uses</b> No public sewer/ water Public sewer or water Public sewer & water	25,000 15,000 12,000	n/a	60 ft <sup>2</sup>	10 ft. if abutting A-1, C-1, R-1, R-2 <sup>3</sup>  20 ft. <sup>4</sup>	20 ft.

<sup>1</sup> For principal structures on properties adjacent to public waters, the yard requirements along the waterfront lot line shall be the same as set forth herein for a rear yard; for accessory structures on properties adjacent to public waters, the minimum distance from the waterfront lot line shall be the same as set forth herein from rear lot lines. <sup>2</sup> Except public utility structures providing services to individual customers may be erected up to property line. <sup>3</sup> Interior Lot <sup>4</sup> Corner Lot

2-25.5 Building Regulations

2-25.5.1 Building Height

No new building, nor the enlargement of any building, shall hereafter be erected to exceed forty-five (45) feet or to exceed three (3) stories in height. Height exceptions are provided in Article 1.

2-25.5.2 Utility Requirements

Water and wastewater treatment service shall be provided, in accord with County and State regulations, and as set forth in Article 4.

2-25.5.3 Access Requirements

Lots must be accessed from a public road currently in the Virginia Department of Transportation (VDOT) system or from a road designed and constructed so as to meet VDOT standards and be eligible for acceptance into the VDOT system.

## 2-26. Resource Extraction – Planned Development District (RE-PD)

### 2-26.1 Purpose and Intent

The purpose of this district is to maintain Westmoreland County's residential areas and predominately rural character, to protect critical resources, and to preserve productive farm and timberland while accommodating, where suitable and appropriate, oil and gas extraction and other resource extraction and providing for the future use of properties after the extractive uses are finished.

It does this by protecting critical resources, controlling noise, light, traffic congestion, and other impacts to the community, ensuring public safety, maintaining adequate separation between residential uses and resource extractive activities, providing for adequate public facilities, and advancing the long term viability of the area and other community goals.

The critical resources identified to be protected include: groundwater and surface water (quality and quantity), agricultural and forest land, historic and scenic resources, and rural character. These resources are critical based on the values of the community and their important role in the economic base of the county for agriculture, tourism, forestry, and seafood.

The intent of this district is to advance the county's goals and policies as contained in the Westmoreland County Comprehensive Plan, and to protect the health, safety and welfare of county's residents and visitors. It is the intent of this district and regulations to address local zoning and planning issues related to oil and gas production and other resource extraction activities and to work in harmony with Commonwealth statutes and regulations relating to those activities.

This district is designed with due consideration of the purposes of zoning ordinances as provided in § 15.2-2283 and other relevant provisions of the Code of Virginia to meet the district's intent. The zoning district requirements seek to balance all community needs; values; and concerns, including the private property interests of all property owners; environmental protection; economic development goals; local government finances; public safety, including long-term public health; and to consider all federal, state, and local regulatory requirements. These purposes can be achieved by establishing a clear process and criteria for considering approval of oil and gas drilling activities and other resource extractive activities, as well as standards for location, site development, and the mitigation of impacts, to ensure the long-term public health and safety in Westmoreland County.

### 2-26.2 Permitted Uses (by-right)

1. Accessory Uses
2. Accessory Structures
3. Agriculture, General
4. Dwellings, Caretaker's
5. Home Occupations, Minor

6. Nurseries, production
7. Sawmills, temporary or portable
8. Signs, subject to Article 7
9. Wayside Stands

#### 2-26.3 Permissible Uses (by Special Exception)

1. Airport, Private
2. Biosolids Composting
3. Farm Brewery
4. Farm Enterprise
5. Fire, Police or rescue stations
6. Golf Courses
7. Golf Driving Ranges
8. Home Occupation, Major
9. Nurseries, retail (including Florists)
10. Oil and Gas Drilling
11. Public utility trunk lines and system components (electrical and gas)
12. Stone Works
13. Telecommunications towers, attached
14. Telecommunications towers, free-standing, subject to Article 4
15. Water-related Structures (jetties, seawalls, piers etc.), subject to Article 4
16. Wineries

#### 2-26.4 Rezoning requirements for a Resource Extraction – Planned Development District

Article 10 of this Ordinance sets forth the process to be followed when the zoning district classification of a property or a group of properties is changed. That procedure is to be followed when the zoning district classification of a property or a group of properties is to be changed to Resource Extraction – Planned Development District. This section sets forth additional standards, requirements, and considerations to supplement the requirements of Article 10.

Resource extractive activities are an intensive land use and their development includes many complicated and often inter-relating issues. Applicants for a change in zoning district classification are hereby strongly encouraged to consider a conditional change in zoning district classification. Conditional zoning, however, allows the applicant more flexibility in addressing impacts from the development that could follow from the rezoning. Applicants for a change in zoning district classification are hereby also strongly encouraged to consider applying for a special exception for the intended use at the same time that they apply for the change in zoning district classification. This will provide the maximum information possible to

accurately identify impacts and provides flexibility and opportunities for the applicant to address such impacts.

#### 2-24.4.1 Pre-application meetings.

After the pre-application conference required in Article 10, applicant shall hold an informational meeting for the public on the rezone proposal prior to application to the county. The meeting shall be advertised by publishing notice of the meeting as required by § 15.2-2204 of the Code of Virginia.

#### 2-24.4.2 Required Submittals.

In addition to the submittals required pursuant to Article 10 of this Ordinance, no application for a change in zoning district classification to RE-PD shall be deemed to be complete until the Zoning Administrator finds that each of the items described below are included and complete.

1. Narrative. The application shall include a written narrative which describes:
  - a. The general nature of the proposed development and the types of uses anticipated;
  - b. The existing conditions and development of the subject property; and
  - c. The nature and extent of the proposed development including, but not limited to all structures to be constructed during the initial development, the quantity and types of roads to be developed, the quantity and types of water, sewer, power, and telecommunications infrastructure to be developed.
  - d. The nature and extent of the mineral resources available on the property.
2. Environmental Assessment.
  - a. The application shall include an environmental assessment which describes: (i) the existence and extent of the following resources on or near the subject property; (ii) the extent and probability to which the ultimate development might impact and will impact these resources; and (iii) measures to be undertaken to minimize and/or avoid such impacts:
    - (a) historic and archaeological resources
    - (b) threatened and endangered species
    - (c) wetlands
    - (d) wildlife habitat
    - (e) air quality

- (f) surface water quality and quantity
- (g) prime agricultural land
- (h) groundwater quality and quantity
- (i) marine resources
- (j) all other relevant environmental resources

b. If an Environmental Impact Assessment and an Operations Plan has been prepared in accord with the Virginia Department of Mines, Minerals, and Energy application for to drill for oil and/or gas, then those documents can be provided to fulfill the relevant portions of the environmental assessment required by this section.

4. Public Impacts. The application shall also identify the impacts of the proposed development, including the benefits to accrue to the public and the impacts to the public, public services, and public resources, and the proposed means of mitigating those impacts.

a. Economic Development. The application shall describe to what extent the proposed development will further the purposes of the County's Overall Economic Development Program, including expanded employment opportunities and an expanded and diversified economic base, changes in the demand for housing and other services.

b. Water and Sewer Infrastructure. The application shall describe the means of providing water and disposing of waste water. When the public provision of water and sewer will be required, the application shall indicate whether the existing infrastructure and capacity is adequate for the proposed development.

c. Other Public Utilities. The application shall identify those public utilities which are available and which are needed for the proposed development. The application should indicate whether or not there currently exist the capacity to serve the proposed development.

d. Transportation. The application shall describe and identify the impacts to the existing transportation system and specify how those impacts will be mitigated.

e. Emergency Services. The application shall describe and identify the impacts to the existing emergency services system. The application shall also include information regarding the types of emergency services that might be needed at the site or related to its operations.

- f. Impacts to the public and community. The application shall describe and identify the possible impacts from noise, light or glare, toxic or hazardous substances, dust, vibration, safety concerns and any other impacts to the surrounding environment and specify how those impacts will be mitigated.
5. Additional Information. The application shall also include the following information.
- a. Ownership. The application shall identify each individual, firm, and/or corporation which has any interest in the title to the subject property(s). Copies of the deed shall also be included. When any corporation has any interest in the title, all officers of the corporation and all shareholders with a greater than ten percent (10%) interest in the corporation shall also be identified.
- b. Operations plan. The application shall describe the institutional framework which is intended to assure the maintenance and operation of the facilities and ultimate closure of the operation and restoration of the site.
- c. Conceptual site plan. The application shall include a conceptual site plan showing the area and nature of development expected within the rezone area. This would consist of maps and narratives. These documents shall show areas of clearing and grading, boundaries and dimensions of drill pad sites (with specific edges defined), surface mining areas, the nature and location of any structures, secondary waste containment systems for storage and disposal, site access and circulation, buffers, stormwater management and sediment and erosion control measures, storage, sorting or processing areas, parking areas and methods to ensure conformance with provisions of the Chesapeake Bay Preservation Overlay District, and other pertinent features of possible or proposed development, as well as the basic information required for any rezoning application, including property boundaries, topography, and existing site features. The plan shall include the area and limits of any horizontal drilling.
- d. A site closure plan. This narrative and conceptual site plan shall be prepared showing how the disturbed area of the site will be restored and identifying the costs, methods and timing of such restoration.
- e. Nearby Properties. The application shall include a map which identifies each property which is located in part, or in whole, within one thousand (1000) feet of any property boundary line of the subject property.

#### 2-26.4.3 Public Review Process.

Once the Zoning Administrator finds that the application is complete as described section 2-24.3.1 above, the application will be advertised as required, scheduled for public hearing and reviewed and acted upon in accordance with Article 10 of this Ordinance. Provided, however, that in addition to the public notice requirements in Article 10, the Zoning Administrator shall provide a notice of the public hearings to the applicant, and the applicant shall be responsible for sending, by certified mail with return receipt, this notice to each of these property owners identified in 2-26.3.2(e). Such notice shall be postmarked no more than twenty eight (28) days nor less than twenty one (21) days prior to the date of the first scheduled public hearing. Proof of the mailing of these notices and proof of receipt shall be submitted to the Zoning Administrator at least one business day prior to the first public hearing.

#### 2-26.4.4 Criteria for approving the request

In addition to the rezone criteria contained in Article 10 of this Ordinance, the following specific criteria shall be met by the proposal in order to grant the rezone or conditional rezone.

1. Minimum size. The area proposed for rezoning shall be a minimum of 40 acres in size or contiguous to an area already zoned RE-PD.
2. Required setbacks. There shall be usable operation sites as identified in the application where the resources can be extracted, which meet the setback requirements established in section 2-26.6 of this ordinance.
3. Location of resources. The location of new RE-PD Districts shall be in areas shown in the comprehensive plan as being potentially appropriate for such extraction activities. For resources such as sand and gravel where the comprehensive plan does not identify areas, the majority of the area proposed for rezoning should be located where the resources to be extracted are shown to be located.

#### *2-26.5 Special Exception permit requirements for oil and gas well drilling.*

Article 10 of this Ordinance sets forth the provisions for a special exception request and review. In addition to those requirements, this section sets forth additional standards, requirements, and considerations to supplement those in Article 10.

#### 2-26.5.1 Required Submittals.

In addition to the submittals required pursuant to Article 10 of this Ordinance, no application for a special exception for gas and oil drilling shall be deemed to be complete until the Zoning Administrator finds that each of the items

described below are included and complete. If the applicant has applied for a combined rezone and special exception review, the information and documents for the two permit applications can be combined, but shall cover all the requirements for each application. Applications for special exception and to rezone may be submitted and reviewed concurrently; however, special exception cannot be approved until after a rezoning is approved.

1. Narrative. The application shall include a written narrative which describes:
  - a. The general nature of the proposed development;
  - b. The existing conditions and development of the subject property;
  - c. The nature and extent of the proposed development including, but not limited to all structures to be constructed during the initial development, the quantity and types of roads to be developed, the quantity and types of water, sewer, power, and telecommunications infrastructure to be developed.

2. Environmental Assessment.

An Environmental Impact Assessment and an Operations Plan prepared in accord with the Virginia Department of Mines, Minerals, and Energy application for to drill for oil and/or gas, will be submitted with the application.

3. Public Impacts. The application shall provide the information required in sub-section 2-24.4.2 4 a. through f.

4. Additional Information. The application shall also include the following information.

- a. Ownership. The application shall identify each individual, firm, and/or corporation which has any interest in the title to the subject property(s). Copies of the deed shall also be included. When any corporation has any interest in the title, all officers of the corporation and all shareholders with a greater than ten percent (10%) interest in the corporation shall also be identified.
- b. Operations plan. The Operations Plan shall include identification of water supply sources, amount of water to be extracted and/or used, and any on-site or off-site storage or discharge of water, waste, wastewater, chemicals or other materials, and any necessary mitigation provisions for impacts on groundwater quantity or quality on or adjacent to the site. It shall also include a Baseline Environmental Assessment (conducted not more than 12 months prior to commencement of drilling



operations) that documents existing environmental conditions within 750 feet of the edge of the proposed drilling site, a Groundwater Baseline Test Report (on-site and adjacent properties) documenting existing surface water quality and the yield and quantity of groundwater wells within 750 feet of the proposed drilling site.

The Operations Plan shall also include an Infrastructure Impact Report, Water Use Plan, a plan for secondary waste containment systems, a plan for storage, transport and disposal of all waste generated by or during operations, and a plan for hours of operation, noise attenuation, air quality and dust control, lighting and glare control, and other site development features that may have impacts.

c. Conceptual site plan. The application shall include a conceptual site plan showing the area and nature of development expected within the rezone area. This would consist of maps and narratives. These documents would show areas of clearing and grading, drill pad sites (with specific edges defined), surface mining areas, the nature and location of any structures, secondary waste containment systems for storage and disposal, site access and circulation, buffers, stormwater management and sediment and erosion control measures, storage, sorting or processing areas, parking areas and methods to ensure conformance with provisions of the Chesapeake Bay Preservation Overlay District, and other pertinent features of possible or proposed development, as well as the basic information required for any special exception application, including property boundaries, adjacent owners, topography, etc. The plan shall include the area and limits of any horizontal drilling.

d. Site closure plan. This narrative and conceptual site plan shall be prepared showing how the disturbed area of the site will be restored and identifying the costs of such restoration and appropriate amount for a performance bond. This would include a decommissioning plan for reclamation and a reuse plan. The plan will include requirements to prepare a post-drilling environmental data report six months after drilling has been completed, using the same procedure as the baseline environmental assessment. Within 12 months of the date of termination, the owner and/or operator shall physically remove the operation, and demonstrate reclamation and any reuse in accordance with the post-operations plan. The plan will include provisions for a final report on groundwater quality and for continued groundwater monitoring water quality has been impacted by the operation.

e. Emergency Plan. This plan shall identify possible hazards associated with the oil and gas drilling, shall provide responses to those hazards, and shall be prepared in coordinated with Westmoreland County public safety officials, and officials from DMME and DEQ (Virginia Department of Environmental Quality).

f. Financial assurance mechanisms. An explanation shall be provided detailing own operational, environmental and other commitments proposed in the applicant shall be met by the applicant.

2-26.5.2 Public Review Process.

Once the Zoning Administrator finds that the application is complete as described section 2-26.4.1 above, the application will be advertised as required, scheduled for public hearing and reviewed and acted upon in accordance with Article 10 of this Ordinance.

2-26.5.3 Required criteria for approving the special exception request.

The following criteria shall be met in order to approve a special exception permit for oil and gas drilling.

1. Required setbacks. There shall be usable operation sites as identified in the application where the resources can be extracted, which meet the setback requirements established in section 2-26.6 of this ordinance.
2. Limit of horizontal drilling. All drilling proposed, including any horizontal drilling, shall be within the designated RE district as determined by the location vertically above the borehole on the ground's surface.

2-26.5.4 Required conditions to be included in a special exception approval.

The following conditions shall be included in any approval of a special exception permit for oil and gas drilling.

1. Requirement to notify the county Zoning Administrator when operations are terminated with the intent to close the well.
2. Requirement to provide liability bonding and to post bonding or other performance guarantees to the county to ensure that the above development, operational, and post-operational plans can be successfully implemented or terminated, regardless of the financial condition of the owner/operator.
3. Requirement to review the emergency plan with county public safety officials at the beginning of operations and at least once every three years.

4. Requirement that, in order to expand horizontal drilling to additional areas not shown on the approved conceptual plan that are also within the RE designation, this SE must be amended accordingly.
5. Requirement to use secondary waste containment systems for storage and disposal of all waste water and process water and disposal of such water offsite.

2-26.6 Development Standards for oil and gas well drilling.

Oil and gas well drilling shall comply with all other requirements of this ordinance as well as the requirements of any other relevant ordinances, laws, and regulations. In addition to such other requirements, the Oil and Gas well drilling shall comply with all of the standards and requirements contained in this section.

1. *Minimum Property Size.* The minimum size of the property shall be 40.57 acres

2. *Required Setbacks.* There shall be setbacks between the gas and oil well drilling operation and facilities and designated Resource Protection Areas (RPA), wetlands, existing structures, public and private wellheads, and other public infrastructure as set forth below. When directional or horizontal drilling is used, setbacks shall be measured horizontally from the area vertically above the borehole on the ground's surface.

Consideration and integration of comprehensive setback buffers – ranging from 500 feet to 0.62 miles (equal to 1 kilometer) – predicated upon RPA wetlands, structures, wellheads, and public infrastructure considerations Setbacks could range from 1,000 feet to 3,300 feet for various critical resources such as public water sources.

3. *Impervious Cover and Stormwater Management.* The proposed project shall comply with the impervious cover restrictions and the stormwater management and water quality and quantity standards contained in Article 3 Overlay District Regulations in the Zoning Ordinance, Chapter 54 Erosion and Sediment Control provisions in the Westmoreland County Code, and the Commonwealth of Virginia Stormwater Management Act.

4. *Fire Protection.* Fire protection measures identified in the emergency plan shall be installed prior to the initiation of drilling, or as otherwise specifically provided for in the emergency plan.

5. *Installation and Bonding.* The installation and bonding requirements established in the special exception permit shall include water infrastructure, sewer infrastructure, road construction, landscaping, project closure, and site restoration.

6. *Roads.* All internal roads shall be built to the standards specified in the special exception permit and shall be removed within a year of the notice of termination of the well operation, unless otherwise provide for in the special exception permit. The owners of property adjacent to such roads shall be completely responsible for all maintenance until such roads are removed and the site restored or converted to a different approved development.

2-26.7 Performance Standards.

The performance standards set forth in the remainder of this section apply to all resource extractive land and uses within RE-PD zoning district. Any violation of any of these performance standards is prohibited. Any violation of any of these performance standards shall constitute a violation of this Ordinance.

1. *Noise.* At no point on the boundary line of an individual lot or parcel or beyond shall sound pressure level resulting or emitting from any use, operation, or activity on any lot or parcel exceed the maximum sound levels during daylight hours, nor exceed the maximum permitted sound level minus 10dB during non-daytime hours.

Octave Band in Cycles per Second	Maximum Permitted Sound Level in Decibels
0 to 75	72
76 to 150	67
151 to 300	61
301 to 600	56
601 to 1200	50
1201 to 2400	45
2401 to 4800	41
above 4800	38

2. *Vibration.* At no point on the boundary line of an individual lot or parcel or beyond, shall the earthborn vibration resulting from any use, operation, or activity on the subject lot or parcel exceed the maximum

displacement levels during daytime hours, nor exceed 2 of the maximum displacement levels during non-daytime hours.

Frequency in Cycles per Second	Maximum Displacement Level in Inches	
	<i>Steady State</i>	<i>Impact</i>
Under 10	.0055	.0010
10 to 19	.0044	.0008
20 to 19	.0033	.0006
30 to 39	.0002	.0004
40 and over	.0001	.0002

3. *Air Pollution.* No use, operation, nor activity which results in visible air emissions at ground level at or beyond the property boundary shall be permitted.

4. *Odor.* At no point at or beyond the boundary line of the lot or parcel on which the activity is being conducted shall the emission of odors resulting from any use, operation, or activity be detectable when diluted in the ratio of one volume of odorous air to eight volumes of clean air.

5. *Glare.* At no point at or beyond the boundary line of the lot or parcel on which the activity is being conducted shall glare nor light pollution resulting from any use, operation or activity exceed 50 foot lamberts during daylight hours, nor exceed 20 foot lamberts during non-daylight hours.

6. *Electrical Interference.* At no point at or beyond the boundary line of the lot or parcel on which the activity is being conducted shall the interference with normal radio and television reception resulting in whole or in part from any use, operation or activity be permitted.

7. *Enclosure or Buffering of Uses.* All resource extractive use, activity, storage, and operation shall be screened by solid fencing or by an adequate vegetated buffer from any public road, from anywhere outside of the development area identified by the special exception permit, or as otherwise provided in the special exception permit.

8. *Height restrictions.* Height restrictions for resource extraction related structures shall be as provided in the special exception permit.

2-26.8 Lot and Yard Regulations

Use/Lot	Minimum		Lot Coverage	Setbacks		
	Lot Size	Lot Frontage (at front setback)		Minimum Front (ft.)	Side (ft.)	Rear (ft.)
Resource Extraction	10 acres	Note 1	Note 1	Note 1	Note 1	Note 1
Accessory Structures	n/a	n/a		125 ft.	15 ft.	40 ft.
Other Permitted Uses	5 acre	150 ft.		50 ft.	40 ft.	40 ft.

Note 1: As provided in the Special Exception Permit.

2-26.9 Building Regulations

2-26.9.1 Maximum Building Height

Thirty-five (35) feet, except for agricultural structures and oil/gas extraction structures which are subject to special exception conditions. Also see height exceptions in Article 1.

2-26.9.2 Utility Requirements

For resource extraction activities, provisions for water and wastewater shall be as provided in the special exception permit. For other uses, water and wastewater shall be provided in accord with County and State regulations, and as set forth in Article 4.

2-26.9.3 Access Requirements

For resource extraction activities, provisions for access shall be as provided in the special exception permit. For other uses, access shall be provided to a state road and shall be as approved in Article 9, when applicable.

## ARTICLE 3 OVERLAY DISTRICT REGULATIONS

### 3-1 Chesapeake Bay Preservation Area Overlay District (CB-OD)

**3-1.1 Title.** This ordinance shall be known and referenced as the "Chesapeake Bay Preservation Area Overlay District" of Westmoreland County.

**3-1.2 Findings of Fact.** The Chesapeake Bay and its tributaries is one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of Westmoreland County and the Commonwealth of Virginia. The health of the Bay is vital to maintaining Westmoreland County's economy and the welfare of its citizens.

The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including non-point source pollution from land uses and development. The lands within Westmoreland County are lands of significance to the preservation of the Bay. Some display intrinsic water quality value due to the ecological and biological processes they perform; some display significant ecological benefits by providing water quality maintenance and pollution, flood, and erosion control; and all display development constraints as improper development and use activities of lands within Westmoreland County inevitably increase non-point source pollution. Only with proper management can development and use occur without damage to Chesapeake Bay waters.

The lands designated by the Board of Supervisors as Chesapeake Bay Preservation Areas (hereinafter "CBPA's) are those lands within Westmoreland County which, due to the material change of circumstances evidenced by the degradation of Bay waters and the passage of the Chesapeake Bay Preservation Act by the General Assembly of the Commonwealth of Virginia, need to be protected from destruction and damage through improper development and use practices in order to protect the quality of Bay waters and consequently the quality of life in Westmoreland County and the Commonwealth of Virginia.

#### 3-1.3 Purpose and Intent.

- (A) This ordinance is enacted to implement the requirements of §10.1-2100 et seq. of the Code of Virginia (The Chesapeake Bay Preservation Act) and amends the Zoning Ordinance of Westmoreland County. The intent of Westmoreland County Board of Supervisors and the purpose of the Overlay District is to: (1) protect existing high quality state water; (2) restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (3) safeguard the clean water of the Commonwealth from pollution; (4) prevent any increase in pollution; (5) reduce existing pollution; and (6) promote water resource conservation in order to provide for the health, safety, and welfare of the present and future citizens of Westmoreland County.
- (B) The district shall be in addition to and shall overlay all other zoning districts where they are applied so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one or more of the other zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in the Overlay District, the review and approval procedures provided for in the Westmoreland County Building Fee Schedule, the Erosion and Sediment Control Ordinance of Westmoreland County, the Residential Subdivision Ordinance of Westmoreland County and various other Sections of the

Zoning Ordinance of Westmoreland County, shall be followed in reviewing and approving development, redevelopment, and uses governed by this Article.

- (C) This Article is enacted under the authority of §10.1-2100 et seq. (The Chesapeake Bay Preservation Act) and §15.1-489, of the Code of Virginia. Section 15.2-2283 states that zoning ordinances may "also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and groundwater as defined in §62.1-44.85(8)."

### **3-1.4 Areas of Applicability.**

- (A) The Chesapeake Bay Preservation Area Overlay District shall apply to all lands identified as CBPAs as designated by the Westmoreland County Board of Supervisors and as shown on the Chesapeake Bay Preservation Area Designation Maps. The Chesapeake Bay Preservation Area Designation Maps, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Article.

- (1) The Resource Protection Area includes:

- (a) Tidal wetlands;
- (b) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or *water bodies with perennial flow*;
- (c) Tidal shores;
- (d) Highly erodible soils;
- (e) A 100-foot vegetated buffer area located adjacent to and landward of the components listed in items (1)(a) through (1)(d) above and along both sides of any *water body with perennial flow*. The 100-foot width shall be measured as in a horizontal plane.

- (2) The Resource Management Area is composed of concentrations of the following land categories: flood plains; highly permeable soils; nontidal wetlands not included in the RPA; and other lands, including hydric soils, necessary to protect the quality of state waters. The Resource Management Area of Westmoreland County consists of all the lands in Westmoreland County which are not in the Resource Protection Area.

- (B) The Chesapeake Bay Preservation Area Designation Maps show the general location of CBPAs and should be consulted by persons contemplating activities within Westmoreland County prior to engaging in a regulated activity. The specific location of RPAs on a lot or parcel shall be delineated on each site or parcel as required under Section 3-1.12 of this Article through the review and approval of the plan of development process or as required under Section 3-1.11 through the review and approval of a water quality impact assessment.

**3-1.5 Use Regulations.** Permitted uses, special exceptions, special uses, accessory uses, and special requirements shall be established by the underlying zoning district, unless specifically modified by the requirements set forth herein.



**3-1.6 Lot Size.** Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in Section 3-1.10, when such development is not otherwise allowed in the RPA.

**3-1.7 Required Conditions.**

- (A) All development and redevelopment exceeding 2,500 square feet of land disturbance, or resulting in 833 or more square feet of impervious cover, shall be subject to a plan of development process, including the approval of a site plan in accordance with the provisions of the Zoning Ordinance or a subdivision plat in accordance with the Subdivision Ordinance.
- (B) Development in RPAs may be allowed only if it: (i) is water-dependent; or (ii) constitutes redevelopment; (iii) constitutes development or redevelopment within a designated Intensely Developed Area; (iv) is a new use established pursuant to Section 3-1.10; (v) is a road or driveway crossing satisfying the conditions set forth in Section 3-1.7 (D) and Section 3-1.14; or (vi) is a flood control or stormwater management facility satisfying conditions set forth in 3-1.7 (E).
- (C) A water quality impact assessment shall be required for any proposed land disturbance or development or redevelopment within RPAs and for any development within RMAs when required by the Zoning Administrator because of the unique characteristics of the site or intensity of development, in accordance with the provisions of Section 3-1.11.
- (D) Roads and driveways not exempt under Section 3-1.14 and which, therefore must comply with the provisions of this Article, may be constructed in or across Resource Protection Areas if each of the following conditions are met:
  - (1) The Zoning Administrator or Planning Commission makes a finding that there is no reasonable alternatives to aligning the road or driveway in or across the Resource Protection Area;
  - (2) The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality;
  - (3) The design and construction of the road or driveway satisfy all applicable criteria of this Article, including submission of a water quality impact assessment; and
  - (4) The Zoning Administrator or Planning Commission reviews the plan for the road or driveway proposed in or across the Resource Protection Area in coordination with site plan, subdivision and plan of development approvals.
- (E) Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in Resource Protection Areas, provided that (i) the Zoning Administrator or Planning Commission has conclusively established that location of the facility within the Resource Protection Area is the optimum location, (ii) the size of the facility is the minimum necessary to provide necessary flood control, stormwater management treatment, or both; (iii) the facility must be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board as a Phase I modification to the

County's Chesapeake Bay Preservation Area program; (iv) all applicable permits for construction in state or federal waters must be obtained from the appropriate state and federal agencies; (v) approval must be received from the County prior to construction; and (vi) routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed. This subsection does not intend to allow a best management practice that collects and treats runoff from an individual lot or some portion of the lot to be located within a Resource Protection Area.

**3.1.8 Conflict with Other Regulations.** In any case where the requirements of this Article conflict with any other provision of the Westmoreland County Code or existing state or federal regulations, whichever imposes the more stringent restrictions shall apply.

**3.1.9 Interpretation of Resource Protection Area Boundaries.**

- (A) **Delineation by the Applicant.** The site-specific boundaries of the Resource Protection Area shall be determined by the applicant through the performance of an environmental site assessment, subject to approval by the Zoning Administrator and in accordance with Section 3-1.11, Water Quality Impact Assessment or Section 3-1.12, Plan of Development, of this Article. The Chesapeake Bay Preservation Area Designation Maps may be used as a guide to the general location of Resource Protection Areas.
- (B) **Delineation by the Zoning Administrator.** The Zoning Administrator, when requested by an applicant wishing to construct a single family residence, may waive the requirement for an environmental site assessment and perform the delineation. The Zoning Administrator may use hydrology, soils, plant species, and other data, and consult other appropriate resources as needed to perform the delineation.
- (C) **Where Conflict Arises Over Delineation.** Where the applicant has provided a site-specific delineation of the RPA, the Zoning Administrator will verify the accuracy of the boundary delineation. In determining the site specific RPA boundary, the Zoning Administrator may render adjustments to the applicant's boundary delineation, in accordance with Section 3-1.12, Plan of Development. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of Section 3-1.12 (I), Denial/Appeal of Plan.

**3-1.10 Performance Standards.**

- (A) Purpose and Intent. The performance standards establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters stormwater runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces stormwater runoff potential.

The purpose and intent of these requirements are also to protect property, state waters, stream channels, and other natural resources from the potential harm of unmanaged stormwater, to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced, and to implement the following objectives: prevent a net increase in non-point source pollution from new development; achieve a 10% reduction in non-point source pollution from redevelopment; and achieve a 40% reduction in non-point source pollution from agricultural uses.

- (B) General Performance Standards for Development and Redevelopment.

- (1) Land disturbance shall be limited to the area necessary to provide for the proposed use or development.
- (a) In accordance with an approved site plan, the limits of land disturbance, including clearing or grading shall be strictly defined by the construction footprint. These limits shall be clearly shown on submitted plans and physically marked on the development site.
  - (b) For any development, other than residential, the construction footprint shall not exceed 60% of the site.
  - (c) Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the Zoning Administrator.
- (2) Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.
- (a) Existing trees over six (6) inches in diameter at breast height (DBH) shall be preserved outside the construction footprint.
  - (b) Unless otherwise approved by the Zoning Administrator, clearing in the area outside of the construction footprint shall be done by hand, without the use of heavy equipment such as bulldozers and graders.
  - (c) Throughout all phases of construction, the storage of equipment, materials, debris, or fill shall not be allowed beyond the area of the construction footprint.
- (3) Land development shall minimize impervious cover to promote infiltration of stormwater into the ground, consistent with the proposed use or development.

- (4) Notwithstanding any other provisions of this Article or exceptions or exemptions thereto, any land disturbing activity exceeding 2,500 square feet, including construction of all single-family houses, septic tanks, and drainfields, shall comply with the requirements of Westmoreland County Erosion and Sediment Control Ordinance.
- (5) All on-site sewage disposal systems not requiring a VPDES permit shall be pumped out at least once every five years, in accordance with the provisions of the Virginia Department of Health.
  - (a) If deemed appropriate by the Virginia Department of Health and subject to conditions the Virginia Department of Health may set, the owners of such systems, as an alternative to the mandatory pump-out, *may have* the option of having a plastic filter installed, and maintained, in the outflow pipe from the septic tank to filter solid material from the effluent while sustaining adequate flow to the drainfield to permit normal use of the septic system. Such a filter should satisfy standards established in the Sewage Handling and Disposal Regulations (12 VAC 5-610-10 et. seq.) administered by the Virginia Department of Health.
  - (b) In lieu of requiring proof of septic tank pump-out every five years, owners of on-site sewage treatment systems shall submit documentation every five years, certified by an operator or on-site soil evaluator licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, maintain or design on-site sewage systems, that the septic system has been inspected, is functioning properly, and the tank does not need to have the effluent pumped out of it.
- (6) A reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site shall be provided in accordance with the regulations and provision of the Virginia Department of Health. Building or construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system which operates under a permit issued by the State Water Control Board, until the structure is served by public sewer. All sewage disposal site records shall be administered to provide adequate notice and enforcement.
  - (a) This requirement shall not apply to any lot or parcel which was recorded prior to October 1, 1989 if a Sewage Disposal System Construction Permit was issued for such lot or parcel prior to October 1, 1989 and if such permit is currently valid and unexpired.
  - (b) This requirement shall not apply to any lot or parcel recorded prior to October 1, 1989 for which there is no Sewage Disposal System Construction Permit as described above, and if such lot or parcel is not sufficient in capacity to accommodate a reserve sewage disposal site, as determined by the local Health Department.
- (7) Notwithstanding any other provisions of this Article or exceptions or exemptions thereto, any land disturbing activity exceeding 2,500 square feet and less than one acre, including construction of all single-family houses, septic tanks, and

drainfields, shall comply with the requirements of Westmoreland County Chesapeake Bay Preservation Act Land-Disturbing Activity Ordinance.

- (8) Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Zoning Administrator, in accordance with Section 3-1.12.
- (9) Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by Westmoreland County, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides, and, where necessary, results in a plan that outlines additional practices needed, to ensure that water quality protection is being accomplished consistent with the Chesapeake Bay Preservation Act and 9 VAC 10-20 et. seq,
  - (a) Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service or the January 2001 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this Section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:
    - i. For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation System, referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service.
    - ii. For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.)
    - iii. For pest chemical control, referrals shall be made to the local cooperative extension agent or any Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.
  - (b) A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the

operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.

- c) The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the local Soil and Water Conservation District Board which will be the plan-approving authority.
- (C) Buffer Area Requirements. To minimize the adverse effects of human activities on the other components of Resource Protection Areas, state waters, and aquatic life, a 100-foot buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff shall be retained if present and established where it does not exist.

Where land uses such as agriculture or silviculture within the area of the buffer cease and the lands are proposed to be converted to other uses, the full 100 foot wide buffer shall be reestablished. In reestablishing the buffer, management measures shall be undertaken to provide woody vegetation that assures the buffer functions set forth in this Article.

The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the RPA, in accordance with Sections 3-1.4, Areas of Applicability, and 3-1.12, Plan of Development. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in Section 3-1.7 and this section, the 100 foot buffer area is not reduced in width.

The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

The buffer area shall be maintained to meet the following additional performance standards:

- (1) In order to maintain the functional value of the buffer area, *existing* vegetation may be removed subject to approval by the Zoning Administrator only to provide for reasonable sight lines, access paths, general woodlot management, and best management practices, including those that prevent upland erosion and concentrated flows of stormwater, as follows:
  - (a) Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering non-point source pollution from runoff.
  - (b) Any path shall be constructed and surfaced so as to effectively control erosion.
  - (c) Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, Kudzu and multiflora rose) may be removed and thinning of trees allowed as permitted by the Zoning Administrator pursuant to sound horticultural practices.

- (d) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.
- (2) When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Zoning Administrator may allow encroachments into the buffer area in accordance with Sections 3-1.11, Water Quality Impact Assessment, and 3-1.12, Plan of Development, and the following criteria:
- (a) Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
  - (b) Where practicable, a vegetated area that will mitigate the effects of the encroachment, *and is* equal to the area encroaching the buffer area shall be established elsewhere on the lot or parcel in a way to maximize water quality protection; and
  - (c) The encroachment may not extend into the seaward 50-feet of the buffer area.
- (3) On agricultural lands the agricultural buffer area shall be managed to prevent concentrated flows of surface water from breaching the buffer area and appropriate measures may be taken to prevent noxious weeds (such as Johnson grass, kudzu, and multiflora rose) from invading the buffer area. Agricultural activities may encroach into the buffer area as follows:
- (a) Agricultural activities may encroach into the landward 50 feet of the 100-foot wide buffer area when at least one agricultural best management practice which, in the opinion of the local soil and water conservation district board, addresses the more predominant water quality issue on the adjacent land - erosion control or nutrient management - is being implemented on the adjacent land, provided that the combination of the undisturbed buffer area and the best management practice achieves water quality protection, pollutant removal, and water resource conservation at least the equivalent of the 100-foot wide buffer area. If nutrient management is identified as the predominant water quality issue, a nutrient management plan, including soil tests, must be developed consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.) administered by the Virginia Department of Conservation and Recreation.
  - (b) Agricultural activities may encroach within the landward 75 feet of the 100-foot wide buffer area when agricultural best management practices which address erosion control, nutrient management, and pest chemical control, are being implemented on the adjacent land. The erosion control practices must prevent erosion from exceeding the soil loss tolerance level, referred to as "T," as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guild" of the

U. S. Department of Agriculture Natural Resource Conservation Service. A nutrient management plan, including soil tests, must be developed, consistent with the "Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.) administered by the Virginia Department of Conservation and Recreation. In conjunction with the remaining buffer area, this collection of best management practices shall be presumed to achieve water quality protection at least the equivalent of that provided by the 100-foot wide buffer area.

- (c) The buffer area is not required to be designated adjacent to agricultural drainage ditches if at least one best management practice which, in the opinion of the local Soil and Water Conservation District board, addresses the more predominant water quality issue on the adjacent land - either erosion control or nutrient management - is being implemented on the adjacent land.
- (d) If specific problems are identified pertaining to agricultural activities which are causing pollution of the nearby water body with perennial flow or violate performance standards pertaining to the vegetated buffer area, the Zoning Administrator, in cooperation with soil and water conservation district, shall recommend a compliance schedule to the landowner and require the problems to be corrected consistent with that schedule. This schedule shall expedite environmental protection while taking into account the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.
- (e) In cases where the landowner or his agent or operator has refused assistance from the local soil and water conservation district in complying with or documenting compliance with the agricultural requirements of this chapter, the district shall report the noncompliance to the Zoning Administrator. The Zoning Administrator shall require the landowner to correct the problems within a specified period of time not to exceed 18 months from their initial notification of the deficiencies to the landowner. The Zoning Administrator, in cooperation with the district, shall recommend a compliance schedule to the landowner. This schedule shall expedite environmental protection while taking into account the seasons and other temporal considerations so that the probability for successfully implementing the corrective measures is greatest.

### 3.1-11 Water Quality Impact Assessment.

- (A) Purpose and Intent. The purpose of the water quality impact assessment is to: (i) identify the impacts of proposed *land disturbance*, development or redevelopment on water quality and lands within RPAs and other environmentally-sensitive lands; (ii) ensure that, where development does take place within RPAs and other sensitive lands, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of RPAs and other sensitive lands; (iii) to protect individuals from investing funds for improvements proposed for location on lands unsuited for such development because of high ground water, erosion, or vulnerability to flood and storm damage; (iv) provide for administrative relief from the terms of this Article when warranted and in accordance with the requirements contained herein; and (v) specify mitigation which will address water quality protection.



- (B) Water Quality Impact Assessment Required. A water quality impact assessment is required for (i) any proposed land disturbance, *development* or *redevelopment* within an RPA, including any buffer area modification or encroachment as provided for in Section 3-1.10, (ii) any development in a RMA as deemed necessary by the Zoning Administrator due to the unique characteristics of the site or intensity of the proposed development. There shall be two levels of water quality impact assessments: a minor assessment and a major assessment.
- (C) Minor Water Quality Impact Assessment. A minor water quality impact assessment pertains only to development within CBPAs for detached, single-family, residential structures which require any modification or encroachment into the landward 50 feet of the 100 foot buffer area. A minor assessment must demonstrate through acceptable calculations that the remaining buffer area and necessary best management practices will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development stormwater runoff. A minor assessment shall include a site drawing to scale which shows the following:
- (1) Location of the components of the RPA, including the 100 foot buffer area.
  - (2) Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites.
  - (3) Type and location of proposed best management practices to mitigate the proposed encroachment.
- (D) Major Water Quality Impact Assessment. A major water quality impact assessment shall be required for any land disturbance, development or redevelopment which (i) requires any modification or encroachment of the landward 50 feet of the 100 foot buffer area and which development is for anything other than a detached single-family residential structure, (ii) disturbs any portion of the seaward 50 feet of the 100 foot buffer area or any other component of an RPA; or (iii) is located in an RMA and is deemed necessary by the Zoning Administrator. The information required in this Section shall be considered a minimum, unless the Zoning Administrator determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development of land.

The following elements shall be included in the preparation and submission of a major water quality assessment:

- (1) All of the information required in a minor water quality impact assessment, as specified in Section 3-1.11 (C).
- (2) A hydro geological element that:
  - (a) Describes the existing topography, soils, hydrology and geology of the site and adjacent lands.
  - (b) Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.

- (c) Indicates the following:
  - 1. Disturbance or removal of wetlands and justification for such action;
  - 2. Disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
  - 3. Disruptions to existing hydrology including wetlands and stream circulation patterns;
  - 4. Source location and description of proposed fill material;
  - 5. Location of dredge material and location of dumping area for such material;
  - 6. Location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas;
  - 7. Estimation of pre- and post-development pollutant loads in runoff;
  - 8. Estimation of percent increase in impervious surface on site and type(s) of surfacing materials used;
  - 9. Percent of site to be cleared for project;
  - 10. Anticipated duration and phasing schedule of construction project;
  - 11. Listing of all requisite permits from all applicable agencies necessary to develop project.
  
- (d) Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:
  - 1. Proposed erosion and sediment control concepts; concepts may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection;
  - 2. Proposed stormwater management system;
  - 3. Creation of wetlands to replace those lost;
  - 4. Minimizing cut and fill.
  
- (3) A landscape element that:
  - (a) Identifies and delineates the location of all woody plant material on site, including all trees six (6) inches or greater diameter at breast height. Where there are groups of trees, stands may be outlined.

- (b) Describes the impacts the development or use will have on the existing vegetation. Information should include:
  - 1. General limits of clearing, based on all anticipated improvements, including buildings drives, and utilities;
  - 2. Clear delineation of all trees and other woody vegetation which will be removed;
  - 3. Description of plant species to be disturbed or removed.
- (c) Describes the potential measures for mitigation. Possible mitigation measures include:
  - 1. Replanting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used;
  - 2. Demonstration that the design of the plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation;
  - 3. Demonstration that indigenous plants are to be used to the greatest extent possible; and
  - 4. Demonstration that the re-vegetation plan supplements the existing buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.
- (4) A wastewater element, where applicable, that:
  - (a) Includes calculations and locations of anticipated drainfield or wastewater irrigation areas.
  - (b) Provides justification for sewer line locations in environmentally-sensitive areas, where applicable, and describes construction techniques and standards.
  - (c) Discusses any proposed on-site collection and treatment systems, their treatment levels, and impacts on receiving watercourses.
  - (d) Describes the potential impacts of the proposed wastewater systems, including the proposed mitigative measures for these impacts.
- (5) Identification of the existing characteristics and conditions of sensitive lands included as components of Chesapeake Bay Preservation Areas, as defined in this Article.

- (6) Identification of the natural processes and ecological relationships inherent in the site, and an assessment of the impact of the proposed use and development of land on these processes and relationships.
- (E) Submission and Review Requirements.
- (1) Minor Water Quality Impact Assessment
    - (a) Three copies of all site drawings and other applicable information as required by Section 3-1.11 (C) shall be submitted to the Zoning Administrator for review.
    - (b) All information required for the minor water quality impact assessment shall be certified complete by a professional engineer or a certified land surveyor.
    - (c) The minor water quality impact assessment shall be prepared, submitted to and approved by the Zoning Administrator in conjunction with Section 3-1.10 (C), Buffer Area Requirements and Section 3-1.12, Plan of Development
  - (2) Major Water Quality Impact Assessment
    - (a) Five copies of all site drawings and other applicable information as required by Section 3-1.11 (D), and any other forms and information deemed necessary by the Zoning Administrator shall be submitted to the Zoning Administrator for preliminary review, and to the Planning Commission for approval.
    - (b) All information required for the major water quality impact assessment shall be certified as complete and accurate by a professional engineer.
    - (c) The major water quality impact assessment shall be prepared and submitted to the Zoning Administrator in conjunction with Sections 3-1.12, Plan of Development, or 3-1.15, Exceptions, as deemed necessary by the Zoning Administrator.
    - (d) As part of any major water quality impact assessment submittal, the Zoning Administrator may require review by the Department of Environmental Quality (DEQ). Upon receipt of a major water quality impact assessment, the Zoning Administrator will determine if such review is warranted and may request DEQ to review the assessment and respond with written comments. Any comments by DEQ will be incorporated into the final review by the Planning Commission, provided that such comments are provided by DEQ within ninety (90) days of the request.
    - (e) Within thirty (30) days of the receipt of a major water quality impact assessment, the Zoning Administrator will review the assessment to insure completeness. If the Zoning Administrator finds that the water quality impact assessment is not complete he will return the assessment, along with written comments describing the inadequacies. After

correcting such inadequacies the applicant may resubmit the assessment. If the Zoning Administrator finds that the assessment is complete the Zoning Administrator will review and approve the Assessment if consistent with the intent and provisions of this Article or forward the assessment to the Planning Commission if Planning Commission review is required consistent with Section 3-1.15.

- (f) If Planning Commission review is required per Section 3-1.15, the Planning Commission shall consider the major water quality impact assessment at a public meeting within two months of the date it is certified complete by the Zoning Administrator.

(F) Evaluation Procedure.

(1) Minor Water Quality Impact Assessment

- (a) Upon the completed review of a minor water quality impact assessment, the Zoning Administrator will determine if any proposed modification or encroachment into the buffer area is consistent with the provisions of this Article and make a finding based on the following criteria:
  - 1. The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
  - 2. Impervious surface is minimized;
  - 3. Proposed best management practices, where required, achieve the requisite reductions in pollutant loadings;
  - 4. The development, as proposed, meets the purpose and intent of this Article;
  - 5. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (b) The Zoning Administrator shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Zoning Administrator based on the criteria listed in Section 3-1.11 (F)(1)(a).
- (c) The Zoning Administrator shall find the proposal to be inconsistent with the purpose and intent of the Article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator based on the criteria listed in item Section 3-1.11 (F)(1)(a).

- (2) Major Water Quality Impact Assessment
- (a) The Zoning Administrator or Planning Commission, consistent with Section 3-1.15, will consider the major water quality impact assessment at a public meeting if such public meeting is required consistent with Section 3-1.15. The Zoning Administrator or Planning Commission, as applicable, will determine if the proposed development is consistent with the purpose and intent of this Article and make a finding based on the following criteria:
1. Within any RPA, the proposed development is water-dependent or redevelopment.
  2. The disturbance of any wetlands will be minimized.
  3. The development will not result in significant disruption of the hydrology of the site.
  4. The development will not result in significant degradation to aquatic vegetation or life.
  5. The development will not result in unnecessary destruction of plant materials on site.
  6. Proposed erosion and sediment control concepts are adequate to achieve the reductions in runoff and prevent off-site sedimentation.
  7. Proposed stormwater management concepts are adequate to control the stormwater runoff to achieve the required performance standard for pollutant control.
  8. Proposed revegetation of disturbed areas will provide optimum erosion and sediment control benefits as well as runoff and pollutant removal equivalent of the full 100 foot wide undisturbed buffer area.
  9. The design and location of any proposed drainfield will be in accordance with the requirements of Section 3-1.10.
  10. The development, as proposed, is consistent with the purpose and intent of the Overlay District.
  11. The cumulative impact of the proposed development, when considered in relation to other development in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (b) The Zoning Administrator or Planning Commission shall require additional mitigation where potential impacts have not been adequately addressed. Evaluation of mitigation measures will be made by the Planning Commission based on the criteria listed in item (2)(a) above.

- (c) The Zoning Administrator or Planning Commission shall find the proposal to be inconsistent with the purpose and intent of this Article when the impacts created by the proposal cannot be mitigated. Evaluation of the impacts will be made by the Zoning Administrator or Planning Commission based on the criteria listed in item (2)(a) above.

**3-1.12 Plan of Development Process.**

The Plan of Development Process described in this Section shall be followed for all development and redevelopment which exceeds 2,500 square feet of land disturbance or which requires a zoning permit, a subdivision plat, or for any other development for which the Zoning Administrator deems it necessary. The requirements of this Section are in addition to the requirements of other Sections of the Zoning Ordinance of Westmoreland County or the requirements of the Subdivision Ordinance of Westmoreland County. The information, plans and studies required in this Section may be coordinated or combined, as deemed necessary by the Zoning Administrator. The Zoning Administrator may determine that some of the requirements of this Section are unnecessary due to the scope and nature of the proposed development.

**(A) Required Information.**

- (1) The first step in the plan of development process is the submission of five (5) copies of a preliminary site plan or preliminary subdivision plat in accordance with Section 3-1.12 (B) and the submission of five (5) copies of an environmental site assessment in accordance with Section (C) below.
- (2) The Zoning Administrator shall review the preliminary site plan or plat within thirty (30) days and will either:
  - (a) Approve the preliminary plat or plan as submitted; or
  - (b) The Zoning Administrator shall, with written notice to the applicant, require one or more of the following plans and studies:
    1. A landscaping plan, Section 3-1.12 (D),
    2. A stormwater management plan, Section 3-1.12 (E),
    3. An erosion and sediment control plan, Section 3-1.12 F),
    4. A water quality impact assessment, Section 3-1.11;
    5. A Final Plan, Section 3-1.12 (G).
- (3) The Zoning Administrator shall review such final plans or plats within sixty (60) days and take one of the following actions:
  - (a) Approve, in writing, the final site plans or final subdivision plats. In accordance with the Residential Subdivision Ordinance of Westmoreland County, some subdivision plats will still require further approval of the Board of Supervisors after being approved in accordance with this Section.
  - (b) If a major water quality impact assessment was required, the Zoning Administrator shall, after approving all of the other required plans and studies, forward the major water quality impact assessment to the Planning Commission for approval in accordance with Section 3-1.11, Water Quality Impact Assessment, of this Article.



- (c) If the Zoning Administrator finds that the plans and studies are improperly or incompletely prepared, or if he finds that further information is required, he shall notify the applicant, in writing, of his findings. The applicant shall then correct the deficiencies or inadequacies noted by the Zoning Administrator, and the applicant may resubmit such revised plans.

(B) Preliminary Site Plan/Subdivision Plat.

- (1) All preliminary site plans and all preliminary subdivision plats shall be certified complete by a professional engineer or certified surveyor duly authorized by the Commonwealth of Virginia to practice as such.
- (2) All such plats and plans shall contain the following information:
  - (a) Certificate signed by the surveyor or engineer setting forth the source of title of the owner of the tract and the place of record of the last instrument in the chain of title.
  - (b) A boundary survey of the tract with an error of closure within the limit of one in ten thousand, related to the true meridian and showing the location and type of boundary evidence.
  - (c) The location of all existing and proposed structures, including marine structures and temporary structures.
  - (d) The location of all existing and proposed septic sewage disposal sites, and the location of all existing and proposed well sites.
  - (e) Documentation of all existing permits and applications relevant to the lot, including, but not limited to, Health Department permits for all wells and septic sewage disposal systems, existing zoning permits, existing special exceptions, existing non-conforming use permits, and existing zoning variances.
- (3) In addition to the above requirements, all preliminary site plans, except those for the construction of one (1) single family detached residential structure and all preliminary subdivision plats shall contain a map identifying soil types at a scale not less than one inch equals five hundred feet (1 inch equals 500 feet).

(C) Environmental Site Assessment.

An environmental site assessment shall be submitted in conjunction with preliminary site plan or preliminary subdivision plan approval.

- (1) The environmental site assessment shall be drawn to scale and clearly delineate the following environmental features:
  - (a) Tidal wetlands.
  - (b) Tidal shores.

- (c) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow.
  - (d) Highly erodible soils, including steep slopes;
  - (e) A 100 foot buffer area located adjacent to and landward of the components listed in items (1)(a) through (1)(e) above, and along both sides of any water body with perennial flow.
  - (f) Other sensitive environmental features as determined by the Zoning Administrator.
- (2) Wetlands delineations shall be performed consistent with the procedures specified in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1986.
  - (3) The environmental site assessment shall delineate the site-specific geographic extent of the RPA as required under Sections 3-1.4 A and 3-1.9 of this Article.
  - (4) The following information shall also be included with the environmental site assessment:
    - (a) The location and extent of all wooded areas before development, the proposed area of post-development clearing, and the location and extent of post-development cover.
    - (b) Computations of total site area, the amount and percentage of existing and proposed open space, and the amount and percentage of existing and proposed impervious cover.
    - (5) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. This requirement may be waived by the Zoning Administrator when the proposed use or development would result in less than 5,000 square feet of disturbed area.
- (D) Landscaping Plan.

A landscaping plan shall be submitted in conjunction with site plan approval or as part of subdivision plat approval when required by the Zoning Administrator. If such a plan is required, no clearing or grading shall be permitted without an approved landscaping plan. Landscaping plans shall be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia.

- (1) Contents of the Plan.
  - (a) The landscaping plan shall be drawn to scale and clearly delineate the location, size and description of existing and proposed plant material. All existing trees on the site six (6) inches or greater DBH shall be shown on the landscaping plan. Where there are groups of trees, stands may be outlined instead. The specific number of trees six (6) inches or greater

- DBH to be preserved outside of the construction footprint shall be indicated on the plan. Trees to be removed to create a desired construction footprint shall be clearly delineated on the landscaping plan.
- (b) Any required buffer area shall be clearly delineated and any plant material to be added to establish or supplement the buffer area, as required by this Article, shall be shown on the landscaping plan.
  - (c) Within the buffer area, trees to be removed for sight lines, vistas, access paths, and best management practices, as provided for in this Article, shall be shown on the plan. Vegetation required by this Article to replace any existing trees within the buffer area shall also be shown on the landscaping plan.
  - (d) Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this Article shall be shown on the landscaping plan.
  - (e) The plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
  - (f) The landscaping plan will include specifications for the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.
  - (g) If the proposed development is a change in use from agricultural or silvicultural to some other use, the plan must demonstrate re-establishment of vegetation in the buffer area.
- (2) Plant Specifications.
- (a) All plant materials necessary to supplement the buffer area or vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
  - (b) All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
  - (c) Where areas to be preserved, as designated on an approved landscaping plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of three (3) planted trees to one (1) removed. Replacement trees shall be a minimum three and one-half (3.5) inches DBH at the time of planting.

- (3) Maintenance
  - (a) The applicant shall be responsible for the maintenance and replacement of all vegetation as may be required by the provisions of this Article.
  - (b) In buffer areas and areas outside the construction footprint, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this Article.

(E) Stormwater Management Plan.

A complete Chesapeake Bay Preservation Act Land-Disturbing Activity Ordinance permit application including a stormwater management plan or agreement in lieu of a stormwater management plan shall be submitted in conjunction with site plan or subdivision plan approval, when applicable.

(F) Erosion and Sediment Control Plan.

An erosion and sediment control plan shall be submitted that satisfies the requirements of this Article and in accordance with the requirements of the Erosion and Sediment Control Ordinance of Westmoreland County, in conjunction with site plan or subdivision plan approval, when required by the Zoning Administrator.

(G) Final Plan.

Final plans for property within CBPAs shall be final plats for land to be subdivided or site plans for land not to be subdivided as required in Sections 10-3.4 and 10-3.12 of the Zoning Ordinance of Westmoreland County.

- (1) Final plans for all lands within CBPAs shall include the following additional information:
  - (a) The delineation of the Resource Protection Area boundary including the 100 foot wide buffer component;
  - (b) Plat or plan note stating that no land disturbance is allowed in the buffer are without review and approval by the Zoning Administrator;
  - (c) All wetlands permits required by law;
  - (d) A maintenance agreement as deemed necessary and appropriate by the Zoning Administrator to ensure proper maintenance of best management practices in order to continue their functions.
- (2) Installation and Bonding Requirements.
  - (a) Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.

- (b) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to Westmoreland County a form of surety satisfactory to the Zoning Administrator in an amount not to exceed 150% of the value of the remaining plant materials, related materials, and installation costs of the required landscaping or other specifications and/or maintenance costs for any required stormwater management facilities.
  - (c) All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the County of Westmoreland.
  - (d) All required stormwater management facilities or other specifications shall be installed and approved within eighteen (18) months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to Westmoreland County. The County of Westmoreland may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
  - (e) After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Zoning Administrator, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following the receipt of the applicant's request for final inspection. The Zoning Administrator may require a certificate of substantial completion from a Professional Engineer or Class IIIB Surveyor before making a final inspection.
  - (f) The specific provisions for performance bonds contained in the Westmoreland County's Chesapeake Bay Preservation Act Land-Disturbing Activity Ordinance and/or Erosion and Sediment Control Ordinance may be used to supplement or in place of these installation and bonding requirements as applicable as determined by the Zoning Administrator.
- (H) Administration of the Plan of Development Process.

The Zoning Administrator shall administer the Plan of Development ~~Process~~ in accordance with the guidelines and requirements of this Section 3-1.12 and also in accordance with the applicable Sections of the Zoning Ordinance of Westmoreland County or the Subdivision Ordinance of Westmoreland County.

- (I) Denial of Plan, Appeal of Conditions or Modifications.

In the event the final plan or any component of the plan of development process is disapproved and recommended conditions or modifications are unacceptable to the applicant, the applicant may appeal such administrative decision to the Planning Commission. In granting or denying an appeal, the Planning Commission must find

such plan to be in accordance with all applicable ordinances and include necessary elements to mitigate any detrimental impact on water quality and upon adjacent property and the surrounding area, or such plan meets the purpose and intent of the performance standards in this Article. If the Planning Commission finds that the applicant's plan does not meet the above stated criteria, they shall deny approval of the plan.

**3-1.13 Nonconforming Use and Development Waivers.**

The lawful use of a building or structure which existed on September 12, 1990 or which exists at the time of any amendment to this Article, and which is not in conformity with the provisions of the Overlay District may be continued in accordance with Article 8 of the Zoning Ordinance of Westmoreland County.

No change or expansion of use shall be allowed with the exception that:

- (1) The Zoning Administrator may grant a nonconforming use and development waiver for structures on legal nonconforming lots or parcels to provide for remodeling and alterations to such nonconforming structures provided that:
  - (a) There will be no increase in non-point source pollution load; and
  - (b) Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirement of this Article.
- (2) An application for a nonconforming use and development waiver shall be made to and upon forms furnished by the Zoning Administrator and shall include for the purpose of proper enforcement of this Article, the following information:
  - (a) Name and address of applicant and property owner.
  - (b) Legal description of the property and type of proposed use and development.
  - (c) A scaled drawing of the lot or parcel, location of buildings and proposed additions relative to the lot lines, and boundary of the Resource Protection Area.
  - (d) Location and description of any existing private water supply or sewage system.
- (3) A nonconforming use and development waiver shall become null and void twelve months from the date issued if no substantial work has commenced.
- (4) An application for the expansion of a nonconforming principal structure may be approved by the Zoning Administrator through an administrative review process provided that the following findings are made:
  - a) The request for the waiver is the minimum necessary to afford relief;
  - b) Granting the waiver will not confer upon the applicant any specific privileges that are denied by this Article to other property owners in similar situations;
  - c) The waiver is in harmony with the purpose and intent of this Article and does not result in water quality degradation;

- d) The waiver is not based on conditions or circumstances that are self-created or self-imposed;
- e) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the waiver from causing a degradation of water quality;
- f) Other findings, as appropriate and required by the Westmoreland County are met; and
- g) In no case shall this provision apply to accessory structures.

### **3-1.14 Exemptions.**

#### **(A) Exemptions for Public Utilities, Railroads, and Facilities**

Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (§ 10.1-560 et seq. Of the Code of Virginia) and the Stormwater Management Act (§ 10.1-603.1 et seq. Of the Code of Virginia, (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements are deemed to comply with this Article. The exemption of public roads is further conditioned on the requirement that the road alignment and design has been optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the Resource Protection Area and to minimize the adverse effects on water quality.

#### **(B) Exemptions for Local Utilities and other service lines.**

Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned, permitted or both, by a local government or regional service authority shall be exempt from the Overlay District provided that:

- 1) To the degree possible, the location of such utilities and facilities should be outside Resource Protection Areas;
- 2) No more land shall be disturbed than is necessary to provide for the proposed utility installation;
- 3) All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and
- 4) Any land disturbance exceeding an area of 2,500 square feet complies with all Westmoreland County erosion and sediment control requirements.



(C) Exemptions for Silvicultural Activities.

Silvicultural activities are exempt from the requirements of this Article provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia (Technical Guide)". The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

(D) Exemptions in Resource Protection Areas.

The following land disturbances in Resource Protection Areas may be exempted from the Overlay District: (i) water wells; (ii) passive recreation facilities such as boardwalks, trails and pathways; and (iii) historic preservation and archaeological activities, provided that it is demonstrated to the satisfaction of the Zoning Administrator that:

- (1) Any required permits, except those to which this exemption specifically applies, shall have been issued;
- (2) Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality;
- (3) The intended use does not conflict with nearby planned or approved uses; and
- (4) Any land disturbance exceeding an area of 2,500 square feet shall comply with all Westmoreland County Erosion and sediment control requirements.

**3-1.15 Exceptions.**

- (A) A request for an exception to the requirements of Sections 3-1.7 and 3-1.10 C of this Article shall be made in writing to the Planning Commission. It shall identify the impacts of the proposed exception on water quality and on lands within the Resource Protection Area through the performance of a water quality impact assessment which complies with the provisions of Section 3-1.11.

Westmoreland County shall notify the affected public of any such exception requests and shall consider these requests in a public hearing in accordance with §15.2-2204 of the Code of Virginia, except that only one hearing shall be required.

- (B) The Planning Commission shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Article if the Commission finds:
- 1) Granting the exception will not confer upon the applicant any special privileges denied by this Article to other property owners in the Overlay District;
  - 2) The exception request is not based on conditions or circumstances that are self-created or self-imposed;
  - 3) The exception request is the minimum necessary to afford relief;
  - 4) The exception request will be in harmony with the purpose and intent of the Overlay District, not injurious to the neighborhood or otherwise detrimental to the public welfare, and is not of substantial detriment to water quality; and
  - 5) Reasonable and appropriate conditions are imposed which will prevent the exception request from causing a degradation of water quality.
- (C) If the Planning Commission cannot make the required findings, or refuses to grant the exception, the Planning Commission shall return the request for an exception together with the water quality impact assessment and the written findings and rationales for the decision to the applicant.
- (D) A request for an exception to the requirements of provisions of this Article other than Sections 3-1.7 (Required Conditions) and 3-1.10 C (Buffer Area Requirements) shall be made in writing to the Zoning Administrator. The Zoning Administrator may grant these exceptions provided that:
- 1) Exceptions to the requirements are the minimum necessary to afford relief; and
  - 2) Reasonable and appropriate conditions are placed upon any exception that is granted, as necessary, so that the purpose and intent of this Article is preserved.
  - 3) Exceptions to §3-1.10.B may be made provided that the findings noted in §3-1.15(B) are made.

**3-2. Reserved.**

## 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

	<b>5.0 to 9.9 acres</b>	<b>10.0 to 49.9 acres</b>	<b>50 or more acres</b>
<b>Max. employees</b>	3	4	8
<b>Heavy Equipment</b>	None	2	4
<b>Business Vehicles (on-site)</b>	2	4	6
<b>Accessory Structures</b>	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
<b>Storage Yard</b>	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.

## 4-6 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 *(This section amended July 14, 2008)*

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.

## ARTICLE 5 - PARKING AND LOADING REGULATIONS

### 5-1. Purpose and Intent

The purpose of this article is to regulate parking and loading spaces for motor vehicles in order to promote and protect the public health, safety and welfare and further the goals of the Comprehensive Plan. Any structure erected, altered, or used, and any lot used for any of the following purposes must be provided with the minimum off-street parking spaces as set forth in this Article, together with adequate passageways or driveways or other means of circulation and access to and from a street or way. The parking and loading requirements of this Ordinance apply only to new construction or expansion of an existing use. In the case of an expansion of an existing use, only the expansion shall be required to meet these regulations.

### 5-2. Design and Construction Requirements

#### 5-2.1 Circulation and Access

All off-street parking and loading facilities must provide for adequate vehicular and pedestrian circulation within the site and safe and convenient access onto adjoining streets, pedestrian walkways and to contiguous properties. If access to contiguous lots cannot be provided fully to the parking areas on the contiguous property, then a stub connection must be provided in a place that will allow a future connection.

Among factors to be considered in meeting access requirements are the number and location of entrances, exits, and aisles; the need for acceleration, deceleration, turning lanes, and other traffic control improvements; the general arrangement of parking and loading areas; the means of access to buildings for fire fighting and emergency vehicles and personnel; and the needs of all pedestrians, including the disabled.

#### 5-2.2 Driveway Entrances

Driveway entrances must accommodate all vehicle types expected to enter the site. There must not be more than one (1) entrance and exit or one (1) combined entrance and exit along any street frontage, unless deemed necessary by the Zoning Administrator to alleviate traffic congestion and interference along such street.

Off-street parking and loading areas must prohibit the backing out of vehicles into the public right-of-way, except for driveways serving single-family detached, two-family, or duplex dwellings, nor to diagonal parking spaces on local streets. Direct access onto arterial roadways or primary collectors is prohibited unless there are no alternatives for providing access to the site.

#### 5-2.3 Parking Surfaces and Drainage

5-2.3.1 All off-street parking and loading areas for more than five (5) required spaces, for uses for which a site plan is required, including aisles, entrances and driveways, must be graded and drained to dispose of surface water and paved with an impervious, all-weather surface, such as bituminous concrete or asphalt.

- 5-2.3.2 Paving of parking lots within the 100 year floodplain may be waived by authorization of the Zoning Administrator if the applicant can show to the satisfaction of the Zoning Administrator that the stormwater run-off from the parking area will be less in volume, speed and pollutant content than it would if the surface was paved as otherwise required by this Ordinance.
- 5-2.3.3 Paved pedestrian walkways must be provided on-site as necessary to protect pedestrians and promote the safe, convenient and efficient movement of pedestrians and vehicles. Such walkways shall have an unobstructed width of a minimum of four (4) feet.
- 5-2.3.4 Paved parking and loading spaces must be marked by durable painted lines or curbs extending the length of the space. Signs and/or pavement markings shall be used as necessary to ensure safe traffic operation and to identify designated handicapped parking spaces and loading spaces.

#### 5-2.4 Curb and Gutter

Curb and gutter shall be installed within off-street parking and loading areas where deemed necessary by the Zoning Administrator, to control storm drainage, channelize traffic, protect buildings and landscaped areas, and separate pedestrian and vehicular circulation areas.

#### 5-2.5 Design Requirements for Parking Lots

- 5-2.5.1 Parking lots in residential districts must not be constructed and maintained within required front yards, except for single-family, two-family, and duplex dwellings.
- 5-2.5.2 All parking lots must be arranged for functional efficiency and convenience and in general be designed so as to reduce adverse impact on surrounding public or private property. All parking lots shall be landscaped in accordance with Article 6.
- 5-2.5.3 All parking lots must be designed to safely and conveniently provide for pedestrian access and circulation.
- 5-2.5.4 All parking lots must be properly graded for drainage and maintained in good condition free of weeds, dust, trash, or debris.
- 5-2.5.5 All parking lots must be provided with entrances and exits so located as to minimize traffic congestion and the effect of headlight glare.
- 5-2.5.6 All parking lots for non-residential uses must be designed to provide adequate stacking space for entry and egress onto adjacent streets.
- 5-2.5.7 All parking lots for non-residential uses must be provided with wheel or bumper guards so located and arranged that no part of any parked

vehicles will extend beyond the boundaries of the lot upon which the parking lot is located.

5-2.5.8 Lighting facilities must be designed, located and constructed to prevent unreasonable nor unnecessarily disturb occupants of adjacent residential properties, nor interfere with traffic, by either location or glare.

5-2.5.9 Paved parking areas must incorporate vegetative filter strips in order to minimize stormwater run-off.

5-2.6 Parking Space Size

The dimensions for each individual parking space shall not be less than one hundred sixty-two (162) square feet (18' x 9'), except for parallel parking spaces which shall be a minimum twenty-two (22) feet in length.

The following minimum dimensions shall be used in the design and construction of all parking lots:

Parking Angle (Degrees)	Stall Width	Stall Depth	Aisle Width
For two-way aisles:			
90	9 ft.	18 ft.	24 ft.
80	9 ft.	19 ft.	24 ft.
70	9 ft.	20 ft.	21 ft.
60	9 ft.	20 ft.	20 ft.
45	9 ft.	19 ft.	15 ft.
30	9 ft.	17 ft.	12 ft.
For one-way aisles:			
45	9 ft.	19 ft.	12 ft.
30	9 ft.	17 ft.	12 ft.

Parking spaces designated for compact cars may be reduced to eight (8) feet in width and fifteen (15) feet in length, except for parallel spaces which shall be nineteen (19) feet in length. Such parking spaces may comprise up to twenty (20) per cent of the total parking spaces required, provided that they are grouped together and clearly identified through pavement markings and/or signs. Compact spaces can only be used to meet nonresidential parking requirements.

### **5-3 Parking Limitations**

#### **5-3.1 Parking on the Same Lot**

All off-street parking spaces for single family, two-family and duplex residential uses must be provided on the same lot as the use which they serve. Parking for attached and multi-family dwellings need not be on the same lot as the use which they serve, but must be located in accordance with the approved site development plan. Off-street parking spaces for non-residential uses must be on the same lot with the principal use or structure except for the provisions for shared parking.

#### **5-3.2 Off-Street Parking on Driveways**

For dwelling units with enclosed garages, either attached or detached, the driveway area shall not be considered in the calculation of off-street parking spaces unless additional width is provided that permits the parking of a vehicle while still maintaining access to the garage.

#### **5-3.3 Parking in Yards**

Parking areas, including any driveways and entrances in any yard adjacent to a street of a single family, two-family or duplex lot shall be limited to the area contained in paved or gravel areas which shall not exceed an area for more than four automobiles, and shall not exceed more than fifty (50%) percent of any such yard.

#### **5-3.4 Use of Parking Areas**

No parking area shall be used for the sale, repair, or dismantling of any vehicles, equipment, materials or supplies or for the storage of inoperable vehicles.

#### **5-3.5 Access to Rear Yards**

For single family, two-family and duplex residential uses, a minimum of ten (10) feet of unobstructed side yard space must be provided to allow emergency vehicle access to rear yards.

### **5-4. Computation of Requirements**

#### **5-4.1 Fractions**

When units of measurement used to determine the number of parking or loading spaces result in a fraction of a space, any fraction greater than or equal to one-half (0.5) shall require one (1) space.

#### **5-4.2 Floor Area**

When parking and loading requirements are based on gross leasable area, such area shall include the total area for which a tenant owns or pays rents and which is designed for the tenant's occupancy and exclusive use. Common hallways, stairwells, elevator shafts, mechanical equipment rooms, and similar non-leasable floor area shall be excluded from parking or loading tabulations. When parking and

loading requirements are based on gross floor area, such area shall be measured from the outside edges of the building and shall include all enclosed space.

5-4.3 Number of Seats

When parking or loading requirements are based on the number of seats, and benches or pews are used, each eighteen (18) lineal inches of such seating shall be determined to equal one (1) seat. In cases where fixed seats, pews, or benches are not used, but temporary or portable seating is used, each seven (7) square feet of floor area available for temporary seating shall equal one (1) seat.

5-4.4 Planning Commission Determinations

Additional or fewer parking spaces may be required by the Planning Commission based upon its review of the site plan and the specific needs of the proposed uses.

5-5. Required Parking Spaces

Use	Number of Parking Spaces Required
<b>Assembly plants or Manufacturing uses</b>	one (1) for each one (1) employee for which the establishment is designed or used, whichever is greater, plus one (1) space per company vehicle, plus space to accommodate all trucks or other vehicles used in conjunction with the plant.
<b>Assisted Living Facility</b>	one and one-half (1.5) for each four (4) dwelling units if the facility contains central dining facilities two and one-half (2.5) for each four (4) dwelling units if without central dining facilities and one (1) per employee, calculated for the work period containing the largest number of employees
<b>Auto, Trailer Sales and/or Rental</b>	one (1) per five hundred (500) square feet enclosed sales area, plus three (3) spaces per service bay, plus one (1) space per employee, plus one (1) space per twenty-five hundred (2,500) square feet of open sales area.
<b>Auditorium or stadium</b>	one (1) per five (5) seats design capacity
<b>Bank</b>	one (1) per two hundred fifty (250) square feet gross floor area.
<b>Bed and Breakfasts; Tourist homes</b>	one (1) for each accommodation (room or suite) and one (1) for each employee, calculated for the work period containing the largest number of employees

Use	Number of Parking Spaces Required
<b>Building Contractors &amp; Similar Trades &amp; Services</b>	one (1) per five hundred (500) square feet gross floor area, plus one (1) space per company vehicle.
<b>Car Wash</b>	one (1) per employee, plus required stacking spaces
<b>Church</b>	one (1) per five (5) seats design capacity of the principal place of worship.
<b>Civic Club</b>	one (1) per three (3) members, based on maximum anticipated membership
<b>Convenience Center or General Store</b>	six (6) per one thousand (1,000) square feet gross floor area.
<b>Country Club</b>	the sum of the total spaces required for each component use (golf, restaurant, inn, etc.), except for any reductions that may be granted for shared parking in accord with Section 5-7.
<b>Country Inn</b>	one (1) per room, plus one (1) space for each employee calculated for the work period containing the largest number of employees,
<b>Country Store</b>	three (3) per one thousand (1,000) square feet gross floor area.
<b>Dwelling, Single family in residential districts</b>	two (2) per dwelling unit
<b>Dwellings, Townhouses (attached), and two-family units</b>	two and one-half (2.5) per dwelling unit
<b>Dwelling, Manufactured Housing</b>	two (2) per unit
<b>Dwelling, Multifamily</b>	one and one half (1.5) per dwelling unit for efficiency units two (2) per dwelling unit for one-bedroom units two and one-half (2.5) per dwelling unit for two-bedroom units three (3) per dwelling unit for three or more bedroom units



Use	Number of Parking Spaces Required
<b>Dwelling, Dormitory</b>	One for each two (2) beds
<b>Funeral Home, Mortuary</b>	one (1) per four (4) seats, plus one (1) space per two (2) employees, plus one (1) reserved space for each hearse, ambulance, or company vehicle.
<b>Golf Course</b>	thirty (30) per nine (9) holes, plus one (1) space per employee.
<b>Health or Fitness Club</b>	one (1) per two hundred fifty (250) square feet gross floor area.
<b>Hospital</b>	one (1) per two (2) beds, including infants cribs and children's beds, plus one (1) space per staff physician, plus one (1) space per other employee calculated for the work period containing the largest number of employees.
<b>Hotel or Motel</b>	one (1) per room, plus one (1) space for each employee calculated for the work period containing the largest number of employees, plus any additional spaces for restaurants or other associated uses.
<b>Kenel</b>	1 for every four (4) canine runs (maximum 2 dogs per run)
<b>Library</b>	one (1) per 2.5 patrons, based on the designed occupancy load, plus one (1) space per employee calculated for the work period containing the largest number of employees.
<b>Medical or Dental Office</b>	one (1) per two hundred (200) sq. ft. gross floor area.
<b>Mini-Warehouse Facility</b>	four (4) per one thousand (1,000) square feet net floor area of office space, plus one (1) space per employee, plus two (2) spaces for any resident manager quarters.
<b>Motel</b>	See Hotel
<b>Nursery School or Child Care Center</b>	one (1) per staff member or employee plus one (1) per one thousand (1,000) square feet gross floor area

Use	Number of Parking Spaces Required
<b>Nursing Home</b>	one (1) per four (4) beds plus one (1) per employee calculated for the work period containing the largest number of employees.
<b>Office Buildings</b>	one (1) per three hundred (300) square feet gross floor area
<b>Personal Services Establishments</b>	one (1) per two hundred (200) square feet of gross floor area.
<b>Post Office</b>	one (1) for each fifty (50) box holders, but not less than ten (10) spaces.
<b>Restaurants, Fast Food or Carry Out</b>	one (1) per one hundred (100) square feet gross floor area.
<b>Restaurants, Sit Down</b>	one (1) per one hundred fifty (150) square feet gross-floor area.
<b>Retail Sales, General</b>	one (1) per two hundred (200) square feet gross floor area
<b>Retail Sales, Large Scale (over 50,000 square ft. gross floor area)</b>	four (4) per 1,000 square feet gross floor area
<b>School, Elementary</b>	one (1) per twenty (20) design capacity of classroom seats plus one (1) space per employee calculated for the work period containing the largest number of employees.
<b>School, Middle</b>	one (1) per fifteen (15) design capacity of classroom seats plus one (1) space per employee calculated for the work period containing the largest number of employees.
<b>School, High</b>	one (1) space per ten (10) design capacity of classroom seats plus one (1) space per employee calculated for the work period containing the largest number of employees.
<b>Service Station, Automotive</b>	one (1) space per six fuel pumps (in addition to stacking space next to pumps for fueling), plus one (1) space per employee calculated for the work period containing the largest number of employees, plus additional spaces, as required herein, for any auxiliary uses such as convenience food and retail sales.

Use	Number of Parking Spaces Required
<b>Service station, including auto repair</b>	two (2) per service bay, plus one (1) space per employee.
<b>Swimming Pool, public</b>	one (1) per four (4) persons, based on design capacity of the pool.
<b>Utility Facility</b>	one (1) per employee calculated for the work period containing the largest number of employees, plus one (1) space per company vehicle domiciled on-site. Adequate parking for the emergency maintenance of the utility facility, minimum of two (2) spaces.
<b>Veterinary Clinic</b>	one (1) per three hundred (300) square feet gross floor area
<b>Wholesale Trade Establishment</b>	one (1) per one thousand (1,000) square feet gross floor area, plus one (1) space per company vehicle.

**5-6 Uses Not Specifically Listed**

For any use not directly addressed by the above parking schedules, the Zoning Administrator shall determine the appropriate number of parking spaces based on a use listed above that most closely approximates the proposed use, or through information provided by the applicant, or through consultation with other communities containing uses similar to the one proposed, or through a combination of these or other research methods as deemed appropriate by the Zoning Administrator.

**5-7 Shared Parking**

Required parking space may be provided cooperatively for two (2) or more contiguous uses, provided that provisions are established that will assure the permanent availability of such space, and subject to a special exception permit from the Board of Supervisors.

The amount of such combined space shall be equal to the sum of the amounts required for the separate uses; provided, that the Board of Supervisors may reduce the amount of space otherwise required if the total parking needs at any given time can be shown to be less than the standard due to the uses having different hours of normal activity.

**5-8. Standards for Large Vehicles and Equipment**

- 5-8.1. Parking of not more than one commercial vehicle associated with an approved home occupation or home business in a residential district is permitted, provided that such vehicles not include any tractor trailer or vehicle exceeding one and one-half ton capacity. Parking for such vehicles must not be in any required front or side yard.
- 5-8.2. 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:

- 5-8.2.1. Such equipment must 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.
- 5-8.2.2. Such equipment six feet or more in average height, not parked or stored in a garage, carport or other structure, must not be located in any required front or side yard and must be located at least three feet from all buildings.
- 5-8.3. Outdoor storage or overnight parking of buses, trucks or other vehicles exceeding one and one-half ton capacity is not permitted in residential districts unless otherwise provided for in this Ordinance.

## **5-9 Off-Street Loading Requirements**

### **5-9.1 Zoning Administrator Determinations**

The adequacy of off-street loading and unloading shall be determined by the Zoning Administrator, taking the following factors/standards into consideration:

- 5-9.1.1 The availability of access to an adjacent street, alley, lane, or driveway.
- 5-9.1.2. The location of the facility in relation to the vehicular circulation in adjacent parking spaces.
- 5-9.1.3. The nature of the establishment which the facility serves.
- 5-9.1.4. The required schedule of loading and unloading.
- 5-9.1.5 All off-street loading space must be provided on the same lot with the use which it serves.
- 5-9.1.6 Off-street loading space must be provided in addition to and exclusive of the parking requirement on the basis of:
  - (A) One (1) space (three hundred (300) square feet) for each eight thousand (8,000) square feet of retail gross leasable area.
  - (B) One (1) space (three hundred (300) square feet) for each eight thousand (8,000) square feet of office space.
  - (C) One (1) space (three hundred (300) square feet) for each ten thousand (10,000) square feet of industrial floor space.

### **5-9.2 Planning Commission Determinations**

Additional or fewer loading spaces may be required by the Planning Commission based upon its review of the site plan.

## 5-10 Minimum Stacking Space Requirements

### 5-10.1. Drive-up and Drive-Through Uses

All uses which include a drive-up window or which are characterized by patrons remaining in their vehicles to receive service shall provide on-site stacking spaces in order to alleviate traffic congestion.

### 5-10.2. Stacking Space Dimensions and Design

5-10.2 .1 Stacking spaces shall be a minimum of ten (10) feet in width and twenty (20) feet in length.

5-10.2.2 All stacking areas must be separated from other vehicular and pedestrian circulation aisles and parking spaces through the use of landscaped islands bounded by concrete curbing or equivalent durable material.

### 5-10.3 Number of Stacking Spaces Required

5-10.3.1 Restaurant, Fast Food: a minimum of ten (10) spaces as measured from the drive-through window.

5-10.3.2 Car Washes: a minimum of three (3) spaces per car wash bay as measured from the bay.

5-10.3.3 Financial Institutions: a minimum of eight (8) spaces for one (1) drive-through window, plus four (4) spaces for each additional drive-thru window.

5-10.3.4 Other Uses With Drive-Through Windows or Similar Characteristics: for uses not listed above, the Zoning Administrator shall determine the appropriate number of stacking spaces based on the use that most closely approximates the proposed use, or through information provided by the applicant or through consultation with other communities containing uses similar to the one proposed, or through a combination of these methods, as deemed appropriate by the Zoning Administrator.

## 5-11 Handicapped Parking

### 5-11.1. Required Handicapped Parking

Parking spaces designed to accommodate the needs of the handicapped must be provided as required in this Ordinance and as required by the Uniform Statewide Building Code.

All non-residential uses where off-street parking spaces are required, as well as apartment and townhouse developments, must provide parking for handicapped persons. At least one (1) five-foot wide wheelchair access ramp or curb cut, located next to the handicapped parking space(s), is required. The ramp or curb cut shall be designed to provide access to sidewalks, walkways, or pedestrian paths serving the use.

5-11.2. Handicapped Spaces

- 5-11.2.1 For uses requiring less than five (5) off-street parking spaces, at least one (1) space shall be thirteen (13) feet wide and be marked with lines to provide a parking area eight (8) feet in width and a loading area (access aisle) five (5) feet in width. For uses requiring more than five (5) off-street parking spaces, accessible spaces shall be identified by above-grade signs bearing the standard handicapped parking logo.
- 5-11.2.2 Handicapped parking spaces must have a minimum width of eight (8) feet for the space and eight (8) feet for the access aisle, and a minimum length of eighteen (18) feet.

5-11.3. Number and Design of Handicapped Spaces

- 5-11.3.1 The number of required handicapped parking spaces must be determined by the following schedule:

Total Number of Off-Street Parking Spaces Required	Total Number of Spaces Accessible for Handicapped Use
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20 plus one for each 100 over 1,000

- 5-11.3.2 All handicapped parking spaces must be located near building entrances and/or pedestrian walkways. If located next to curbs or steps, provisions must be made to provide an alternative means of access to the building and/or public sidewalk.
- 5-11.3.3 All handicapped parking spaces must be clearly identified by placement of signs, a minimum of four (4) feet in height and one-and-one-half (1.5) square feet in area, with the words "Reserved Parking" and having a handicapped logo, meeting Virginia Department of Transportation specifications.
- 5-11.3.4 All handicapped parking spaces must be situated on a grade not to exceed two (2) percent.

## ARTICLE 6 - LANDSCAPING

### 6-1. Statement of Intent

The purpose of this Article is to promote the public health, safety and welfare by providing for the preservation, installation and maintenance of trees and plant materials which will:

- 6-1.1 Ensure development which is consistent with the goals of the Comprehensive Plan related to natural resources, environmental and land use standards, Greenbelt Roads, and function and form;
- 6-1.2 Retain the historic, rural and natural character of Westmoreland County by reducing the visual impact of signs, parking lots, buildings and structures and protecting, preserving and enhancing its natural physical wooded character with emphasis on preserving the existing tree canopy and other indigenous vegetation and providing such canopy and vegetation where it does not exist;
- 6-1.3 Minimize the environmental and land use impacts of developments associated with noise, glare, dust, and movement; changes in appearance, character and value of neighboring properties; and effects on air and water quality, stormwater runoff, groundwater recharge and soil erosion by preserving existing tree canopies and indigenous vegetation and restoring such canopies and vegetation and providing other landscape features;
- 6-1.4 Promote traffic safety for motorists, bicyclists and pedestrians by controlling views, minimizing glare and visually defining circulation patterns; and
- 6-1.5 Provide more comfortable exterior spaces and conserve energy by preserving and providing tree canopies and other landscape features which provide shade and windbreaks.
- 6-1.6 Provide for the proper transition of uses and separation of activities that are not compatible through screening and buffering using natural vegetation as a soft boundary between uses.

### 6-2. Applicability, Administration and Procedures

#### 6-2.1. Landscape area requirement compliance and landscape plans

A landscape plan meeting the requirements of this article and compliance with that plan is required for development applications for which a site plan or plan of development is required including the enlargement of any parking lot, but does not include the resurfacing of any existing parking lot. This Article applies to the construction of any parking lot with more than five (5) spaces and to the construction, extension or widening of any public or private street..

#### 6-2.2 Plan requirements and determinations

Where requirements of this Article are based on zoning or planning designations, such designations must be *as set forth in* the County Zoning District Map, Comprehensive Plan and Six-Year Secondary Road Plan, and the official

planning and zoning documents of the adjoining jurisdiction if applicable. Required landscape areas must be located outside of any planned future right-of-way as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan or any road plan adopted by the Board of Supervisors.

#### 6-2.3. Installation of required landscaping, performance guarantee

Where a landscape plan is required, landscaping must be installed and existing trees must be preserved in conformance with the approved landscape plan. A Certificate of Occupancy shall not be issued until all landscaping has been installed in accordance with the approved landscape plan unless the installation of any uncompleted landscaping is guaranteed, as provided in *this Article*.

#### 6-2.4 Review Procedures

The Zoning Administrator shall be responsible for the review of all landscape plans in accord with the procedures and time frames for review of site plans as set forth in Articles 9 and 10. The Zoning Administrator must approve or disapprove the plan with notice provided in writing and addressed to the applicant, identified on the site plan application documents.

### 6-3 Landscape Plan Required

6-3.1. A landscape plan meeting the requirements of this Article is required for all site plans required under Article 9 of this Ordinance. Every landscape plan required by this Article must be prepared by a landscape design professional and must contain the information set forth in Section 6-3.2.

#### 6-3.2. Information Required on Landscape Plan

1 Scale. Plans must be drawn to a scale of not less than thirty (30) feet to the inch on sheets no less than eighteen by twenty-four inches (18" X 24") or greater than thirty-six by twenty-four inches (36" X 24"). The Zoning Administrator may modify this scale requirement if a different scale would aid the County's review and processing of the application due to the size and/or configuration of the site. In no case shall the scale be less than one hundred (100) feet to the inch.

2 Contents. Plans must illustrate with sufficient detail the location of all existing trees of six inches caliper or greater (a group of trees constituting a wooded area may be shown as a single entity), proposed construction including streets, driveways, parking areas, curbs, sidewalks, utility lines, structures, fences, walls and landscape areas. Landscape areas must indicate dimensions and all proposed locations of trees and plants, cross-referenced to the plant schedule required in 6-3.2 (C).

3 Plant Schedule. Plans must be accompanied by a schedule of plants proposed, including the number proposed, their height, caliper, or gallon size, and both the common and botanical names.

4 Table of Open Space and Plant Calculations. Plans must include a table calculating the amount of open space and/or parking lot area and the number of



plants and trees required by the Ordinance and the amount of open space, trees and plants provided.

5 Protection of Vegetation. Any existing vegetation proposed to be saved shall be identified on the Landscape Plan by name, location, and size. Methods of protecting the vegetation during construction activities must be illustrated and/or explained on the Landscape Plan or on an attachment.

**6-4 Maintenance of Landscaping**

The owner, or owner’s agent, shall be responsible for the maintenance, repair and replacement of all landscaping materials, fences and barriers as may be required by the provisions of this Section.

All plant materials, including existing trees preserved to meet the requirements of this Section, must be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse, disease, infestation, and debris.

All unhealthy or fifty (50) percent or more dead plant materials must be replaced within one year or by the next available planting period, whichever comes first.

Maintenance should include cultivation, fertilization, mulching, pruning, resetting plants to proper grades or upright position, restoring planting area, watering, and weeding. Trees and shrubs must be allowed to attain their normal size and shall not be severely pruned in order to permanently maintain a reduced width or height.

Replacement material must conform to the original intent of the approved landscape plan and any replacement planting shall meet the minimum requirements of this Section.

The owner or agent, upon written notification by the Zoning Administrator, must repair or replace any landscape materials, fences, berms, or walls not meeting the requirements of this Section within thirty (30) days of receipt of said notice.

**6-5 Planting Procedures**

All trees to be planted must meet the specifications of the American Association of Nurserymen. The planting of trees must be done in accordance with the standardized landscape specifications adopted by the Virginia Nurserymen's Association. -At a minimum, all trees planted must have rootballs adequate to enclose the entire root system, all trees must be mulched and staked, and all plants must be watered at the time of installation, and continued until the plant can be sustained from natural water sources.

**6-6 Tree Protection**

6-6 .1 Conservation Checklist Required.

All trees to be preserved must be protected before, during and after the development process in accordance with specifications contained in the Virginia Erosion and Sediment Control Handbook. The applicant must include a conservation checklist for review and approval by the Administrator which shall ensure that the specified trees will be protected in accordance with these specifications.

## 6-6 .2 Tree Protection Zones Required.

Tree protection zones must be established for all trees and woodlands designated for retention on the site development plan. The tree protection zone must extend radially for fifteen (15) feet from the trunk of the tree to be retained, or the distance from the trunk to the dripline, whichever is greater. The owner or developer is responsible for implementing such protection methods. Tree protection zones must meet the following requirements:

1. Grade changes and excavations must not encroach upon the tree protection zone.
2. No toxic materials, including petroleum based or derived products, shall be stored within one hundred (100) feet of the tree protection zone.
3. The area within the tree protection zone must not be built upon, nor shall any materials be stored, either temporarily or permanently. Vehicles and equipment must not be parked within the zone.
4. Tree stumps located within ten (10) feet of the tree protection zone must be removed by means of a stump grinder.
5. Severed tree roots adjacent to the tree protection zone must be cut by a trenching tool that can safely prune the roots without causing undue damage to the root system, such as a "ditch witch" or similar equipment, aligned radially to the tree. Roots shall not be cut in such a way as to cause lateral movement of the root systems. All severed roots must be covered within four (4) hours and covered with moist peat moss, moist burlap, or other moist biodegradable material until permanent cover is installed.
6. Sediment, retention, and detention basins must not be located or discharged into the tree protection zone.
7. Trees or groups of trees to be preserved must be clearly marked in the field. All specimen trees must be clearly marked. Groups of trees must be preserved rather than single trees.
8. Trees and groups of trees to be preserved must be enclosed by a substantial, temporary fence or barrier located and maintained outside the drip line before commencement of clearing or grading. The fence or barrier must remain throughout construction and any subsequent grading or excavation unless otherwise approved on a clearing and grading plan. In no case shall materials, debris, fill, vehicles or equipment be stored within this enclosure, nor shall the topsoil layer be disturbed except in accordance with tree protection standards approved as part of the conservation checklist. The developer is responsible for ensuring these areas are protected in accordance with this Section.
9. Where changes from the existing natural grade level are necessary, permanent protective structures such as tree walls or wells shall be properly

installed in accordance with the Virginia Erosion and Sediment Control Handbook.

## **6-7 Site Landscaping Requirements**

6-7.1 General landscape standards. Existing trees must be retained to the maximum extent practical in all landscape areas, and shall be credited toward landscaping requirements in accord with Section 6-8.1.7. Such trees may be removed to accommodate necessary utilities or drainage structures, or where necessary to abate demonstrable public health or safety hazards.

1. All required landscape areas, other than landscape areas adjacent to buildings and within parking lots, must contain a number of trees equal to at least one (1) tree and two (2) shrubs per four hundred (400) square feet of total landscape area provided.
2. At least twenty-five (25) percent of the total required trees must be canopy trees as defined in this Ordinance.
3. At least twenty five (25) percent of the total required trees must be evergreens as defined in this Ordinance.
4. At least twenty five (25) percent of the total required shrubs must be evergreen.
5. All shrubs must be at least twelve (12) inches in height from final grade and width at time of planting. All canopy trees must be a minimum of twelve (12) feet in height at the time of planting. All ornamental and evergreen trees must be a minimum of six (6) feet in height at the time of planting.
6. All required plantings must conform with the most recent edition of American Standard for Nursery Stock published by the American Association of Nurserymen and shall be planted in accordance with the most recent edition of Guidelines for Planting Landscape Trees and Planting and Care of Trees and Shrubs published by the Virginia Cooperative Extension Service. Required planting materials shall be of a species approved by the Zoning Administrator, based upon evidence and justification provided by the applicant and other research that the Administrator may choose to undertake.
7. Each mature existing tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two planted trees and one viable specimen tree substituting for three planted trees. However, no credit will be given for any mature tree or specimen tree which is not protected in full compliance with accepted tree protection standards. In such cases, planted trees must be provided as required above.
8. Planted trees and shrubs must be reasonably distributed throughout the site singly or in groups, with an appropriate mix of planting types and species which achieves the purposes of this Section. Required landscape areas must be designed so as to not create vehicular and pedestrian hazards by disrupting or interfering with views of motor vehicle movements.

6-7.2 . Landscape areas adjacent to buildings.

1. A landscape area which is a minimum of ten (10) feet wide must be provided adjacent to buildings and calculated based on the perimeter of the building regardless of walks, driveways and other areas customarily associated with a building and not typically containing landscaping.
2. Up to fifty (50) percent of this area may be transferred elsewhere on the site to supplement existing natural areas to be preserved or other required landscape areas.
3. This area must contain a number of trees and shrubs equal to at least one canopy tree or two ornamental trees per fifty (50) linear feet on average and two (2) shrubs per tree.
4. Landscaping that would otherwise be located along rear facades of buildings may be located instead on the side and/or front facades; however, the total requirement for landscaping shall remain the same.

6-7.3 Landscape area along right-of-way.

1. A landscape area having an average width of thirty (30) feet must be provided adjacent to any existing or planned public road right-of-way. Any required landscape area along a right-of-way shall have a minimum width of ten (10) feet.
2. All landscape areas along a right-of-way must contain a minimum amount of square footage which shall be determined by multiplying the applicable average width requirement above times the length of the right-of-way frontage.
3. In no case may any portion of any landscape area located more than fifty (50) feet from the right-of-way be counted toward meeting the requirements of this paragraph.
4. All landscape areas along right-of-ways must be continuous along the road right-of-way frontage except where driveway, utility or other breaks are necessary, and must be designed in a manner that achieves the intent of this Section.
5. All existing viable trees or specimen trees must be preserved within this landscape area and protected in accordance with accepted tree protection standards as required in Section 6-6.2.
6. This area must contain a number of trees and shrubs equal to at least one canopy tree or two ornamental trees per fifty (50) linear feet on average and two (2) shrubs per tree.

6-7.4 Off-Street parking lot landscaping.

Parking areas, accessory or otherwise, containing five (5) or more parking spaces must contain landscaping and landscape areas in accordance with all of the following:

1. Landscape area. Total landscape area within the parking lot, exclusive of any perimeter landscape areas or any landscape areas around the building, must not be less than ten (10) percent of the surface area of the parking lot, including drives and circulation areas.
2. Planting requirements. Landscape areas within a parking lot must contain a minimum of one ornamental tree and two shrubs for each two thousand (2000) square feet of parking area or canopy tree and two shrubs for each 4,000 square feet of parking area. Each mature existing tree or specimen tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two planted trees and one viable specimen tree substituting for three planted trees. No credit will be given for any mature or specimen tree which is not protected in full compliance with accepted tree protection standards as provided for in this Ordinance.
3. Parking areas must have a continuous planting strip of shrubs along the internal drives and along any edge of the lot that abuts a public right-of-way.

#### 6-7.5 Screening

1. Transitional screening. Transitional screening between conflicting land uses and districts must be provided. Such screening areas must be supplemented where necessary with additional plantings to provide an effective visual screen in accord with the table in Section 6-8. Such areas must be continuous except where driveways, utilities, and other breaks are necessary. All breaks must cross transitional screening areas at right angles. Where such breaks are necessary, different design requirements may be imposed to achieve an equivalent screening effect. Transitional screening areas must not contain accessory structures, storage, parking or loading.
2. Utilitarian features. Utilitarian features must be visually screened by landscaping or architectural barriers from adjacent residential districts, agricultural districts which are designated for residential use on the Comprehensive Plan, and public streets. Utilitarian features may include, but are not limited to the following: refuse areas, storage yards, loading areas, detention ponds, satellite dishes, trash receptacles, and heating and cooling units.
3. Historic landmarks and buildings. Screening in accord with Table 6-8 must be provided on development sites adjacent to property listed on the Virginia Historical Landmarks Register, to mitigate the visual impact of new development on the historic properties.
4. Multiple frontage lots. Lots with multiple frontages shall have screening provided between the rear of the principal use or building and the public right-of-way.

#### 6-8 Landscape Requirements by Land Use

The following table establishes the minimum landscaping required between different land uses for development that requires Site Plan approval. These standards apply to all zoning districts except for the Planned Village Development (PVD) District. The

Proposed Land Uses listed in the left column must provide the required landscaping along the border with the Contiguous Land Uses listed in the column to the right, in conjunction with Site Plan approval.

Proposed Land Use	Contiguous Land Use (Existing or permitted by the zoning district)	Minimum Width on Side and Rear Boundary	Minimum Required Landscaping
Retail, Office, other Commercial Uses, Public and Institutional Uses	Residential Uses; Virginia Historic Register Sites	25 feet	Staggered, double row of evergreen trees, with the trees in each row planted at fifteen (15) feet on center, and a row of evergreen shrubs planted ten feet on center.
Industrial Uses	Residential Uses; Virginia Historic Register Sites	50 feet	A fence, wall or earthen berm at least six feet in height, with a single row of evergreen trees planted at fifteen (15) feet on center on the residential side.
Single-Family Attached dwellings, Multi-Family Dwellings, Dormitories	Single-family Detached Residential Dwellings; Virginia Historic Register Sites	25 feet	Staggered, double row of evergreen trees, with the trees in each row planted at fifteen (15) feet on center

**6-9 Unacceptable Tree Species**

Certain varieties of trees are not acceptable for meeting the requirements of this Ordinance, due to the tendencies of such species to negatively impact on native plant communities, damage to nearby structures and infrastructure, or possess inherent physiological traits that cause such trees to structurally fail. If the Zoning Administrator determines that any proposed species is inappropriate due to any of the above three characteristics, the Zoning Administrator may prohibit that species and require the applicant to submit an acceptable alternative.

The following species are not acceptable for meeting the requirements of this Ordinance: Ashes, Norway Maple, Washington Hawthorn, American Plum, Bradford Pear and Pin Oak. Sycamores and London Planes are not appropriate for planting near paved areas.

**6-10 Penalties for Unauthorized Removal**

Unauthorized removal will be considered a violation of this Zoning Ordinance and will be subject to the penalties as set forth in Article 11.

## **ARTICLE 7 - Sign Regulations**

### **7-1 Purpose and Intent.**

The purpose of this article is to regulate exterior signs so as to protect the health, safety, convenience, and general welfare of the community, to protect property values, to protect the historic, rural and natural character of the community, to protect the safety of the traveling public and pedestrians, to promote the creation of an attractive and harmonious community, to conserve electricity, to ensure the equitable distribution of public space for the purpose of communication, to promote the reasonable, orderly and effective display of outdoor advertising and to further the goals of the Comprehensive Plan.

### **7-2 Applicability**

#### **7-2.1 In General.**

All signs are governed by these regulations whether or not a sign permit is required. In the event two or more different types of signs are combined into a single combination sign, as herein defined, the entire sign shall be considered as one sign and shall be treated as the sign with the most stringent requirements.

These regulations shall apply to the construction, display, erection, alteration, installation, use, relocation, replacement and reconstruction of all signs placed for public display within the area governed by this Ordinance. The message content of signs is not regulated by this Ordinance.

Any sign authorized by this ordinance is allowed to contain any otherwise lawful noncommercial content in lieu of any other content.

#### **7-2.2 Applicability of Other Regulations.**

Signs are accessory structures and uses and limited to the site of the principal use or structure identified by the signs. Signs shall comply with all requirements of the Building Code. Whenever sign regulations of the Commonwealth of Virginia or the Federal Government are more stringent than the regulations herein, the State or Federal regulations shall govern.

#### **7-2.3 Permit Required.**

7-2.3.1 A sign permit shall be required for signs except as herein provided. It shall be unlawful to erect, locate, establish, display, alter, install, relocate, reconstruct or paint on a structure any size or type of outdoor sign or billboard as described in this Ordinance, anywhere within the jurisdiction of Westmoreland County without first obtaining a sign Permit from the Administrator except as provided for in Article 10 and this Article.

7-2.3.2 Before any permit is granted for the erection of a sign, plans and specifications shall be filed with the Administrator showing the

dimensions, type of materials and the details of construction including anchorage, illumination, colors and wording or graphics.

- 7-2.3.3 All signs shall be located on the same lot with the principal use to which they pertain. Failure to adhere to the requirements of this Ordinance voids any permit approval, requiring removal of the sign or structure.

### **7-3 Sign Dimensions and Special Regulations.**

#### **7-3.1 Sign Area Computation**

The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

#### **7-3.2 Sign lighting**

Light fixtures for externally illuminating signs must be located, aimed and shielded so that light is directed only onto the sign face and is prevented from creating glare or light shining into motorist or pedestrian field of vision. Shielding must be accomplished with architectural elements, landscaping, and/or specific lighting components, such as shields or louvers. The light fixture must be designed to prevent light spill into the sky and shall not be aimed toward adjacent streets or properties.

#### **7-3.3 The following regulations shall apply to free-standing signs:**

- 7-3.3.1 One freestanding monument type sign shall be permitted on each parcel having 200 or more feet of street frontage.
- 7-3.3.2 Signs shall not exceed 40 square feet per face with a limit of two faces per sign.
- 7-3.3.3 Signs may only be placed on the property within required yards and setbacks.
- 7-3.3.4 The maximum height of any freestanding sign shall not exceed ten (10) feet. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating. In cases in which the normal grade cannot be reasonably determined, sign height shall be computed based on the assumption that the elevation of the normal grade at the base of



the sign is equal to the elevation of the edge of the nearest public street or the grade of the land at the principal entrance to the subject property, whichever is lower.

7-3.3.5 Individual stores, businesses or professions on the same property, exclusive of shopping centers, shall combine signs on a single free standing monument type sign and the square footage of the combined signs shall not exceed 40 square feet per face.

7-3.3.6 Shopping centers shall be permitted one freestanding monument type sign per street frontage not to exceed 60 square feet per face. The shopping center name shall comprise not less than fifty (50) percent of the sign face area. Individual shops and businesses in shopping centers shall not have individual free-standing signs but may co-locate on the shopping center name sign and may have wall signs as provided for in subsection 7-3.4 of this Section.

7-3.3.7 The base of any free-standing sign shall be surrounded by a landscape area not less than 100 square feet and consisting of not less than a mixture of shrubs and groundcover.

7-3.4 The following regulations shall apply to wall signs:

7-3.4.1 Wall signs shall include but not be limited to, canopies, awnings and other signs mounted, painted, or attached to a building face.

7-3.4.2 One wall sign shall be permitted and shall not exceed one (1) square foot of sign area per two (2) linear feet of building frontage in which the sign is to be attached with a minimum of twenty (20) square feet permitted or one hundred (100) square feet whichever is smaller. Such signs shall be mounted flat against the building on the side measured above.

7-3.4.3 The top of all wall signs shall be below the roofline and at a height no greater than twenty (20) feet.

7-3.4.4 Any logo, trademark, mural, copyright, or recognizable symbol, pertaining to the use or business contained within the building, painted on any face of the building shall be treated as a wall sign.

7-3.5 The following regulations apply to changeable copy signs:

7-3.5.1 No more than one sign per street frontage of any site shall contain changeable copy.

7-3.5.2 The area of changeable copy shall not exceed twenty (20) square feet with no more than four (4) lines of copy.

- 7-3.5.3 Changeable copy shall be limited to:
- (A) Special Sales, Promotions, Operating hours and similar business information
  - (B) Bulletin boards of civic, charitable, religious, or social organizations or similar organizations.
  - (C) Gasoline prices
  - (D) Theatric events, motion pictures or similar activities
- 7-3.5.4 Changeable copy shall be securely fastened to the sign face and neatly maintained as initially designed and placed.
- 7-3.6 Illuminated free-standing signs shall conform to the following:
- 7-3.6.1 Illumination may be internal to the sign or by an externally located steady stationary light source, shielded and directed solely at the sign;
- 7-3.6.2 The light source used to illuminate signs shall neither be visible from any street right-of-way nor from adjacent properties;
- 7-3.6.3 Spot-Lighting of signs shall be restricted to not more than one shielded light per side for sign faces up to forty (40) square feet and not more than two (2) shielded light fixtures per side for sign faces more than forty (40) square feet;
- 7-3.6.4 Light Intensity shall not exceed ten (10) foot candles at any point on the sign face;
- 7-3.6.5 Signs shall not have reflective backgrounds but may use reflecting lettering; and
- 7-3.6.6 Colored lamps are not permitted.
- 7-3.7 Flag signs
- Flag signs shall be limited to one flag, no larger than thirty two (32) square feet, advertising the business name and shall be installed in a permanent fashion, maintained in good repair at all times and not constitute a hazard to vehicular or pedestrian traffic. If used, flagpoles shall not exceed fifty (50) feet in height.
- 7-3.8 Signs on entrance awnings or canopies
- 7-3.7.1 Signs on entrance awnings or canopies shall be allowed, provided that the total area of such signs if constructed alone or in combination with other building signs does not exceed the maximum allowable dimensions and square footage as set forth in section 7-3.4 above.
- 7-3.7.2 Canopies associated with convenience stores, fast-food restaurants, gasoline stations and similar facilities shall have no signage.

### 7-3.9 Directional signs

Directional signs may be allowed upon the determination of the administrator that the sign or signs:

- 7-3.9.1 Are necessary to permit vehicular traffic to locate distinctive places of historical significance, churches, marinas, campgrounds and residential areas or other activities, excluding retail sales and services uses, which are located adjacent to State secondary roads or private roads leading to such secondary roads and no entrance or access to a primary road;
- 7-3.9.2 Show only the business name and/or logo, mileage, operating hours and route directions; and
- 7-3.9.3 No more than three non-illuminated signs will be permitted and such signs shall be constructed of wood with non-reflective painted surfaces.
- 7-3.9.4 Signs on primary roads shall be no larger than twenty (20) square feet and signs on secondary roads shall be no larger than ten (10) square feet.
- 7-3.9.5 Signs on primary roads will be permitted only on properties zoned BN, BG, IG, PIP, B-1, B-2 or M-I.

### 7-3.10 Residential Subdivision Signs

Residential subdivisions may have one identification sign, non-internally illuminated and not exceeding forty (40) square feet in area, for each principal entrance. Such sign is bound by all other provisions of this ordinance and if the sign is located at the corner of two right-of-ways, the sign may be placed no closer than 10 feet to the corner.

### 7-3.11 Electronically Controlled Signs

Digital or electronically controlled message components of a sign shall be limited to no more than fifty percent (50%) of the sign face area. No flashing or scrolling text shall be used and, with the exception of time and date, no message shall be displayed for an interval of less than thirty (30) seconds.

### 7-3.12 Signs for Fuel Pumps

Petroleum product pumps and dispensers shall be permitted to display only information required by law and the brand name and type of product being dispensed with characters not exceeding twelve (12) inches in height.

## 7-4 Exemptions

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the Building Code, any applicable federal or state requirements:

- 7-4.1 Official traffic signs, historical markers, warning signs indicating caution or danger structures when erected or required to be erected by a governmental agency.
- 7-4.2 Traffic signs authorized by the Virginia Department of Transportation to be placed on a highway right-of-way.
- 7-4.3 Changing of the copy on a bulletin board, poster board, display encasement, reader board or billboard.
- 7-4.4 Temporary non-illuminated signs, not more than thirty-two (32) square feet in area, advertising real estate for sale or lease and located on the premises, one such sign for each street frontage.
- 7-4.5 Temporary non-illuminated signs, not more than thirty-two (32) square feet in area, erected in connection with new construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each street frontage.
- 7-4.6 Non-illuminated signs warning trespassers or announcing property as posted, not to exceed two (2) square feet per sign in residential, commercial and industrial areas, and four square feet per sign in agricultural areas.
- 7-4.7 Sign on a truck, bus or other vehicle, while in use in a normal course of business, but not parked in front of a business so as to function as an on-site sign (see section 7-5.8)
- 7-4.8 Mailboxes and similarly located signs identifying a private residence.
- 7-4.9 Botanical signs.
- 7-4.10 Signs not to exceed six square feet in area, within a business or manufacturing district, which state the name or number of a building.
- 7-4.11 Signs placed upon the exterior of a structure indicating the location of rest rooms, bathhouses, entrances or exits.
- 7-4.12 Signs not to exceed six (6) square feet in area indicating the entrance or exit from a parking lot, potable water supply, sewage station for recreational vehicles or other notices related to public health or safety.
- 7-4.13 Temporary signs not to exceed thirty-two (32) square feet per face, erected for a period of up to ninety (90) days, advertising seasonal agricultural products for sale within the A-1, agricultural general, district.

- 7-4.14 One sign, not to exceed four square feet in size, attached to a building or to a freestanding sign indicating credit cards which are accepted on the premises; group affiliations of which the business is a member or clubs or groups which utilize, recommend, inspect or approve the business for use by its members.
- 7-4.15 Signs conveying political, ideological, religious, social or governmental messages unrelated to businesses, services or manufacturing activities or the goods connected therewith, provided such signs shall not exceed thirty-two (32) square feet in size.
- 7-4.16 Signs within a ball park or other similar recreational facility and which cannot be seen from an adjacent street or adjacent properties.
- 7-4.17 Vehicle inspection signs, non-illuminated, identifying state inspection stations and the inspection number which is due. Such signs shall not exceed sixteen (16) square feet.
- 7-4.18 Works of art that do not include any commercial messages or references.
- 7-4.19 Interior window signs, non-illuminated, occupying not more than fifty (50) percent of the total window area of the building face on which the signs are mounted.
- 7-4.20 Temporary Private Yard sale signs
- 7-4.21 Handicapped Parking Space Signs

## **7-5 Prohibited signs.**

The following signs are specifically prohibited:

- 7-5.1 Flashing, animated and rotating signs or appurtenances to signs which are nonstationary.
- 7-5.2 Displays of intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger, such as are customarily used by police, fire or ambulance vehicles or for navigation or traffic control purposes.
- 7-5.3 Signs so located and so illuminated as to provide a background of colored lights blending with traffic signal lights that might reasonably confuse a motorist when viewed from a normal approach position of a vehicle at a distance of 25 to 300 feet.
- 7-5.4 Signs which are not an integral part of the building design but fastened to and supported by or on the roof of a building or projecting over or above the roof line or parapet wall of a building, except as otherwise provided herein.
- 7-5.5 Signs placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.
- 7-5.6 Signs attached to trees, utility poles or other unapproved supporting structure.

- 7-5.7 Signs which are portable or otherwise designed to be relocated, or are constructed on a chassis or carriage with permanent or removable wheels, including the use of vehicles parked in the front of commercial structures in prominent view of the public right-of-way and displaying signs for the purpose of functioning as an on-site sign to circumvent this Ordinance. This limitation does not pertain to signs painted or displayed on an operable commercial vehicle which is regularly used as a delivery, service, or transportation vehicle and is stored in a manner on site that does not circumvent these regulations.
- 7-5.8 Pennants, banners, flags, and other displays used for marketing or advertising except as provided in section 7-6 of this Ordinance.
- 7-5.9 Any sign towed by a vehicles, watercraft or aircraft.
- 7-5.10 Inflatable signs or balloons
- 7-5.11 Strings of lights outlining property lines, sales areas, products, or any portion of a structure, unless part of an approved sign or sign structure. This prohibition shall not apply to seasonal decorations.
- 7-5.12 Neon Signs External to a Building
- 7-5.13 Signs Higher Than Buildings and Roof signs.
- 7-5.14 Searchlights
- 7-5.15 Pole or Ground Signs

## **7-6 Temporary signs.**

The administrator shall review and consider for approval the following signs and displays when the use of such signs and displays would be in the public interest and would not result in damage to private property. Such permits shall be valid for a period of up to thirty (30) days following issuance:

- 7-6.1 Signs or banners advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting sponsored by a governmental, charitable or nonprofit organization.
- 7-6.2 Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.
- 7-6.3 Special decorative displays used for purposes of advertising the opening of a new store, business or profession.

## **7-7 Nonconforming signs.**

Any sign existing prior to April 10, 2000, and not conforming to the terms of this Chapter is hereby declared a nonconforming sign and may not be structurally altered or replaced except for refacing unless such sign conforms to the requirements of the Chapter. If such nonconforming sign is destroyed, demolished, or removed due to any reason, it

shall not be replaced without complying with all provisions of this chapter. Upon the cessation or termination of the current use on a parcel of real property, the owner thereof shall within ninety (90) days of such cessation or termination remove all nonconforming signs. If the owner shall fail to comply with this requirement, then written notice shall be given by the administrator to the owner advising of the violation. If such signs are then not removed within ten (10) days, the administrator shall cause such removal and charge the cost to the owner of the premises, and signs removed become the property of the County.

**7-8 Violation and penalties.**

The Administrator shall remove or cause to be removed any sign erected or maintained in conflict with these regulations. If the owner or lessee of either the site or the sign fails to correct the conflict within thirty (30) days after receiving written notice from the Administrator.

Prior to any criminal or civil enforcement under this Section, the administrator or his designee shall give five (5) days written notice of the violation to the owner, tenant or lessee of the property. The violation of any provision of this article is subject to punishment pursuant to Article 11. In addition, if such violation is not corrected within five (5) days after receipt of the notice of violation, except violations involving portable signs, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate.

If the violation involves a portable sign, such sign shall be removed immediately, and if not, the administrator may remove or cause to be removed, at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate. Removal of a sign shall not affect any proceedings instituted prior to removal of such sign.

## ARTICLE 8 - NON-CONFORMING CONDITIONS

### 8-1. Non-Conforming Buildings and Structures

A non-conforming building or structure may be maintained, except as otherwise provided for in this Article.

#### 8-1.1 Repairs, Alterations.

Repairs and alterations may be made to a non-conforming building or structure provided that no structural alteration shall be made except those required by law or ordinance for the health, safety or welfare of the occupants or the general public.

#### 8-1.2 Additions, Enlargements, Moving.

- 8-1.2.1 A non-conforming building or structure shall not be added to or enlarged in any manner unless such building or structure is made to conform to all the regulations of the district within which it is located.
- 8-1.2.2 A building or structure which does not comply with the height or area regulations shall not be added to or enlarged in any manner unless such addition or enlargement conforms to all the regulations of the district in which it is located and provided that all such additions or enlargements shall not exceed fifty (50) percent of the gross floor area of the ground floor of the building or structure at the time this ordinance became effective.
- 8-1.2.3 A building or structure lacking sufficient automobile parking space in connection therewith, and in accordance with Article 5 Parking and Loading Regulations, may be altered or enlarged provided that additional parking space is supplied in accordance with Article 5.
- 8-1.2.4 No non-conforming building or structure shall be moved in whole or in part to any other parcel of land unless every portion of such building or structure is made to conform to all the regulations of the district within which it is relocated.
- 8-1.2.5 Legal, non-conforming (grand-fathered) mobile homes (manufactured homes as defined herein) may be replaced provided that all of the following conditions are met:
- (A) The replacement home shall be equal or smaller in size than the existing mobile home. The Zoning Administrator may waive this condition upon written determination that an equivalently sized replacement is not available and that a larger mobile home could be accommodated on the site in compliance with the regulations of the district in which it is located and such home would not be detrimental to neighboring properties.
  - (B) The replacement mobile home must be certified under HUD regulations and manufactured within ten (10) years of the date of application for replacement.



- (C) The replacement mobile home shall be located on the same parcel of land as the existing home and in conformance with the regulations of the district within which it is located, unless the Zoning Administrator finds that relocation on the same lot would increase the non-conformity of the mobile home.
- (D) A building permit shall be obtained prior to the removal of the existing mobile home and placement of the new mobile home. Such permit shall include setbacks and the adequacy of sewer and water services in accordance with the County Health Department regulations and this ordinance.

### **8-1.3 Restoration of damaged buildings or structures.**

- 8-1.3.1 A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God may be restored and the original occupancy or use of such building or structure or part thereof which existed at the time of destruction may be continued or resumed, provided that the total area destroyed of the building or structure does not exceed seventy five (75) percent of the area of the foundation of such non-conforming building or structure. Any restoration of a building or structure subject to this section must begin work within one (1) year of the damage and be completed within two (2) years.
- 8-1.3.2 In the event that a building or structure is damaged beyond seventy five (75) percent of its foundation area, no repairs, reconstruction or restoration shall be made unless all regulations for a new building in the district within which it is located shall be complied with. Notwithstanding the above, any single-family dwelling that has not been abandoned as defined by this Article may be replaced in kind and on the same foundation as the existing dwelling on the property, subject to the same timeframes as identified in 8.1.3.1 above.
- 8-1.3.3 Restoration or replacement of building or structures that are included on the Federal or state list of registered historic building or places shall be exempt from these provisions and may be restored to the extent allowed by the US Department of Interior guidelines for historic facilities.

### **8-1.4 Abandonment of building or structure.**

A non-conforming building or structure or portion thereof which is or hereinafter becomes vacant and remains unoccupied for a continuous period of two (2) years shall be considered abandoned and shall not thereafter be occupied or used except by a use which conforms to the regulations of the district within which it is located.

### **8-1.5 Permits.**

The construction or use of a non-conforming building, structure or parcel of land for which a permit was legally obtained prior to the adoption of this Article, may

proceed provided that such building is completed within one (1) year or such use is established therein within thirty (30) days from the adoption of this Article.

## **8-2 Non-conforming Use of Buildings and Structures**

### **8-2.1 Continuation and change of use.**

Except as other wise provided for in this Article:

- 8-2.1.1 The non-conforming use of a building or structure existing at the time of adoption of this ordinance may be continued.
- 8-2.1.2 The use of a non-conforming building or structure may be changed to a use of the same or more restrictive classification. However, where a building or structure is hereafter changed to a use of a more restricted classification, it shall not be thereafter changed to its original use or a use of a less restricted classification.
- 8-2.1.3 A vacant non-conforming building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within one (1) year of the effective date of this ordinance. The use of a building or structure which becomes vacant after the effective date of this ordinance may also be occupied by a use for which the building was designed or intended, if so occupied within a period of two (2) years after the building becomes vacant.

### **8-2.2 Expansion prohibited.**

A non-conforming use of a conforming building or structure (i.e., commercial use of a dwelling, etc.) shall not be expanded or extended into any other portion of such non-conforming building or structure nor changed, except to a conforming use. If such a non-conforming use or portion thereof is discontinued or changed to a conforming use, any subsequent use of such building or structure or portion thereof shall be in conformity with the regulations of the district within which it is located.

## **8-3 Non-Conforming Use of Land.**

### **8-3.1 Continuation of use.**

The non-conforming use of land, existing at the time that this ordinance became effective, may be continued provided that:

- 8-3.1.1 No such non-conforming use of land shall be expanded or extended further onto either the same or adjoining property.
- 8-3.1.2 If such non-conforming use of land or any portion thereof is discontinued or changed, any subsequent use of such land shall be in conformance with the provisions of this ordinance.
- 8-3.1.3 Any sign, billboard, commercial advertising structure or statuary which is lawfully existing and maintained at the time this ordinance became effective may be

continued, although such does not conform with the provision herein and provided that no structural alterations are made to it.

- 8-3.1.4 Automobile graveyards and junkyards lawfully in existence at the time of the adoption of this ordinance shall be allowed up to two (2) years after the effective date of this ordinance to come into compliance with this ordinance.

### **8-3.2 Non-conforming Lots.**

- 8-3.2.1 Any lot of record at the time of adoption of this ordinance which does not meet the requirements for on-site well and septic systems as required by the Health Department and this ordinance shall not be issued a permit for construction unless the owner/applicant can demonstrate that public sanitary sewer and adequate public or community water supply can and will be provided in accord with all applicable regulations.
- 8-3.2.2 Any lot of record at the time of adoption of this ordinance which does not meet the requirements for lot area, frontage or width, may be used for the purposes authorized for the district only when the requirements for minimum setback and yard are met.
- 8-3.2.3 For any non-conforming lot, the minimum side yard setback shall be five (5) feet unless otherwise provided for herein.
- 8-3.2.4 A non-conforming parcel or lot platted and recorded prior to June 1, 1978 that is fifty (50') or less in width and/or is one hundred and twenty (120') feet or less in length and/or is 6000 square feet or less in area shall be allowed the following setbacks for all new construction and/or additions to either principal or accessory structures provided the parcel or lot does not abut or is attached with an adjoining parcel under the same ownership.
- A. Double Front Lot is lot with frontage on two streets at opposite ends of the lot. The owner shall choose which street shall be the front yard. The rear street setback shall be opposite of the front yard.
- a. The principal building front yard setback shall be 25% of the lot length but no less than 25 feet.
- b. The principal building rear street setback shall be 20% of the lot length but no less than 20 feet
- c. The principal building interior lot line setbacks shall be a minimum of 4 feet on one side and 8 feet on the opposite side.
- d. Accessory structure setback shall be a minimum of 4 feet from the interior lot line.
- B. Corner Lot a lot that abuts two streets at their intersection. The front yard shall be abutting the shortest lot line and be opposite of the rear lot line. The side street shall be the longest lot line abutting the street.
- a. The principal building front yard setback shall be 25% of the lot length but no less than 25 feet.

- b. The principal building rear yard setback shall be 20% of the lot length but no less than 20 feet.
  - c. The principal building side street setback shall be a minimum of 15 feet.
  - d. The principal building interior lot line setback shall be a minimum of 4 feet.
  - e. Accessory structure setback shall be a minimum of 4 feet from all interior lot line and comply with the principal building street frontage setbacks
- C. Double Front Corner Lot a lot that butts three (3) separate streets at their intersection. The owner shall choose which street shall be the front yard. The rear yard shall be opposite the front yard. The side street shall be the longest lot line abutting the street. The interior lot line shall abut another parcel interior lot line.
- a. The front yard setback shall be 25% of the lot length but no less than 25 feet.
  - b. The rear street setback shall be 20% of the lot length but no less than 20 feet
  - c. The side street setback shall be a minimum of 15 feet.
  - d. The interior lot line setback shall be a minimum of 4 feet.
  - e. Accessory structure setback shall be a minimum of 4 feet from all interior lot line and comply with the principal building street frontage setbacks.
- D. Interior Lot is any other lot.
- a. The principal building front yard setback shall be 25% of the lot length but no less than 25 feet.
  - b. The principal building rear street setback shall be 20% of the lot length but no less than 20 feet
  - c. The principal building interior lot line setbacks shall be a minimum of 4 feet on one side and 8 feet on the opposite side.
  - d. Accessory structure setback shall be a minimum of 4 feet from all interior lot line.

#### **8-4 Non-Conforming Due to Reclassification.**

The foregoing provisions of this Article shall also apply to buildings, structures, land or uses which hereafter become non-conforming due to any re-classification of zoning districts under this ordinance or any subsequent change in the regulations of this ordinance.

## ARTICLE 9 - SITE PLAN REGULATIONS

**Note:** *The Site Plan Article was totally amended December 10, 2006 with the following provisions, due to the many interconnections between site plan regulations and the Subdivision ordinance also adopted December 10, 2006.*

### 9-1 Statement of Intent.

The purpose of this Article is to encourage sound, creative and innovative design and to ensure that land is used in a manner that is efficient, in harmony with neighboring property and the environment, that promotes high standards in the design, layout, landscaping and construction of development, is in accordance with the Comprehensive Plan, provisions of this Chapter and other parts of the Westmoreland County Code, and the purposes of zoning as set forth in the Code of Virginia.

There is a mutual responsibility between the County and a developer to develop land in an orderly and environmentally compatible manner, to ensure the efficient use of land and resources and to promote high standards in the layout, design, landscaping and construction of development.

Nothing herein shall require the approval of any development, use or plan, or any feature thereof, which shall be found by the Zoning Administrator to constitute a danger to the public health, safety or general welfare, or which shall be determined to be a violation of Federal, State or County laws or regulations.

### 9-2 When Required.

Site plans shall be required for all proposed development except:

- 1) Single family residential structures.
- 2) Residential accessory structures less than 5,000 square feet.
- 3) Agricultural structures in agricultural zoning districts.

All site plans must conform to the provisions of the Chesapeake Bay Preservation Area Overlay District in Article 3 of the Zoning Ordinance.

*A site plan shall also be submitted and required for any use requiring a special exception permit.*

**9-3 Site plan submittal requirements.**

Before filing an application for approval of a site development plan, the applicant may confer with the Administrator, who may advise the applicant to also meet with such other agencies of the County, State, and/or Federal Governments as may be advisable concerning the general proposal. The applicant may submit a draft plan that reflects unofficial preliminary studies of the concept of the proposed development for tentative review, comments and recommendations concerning the development of the tract. Such action does not require formal application or filing of a site plan and is not to be construed as an application for approval in computing time limitations in relation thereto.

Upon receipt of the agent's written comments on the draft plan, an applicant may prepare a formal site plan in accordance with this Article and submit it to the Administrator for formal consideration. Any conditions requested in draft plan review must be addressed by the site plan and included, where appropriate.

The site plan shall be prepared by an architect, landscape architect, engineer or surveyor licensed in Virginia and certified with their signature and seal shown on the plan. The following minimal information is required for the site plan application:

**9-3.1 Site plans shall at a minimum contain:**

1. Title of project, name and contact information of owner/applicant, and of the engineer, architect, landscape architect, planner and/or licensed surveyor, or other person(s) qualified to perform such work in accordance with the Code of Virginia and other lawful regulatory agencies, who is responsible for preparing the site plan;
2. Location of site by an inset map at a scale no less than one inch equals 2,000 feet, indicating the names of adjoining roads, streams, bodies of water, railroads, subdivisions and landmarks and land marks sufficient to properly identify the location of the property.
3. Indication of the scale, north arrow, zoning and present use of the property and adjacent properties, parcel number, magisterial district, date and such information as the names and numbers of adjacent roads, streams, and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;
4. A boundary survey of the proposed site or a certified copy of a previously recorded survey, including the acreage and legal description thereof and the location of survey datum and a certificate or plat signed by the engineer or surveyor setting forth the source and title of the owner of the tract and the place of record of the last instrument in the chain of title;
5. A blank space at least four (4) inches by four (4) inches in the plan face for use of the administrator;
6. All existing and proposed structures, streets and easements, their names, numbers, and width; streams, drainage ways, floodplain and wetland designations, existing and proposed utilities with easements and sizes,

projected peak water and wastewater flows, watercourses and their names and owners;

7. Location, type and size of all ingress and egress of the site and indication of plans and procedures to comply with VDOT requirements and other applicable regulations;
8. Existing topography and proposed finished contours at two (2) foot contour intervals;
9. A plan of the proposed site development at a scale of one inch equals fifty (50) feet or larger that includes the following elements:
  1. North arrow, scale and date.
  2. Proposed streets and easements.
  3. Location, types and size of vehicle entrances including fire lanes.
  4. All off-street parking, loading and stacking indicating surfacing, size and angle of stalls, width of aisles and the schedule of spaces to serve the proposed development.
  5. Location and layout of proposed structures including number of floors, floor area, height, gross density (building square footage per total acres) and net density (building square footage per net acres – total acres minus setback and required conservation area), setback and proposed use of each structure.
  6. Proposed grading matched to existing contours and supplemented by finished floor, building and spot elevations, where appropriate.
  7. Location, type and height of lighting, fencing, retaining walls and screen planting, where required, and signage.
  8. Drainage channels and their direction of flow and storm water management facilities.
  9. Proposed utility connections and location, size and grade of sewer and water lines and plan and profile sheets.
  10. Refuse collection and removal areas and their screening from adjacent streets and properties.
10. A landscape plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas, areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes, and size and type of trees to be removed having a minimum diameter breast height of six (6) inches or greater;
11. Provisions for off-street parking, loading spaces and pedestrian walkways including existing and proposed sidewalks, type of parking surface, parking space sizes and drive aisles widths, and calculations indicating the number of parking spaces required the number provided, pavement profile and details including a typical cross-section of parking and drive areas, vertical and horizontal curves (where appropriate), entry and curb radii, handicapped parking designation and handicapped ramps and curbs;

12. Location, type, size, floor area, number of floors and height of all structures; fencing, screening, and retaining walls where required under the provision of applicable ordinances; and proposed general use for each building - if a multi-family residential building, townhouse or patio house, the number, size and type of dwelling units within each structure shall be indicated. For a multifamily residential development, the number, size and type of dwelling units and the location, type, and percentage of total acreage of recreation facilities;
13. Utility layout including water, sanitary sewer or septic system plan with profiles identifying the vertical and horizontal alignments, connection details to existing facilities, invert and rim elevations, pump stations and force mains, hydrants, valves, blow offs, etc; location of electrical transmission lines, gas pipelines, streetlights, fire hydrants and other fire fighting facilities and the locations of garbage and trash disposal facilities; Existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types, and grades and where connection is to be made to an existing or a proposed central water and sewer system.
14. Grading and drainage plan which incorporates storm water management in accord with state statute for the proposed development including location, type and size of facilities and the identification of easements to accommodate existing and proposed drainage and management facilities; calculations of storm water management and drainage prepared by a professional engineer are required in accordance with the County's storm water management requirements.
15. Flood plain limits established by current FEMA maps, soil survey and/or engineering methods.
16. Computation notations to include the total site area, and the amount and percentage of the site covered by open space and buildings or dwelling units, and impervious surface coverage;
17. All shoreline alteration, including dredging, filling, and bulkheading as approved by the appropriate local, state and federal regulatory agencies and commissions. Provision for disposition of spoils. Provision for the prevention of saltwater intrusion. Provision for preservation of the ecology of the area and prevention of damage to the groundwater supply.
18. A minimum of one (1) datum reference for elevations used on plans and profiles and correlated to U.S. Geological Survey datum, where possible.
19. Any necessary notes that may be required to explain the intent and purposes of specific items on the plan or profile.
20. Summary of the proposed development including uses, acreage, descriptions of the utility plans, projected traffic impact and circulation, site soils and zoning conditions that apply to the development. Any separate permits (state or Federal) required for the development must be obtained prior to commencement of construction. Proposed easement or right-of-way dedications must be provided on a separate plat map for recording.



- 9-3.2 The Zoning Administrator may waive one or more of the above submittal requirements if not applicable to the proposed project. If such waiver is given, it must be in writing.
- 9-3.3 The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant with deficiencies noted in written form, within 10 business days of submission of the application by the applicant.
- 9-3.4 No public easement, right-of-way or public dedication shown on any site development plan shall be accepted for dedication for public use until such proposed dedication shall first be approved by the governing body and evidence of such approval is shown on the instrument to be recorded.
- 9-3.5 Upon compliance with the terms of this Ordinance and the satisfactory completion of construction, the Zoning Administrator shall furnish a certificate or letter of approval. Certificates or letters of approval shall release all of the bonds, surety or letters of credit which may have been furnished.
- 9-3.6 The complete application, including drawings, shall be submitted to the County in both paper copy form, as well as digital form, such as PDF format files, or other such reasonable file format as may be deemed acceptable to the Zoning Administrator.

**9-4 Procedures for administrative review of site plans.**

- 9-4.1 The applicant shall submit ten (10) copies of the site plan and the appropriate application fee to the Zoning Administrator. The Zoning Administrator shall make a determination as to whether the application is complete and issue a judgment in writing to the applicant within 10 business days of receiving the site plan application.

Upon meeting all submittal requirements for a complete application, the site plan shall be reviewed by all agencies of the County, State, and/or Federal Governments as deemed necessary by the Zoning Administrator. The Zoning Administrator shall transmit county staff comments to the applicant within seventeen (17) business days of determining that the application submittal is complete.

No plan shall be approved until all staff and other agency comments are satisfied or otherwise resolved as determined by the Zoning Administrator.

- 9-4.2 The site plan may be granted preliminary approval, final approval, disapproved or ruled incomplete by the Zoning Administrator. If granted preliminary approval, the site plan shall be revised to address such conditions or requirements as necessary to obtain final approval. The Zoning Administrator shall notify the applicant of any action taken on the site plan within 10 business days of such action. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for denial.
- 9-4.3 Approval, preliminary approval or disapproval of a complete site plan submission shall occur not longer than sixty (60) days following formal acceptance of the application by the Zoning Administrator.

**9-5 Review criteria--generally.**

The Zoning Administrator shall examine and consider site plans with respect to:

- 9-5.1 Intensity of land use including developable acreage, density and adequate provisions for open space and recreational facilities as appropriate to the site usage and to the Comprehensive Plan;
- 9-5.2 Design and layout of the site including buildings, signs, recreation facilities, garbage and trash disposal facilities, sedimentation and erosion controls, storm drainage, stormwater management, sanitary sewage disposal, and water supply on the site including line sizes, areas to be landscaped with approximate arrangement and plant types and sizes indicated, and provisions for pedestrian and vehicular traffic movements within and adjacent to the site.

Particular emphasis shall be placed upon the review of on-site function and form, public safety features, environmental, historic and vegetative preservation, efficient layout of buildings, parking areas, off-street loading and unloading, and movement of people, goods and vehicles (including emergency vehicles) from access roads, within the site, between buildings and vehicles. Vehicular access

to the site shall be designed to aid overall traffic flow and to permit vehicles a safe ingress and egress;

- 9-5.3 Design standards contained in this Ordinance and the Zoning Ordinance as they relate to traffic circulation, parking, performance standards, location of structures, setbacks, yards, bulk, height and building coverage shall apply, where applicable, to site plan approval. The applicable standards of VDOT shall apply where appropriate, to site plan approval.

**9-6 Preliminary approval--term of validity.**

Preliminary approval of a site plan shall be valid for a period of one (1) year and shall permit an applicant to perform clearing and grading operations and the installation of utilities. A revised site plan must be presented and properly filed with the Administrator and receive final approval from the Administrator prior to the termination date of the preliminary approval. Preliminary approval shall not be renewed in lieu of an applicant seeking final approval and preliminary shall not vest the applicant against any change or amendment to any County ordinance, map, resolution, policy or plan adopted subsequent to the date of preliminary approval of the site plan.

**9-7 Revised site plan--submittal generally.**

- 9-7.1 Upon application, an approved site plan may be amended with the approval of the Administrator, provided, that such proposed amendment does not:

1. Alter a recorded plat;
2. Conflict with the specific requirements of this Article;
3. Change the general character or content of an approved development plan or use;
4. Have an appreciable affect on adjoining or surrounding property;
5. Result in any substantial change of major external access points;
6. Increase the approved number of dwelling units or height of buildings; or
7. Decrease the specified yards and open spaces or specified parking and loading spaces.

- 9-7.2 Amendments not in accordance with 9-7.1.1 through 9-7.1.7 of this Section shall be considered as new site plans and resubmitted for approval. Approval of an amendment under this Section shall not extend the term of validity of the original approved site plan.

**9-8 Action upon completion of review.**

Upon final approval of the site plan by the Administrator, the Administrator shall transmit at least two (2) approved sets of plans to the applicant, owner or authorized project agent, retain one (1) set of approved plans and copies of any correspondence and transmit copies of approved plans to review agents as requested by such agents. The applicant shall maintain one set of the approved site plan on the site throughout the course of development and construction.

**9-9 Final approval--term of validity**

Final approval of a site plan submitted under the terms of this Article shall expire five (5) years after the date of such approval. During that period all permits shall be obtained or the development shall be put into use. When permits have been issued, the site plan approval shall run concurrently with the permit term of validity for only those improvements covered by a permit. A site plan approval shall remain valid longer than five years if it was valid on January 1, 2009 and as provided in Section 15.2-2209.1, Code of Virginia.

For so long as the final site plan remains valid in accordance with the provisions of this Section, no change or amendment to any County ordinance, map, resolution, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the developer or successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

Application for minor modifications to approved site plans made during the five year term of validity shall not constitute a waiver of provisions of this Section nor shall the approval of such minor modifications extend the period of validity. Any minor modification shall be made in accordance with Section 9-7.

**9-10 Compliance with site plan required.**

## 9-10.1 Inspection and supervision during development

1. Unless otherwise specifically provided in this Chapter, the construction standards for all off-site and on-site improvements required by this Chapter, the site plan or other documents approved by the County shall conform to County approved design and construction standards. The Administrator shall, after approval of the plan and specifications, inspect construction of all improvement and land disturbances to assure conformity with the approved plans to the maximum extent possible.
2. The owner or his agent shall notify the Administrator prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.
3. The owner or his agent shall provide adequate supervision on the site during installation of all required improvements and have a responsible superintendent or foreman, together with one set of the approved plans, profiles and specifications available at the site at all times when the work is being performed.

## 9-10.2 Violations and penalties.

Any person, firm or corporation, whether as principal, agent, owner, lessee, employee or similar position, who violates or fails to comply with any provision of this Article, permits such violation or erects any structure or uses any land or structure prior to preliminary approval or contrary to a site plan shall be subject to criminal sanctions, civil penalties and/or injunctive relief as provided in Article 11 of this Ordinance .

**9-11 Public Improvements Bond**

Prior to the issuance by the Administrator of any temporary certificate of occupancy or zoning permit, for development of any portion of the site, there shall be executed by the owner or developer an agreement to construct the required physical improvements located within public rights-of-way and easements together with a bond securing the estimated cost of said improvements as determined by the Agent. The agreement and bond shall be adequate to provide for the completion of all work covered therein plus an additional 20% for administration and services should execution of the bond be necessary. The reservation of surety offered by the bond may be released in phases by the Administrator as entire components of the work is concluded, inspected and approved as complete.

**9-12 Appeals.**

If an applicant contends that the disapproval of a site plan was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, he may appeal to the circuit court, provided that his appeal is filed with the circuit court within sixty days of the written disapproval by the administrator.

## **ARTICLE 10 ADMINISTRATION AND PROCEDURES**

### **10-1 Administration**

#### **10-1.1 Zoning Administrator.**

The provisions of this Ordinance shall be enforced by the designated agent of the County of Westmoreland, who shall be known as the Zoning Administrator. The zoning administrator shall have all necessary authority on behalf of the County Board of Supervisors to administer and enforce the Zoning Ordinance. His authority shall include:

1. Ordering in writing the remedying of any condition found in violation of this Ordinance.
2. Insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311 of the Code of Virginia and Article 11 of this Ordinance.
3. In specific cases, making findings of fact and, with concurrence of the County Attorney, conclusions of law regarding determinations of rights accruing under § 15.2-2307 of the Code of Virginia.
4. The Zoning Administrator shall respond within ninety days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period.
5. In addition to the regulations and requirements herein contained concerning the administration of this Ordinance, the Zoning Administrator may establish reasonable additional administrative forms and procedures deemed necessary for the proper administration of this Ordinance.
6. Such other powers as may be granted in the Code of Virginia.

#### **10-1.2 Certified Copy.**

A certified copy of the Zoning Ordinance, as adopted and including any amendments, shall be filed in the office of the Zoning Administrator of Westmoreland County and in the office of the Clerk of the Circuit Court of Westmoreland County, Virginia.

#### **10-1.3 Processing Fees and Costs.**

- (1) The County intends that at least part of the cost of administering this Ordinance be borne by those responsible for development. Therefore, at the time of submission of an application for any permit, review, or processing as required by this Ordinance, applicants must pay a fee to Westmoreland County in accord with the fee schedule established by the Board of Supervisors which may be modified by the Board from time to time.

- (2) If the costs to the County for processing an application exceed the estimated average cost that the fee is based on, the County may require that the applicant pay an additional fee to cover those additional costs. Such additional fee shall be paid prior to final action on the application by the County. The County will calculate any additional fees in accord with its adopted fee schedule. Items that may be included in additional costs include all costs borne by the County in processing the application, such as staff time and costs for research, field work, meetings, as well as copying, printing, postage and delivery of materials. The County will notify the applicant of the costs no less than 21 days prior to final action.
- (3) In addition to the fees provided for in 10-1.3 (1), the applicant shall also pay the cost of required public notice for public hearings. Such costs must be paid to the County prior to the submission of the notice for publication. When the Board determines that a zoning request, a change in zoning district classification request, a special exception application or special use permit application should be re-advertised for any reason, not caused by the applicant, the cost of such re-advertisement shall be waived.

#### **10-1.4 Payment of Real Estate Taxes Prior to Processing Any Land Use Permit Application**

At the time of submission of an application for a special exception, special use permit, variance, rezoning, subdivision plat, site plan, land disturbing permits, home occupation permits or other land use permit, satisfactory evidence shall be provided to the County that any delinquent real estate taxes properly assessed against the subject property have been paid.

### **10-2 Board of Zoning Appeals.**

#### **10-2.1 General Provisions (Purpose, Authority and Membership)**

- (1) A Board of Zoning Appeals shall be appointed in accordance with the provisions of § 15.2-2308 of the Code of Virginia, 1950, as amended. Powers, duties and appeal procedures shall conform to the provisions of § 15.2-2309, et seq, of the Code of Virginia, 1950, as amended.
- (2) The Board of Zoning Appeals shall hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of the Zoning Ordinance.
- (3) The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary to carry out its authorized business.
- (4) The Board shall consist of five (5) members and shall be appointed by the Circuit Court of Westmoreland County. Members shall be residents of Westmoreland County. The Board shall receive compensation for traveling expenses and may receive other such compensation as may be authorized by the Board of Supervisors. Appointments to fill vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.

- (5) The term of office shall be for five (5) years. One of the five (5) appointed members may be an active member of the Planning Commission.
- (6) Any member of the Board may be removed, for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the Circuit Court, after a hearing held after at least fifteen (15) days written notice.
- (7) Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.
- (8) The Board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.
- (9) The County Administrator shall appoint a staff member to serve as secretary to the Board of Zoning Appeals, without vote and shall prepare minutes of meetings, keep all records and conduct official correspondence of the Board. In the absence of the secretary at any meeting, the Board shall appoint some other person, who may or may not be a member of the Board, to prepare the minutes thereof.

**10-2.2 Rules and Regulations**

- (1) The meeting of the Board of Zoning Appeals shall be held at the call of its chairman or, in his absence, the acting chairman, or at such times as a quorum of the Board may determine.
- (2) The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
- (3) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- (4) All meetings of the Board shall be open to the public. A favorable vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.
- (5) For the conduct of any hearing and the taking of any action or transaction of official business, a quorum shall be required of not less than three (3) members of the Board.
- (6) In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from. The concurring vote of three (3) members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass



under the Ordinance or to effect any proceedings and other official actions, which shall be filed in the office of the Board and shall be public records.

### **10-2.3 Powers and Duties.**

The Board of Zoning Appeals shall have the following powers and duties:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this Ordinance or of any ordinance adopted pursuant thereto, in accord with Section 10-3.15 of this Ordinance, including decisions of the Zoning Administrator and Article 3 decisions by the Planning Commission. The decision on such appeals shall be based on the Board's judgment of whether the administrative decision was correct. The Board shall consider the purpose and intent of any applicable ordinances, laws and regulations in making its decision. In the case of interpreting the zoning map, the board shall interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. The Board shall not have the power to change the locations of district boundaries as established by Ordinance.
- (2) To authorize upon appeal or original application in specific cases a variance as defined in § 15.2-2201 of the Code of Virginia, from the terms of this Ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done and the requirements in Section 10-3.13 of this Ordinance.
- (3) No provision of this section shall be construed as granting any Board the power to rezone property or to base Board decisions on the merits of the purpose and intent of any ordinances duly adopted by the Board of Supervisors.
- (4) When giving any required notice to owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the Board may give such notice by first-class mail rather than by registered or certified mail.
- (5) Records. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep full records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record.
- (6) Periodic Reports. The Board shall submit a report of its activities to the Board of Supervisors at least once each year.
- (7) Limitation. All provisions of this Ordinance relating to the Board shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in full conformity with all provisions and definitions in this Ordinance and in strict compliance with all limitations contained therein.

- (8) Decisions Subject to Judicial Review. In accord with § 15.2-2314 of the Code of Virginia, as amended, all decisions and findings of the Board shall be final decisions, and shall be subject to judicial review in the following manner:
- A) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board or bureau of the County, may present to the Circuit Court of Westmoreland County a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals.
  - B) Upon the presentation of such petition, the court shall allow a Writ of Certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the petitioner's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board of Zoning Appeals and on due cause shown, grant a restraining order.
  - C) The Board of Zoning Appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
  - D) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with the commissioner's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which a determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
  - E) Costs shall not be allowed against the Board of Zoning Appeals, unless it shall appear to the court that the Board acted in bad faith or with malice in making the decision appealed from. In the event the decision of the Board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the Writ of Certiorari.

### **10-3 Procedures for Application Review and Approval**

#### **10-3.1 Types of Permit Applications**

This Ordinance provides for the following types of permit applications for land use and development:

1. Plan of Development Process (Land Disturbance Permit)

2. Zoning Permit (including signs)
3. Building Permit
4. Occupancy Permit
5. Site Plan approval and Plan of Development approval, in accord with requirements of the Chesapeake Bay Preservation Overlay District (Article 3), Site Plan provisions (Article 9), and in accord with the Subdivision Ordinance
6. Subdivision Plat approval, in accord with the Subdivision Ordinance
7. Zoning Amendments, generally
8. Conditional Zoning Procedures
9. Zoning Amendments for Planned Industrial Park Zoning Districts
10. Special Exception Permit
11. Variance
12. Commission Permit (“2232 Review”)
13. Appeals to the Board of Zoning Appeals
14. Zoning Amendment Generally or Conditional Zoning Procedures in tandem with Special Exception Permit
15. Additional Governmental Approvals

**10-3.2 Public Hearing Procedures**

1. Advertisement and Notice is Required.

Prior to each public hearing involving planning and zoning matters before the Planning Commission, the Board of Supervisors or the Board of Zoning Appeals, the County shall provide advertisement and written notice as may be required by §§ 15.2-2204 and 15.2-2285 of the Code of Virginia, as amended.

2. Notice by County.

Notwithstanding any other provisions of this section, whenever the notices required under this Section are sent on behalf of an agency, department or division of the County, such notice shall be sent by the Zoning Administrator and may be sent by first class mail; however, the Zoning Administrator shall make affidavit that such mailings have been made and file such affidavit with the papers in the pertinent application or case.

3. Notice and Certification by Applicant.

For any application for amendment or development approval for which a public hearing is required before the Planning Commission and the Board of Supervisors and which is initiated by an applicant, the applicant shall be responsible for providing notice in accord with § 15.2-2204 of the Code of Virginia. A certification of notice and a listing of the persons to whom notice has been sent shall be filed with the Zoning Administrator by the applicant at least five days prior to the first public hearing of the Commission. A counterpart of such affidavit shall be presented to the Planning Commission or the Board of Supervisors at the beginning of its public hearing. The applicant may rely upon records of the local real estate assessor's office to ascertain the names of persons entitled to notice.

4. Condominium Ownership.

In the case of a condominium, written notice may be sent to the unit owner's association instead of to each individual unit owner.

5. Additional Notice Required for Deferrals

If an item is not heard at a public hearing for which it was noticed, but is deferred to a specific date, no additional notice at a public hearing is required by this Section.

6. Additional Notice Required for Recessed Public Hearings.

If a public hearing is begun but the agenda not completed, thereby requiring the meeting to be recessed, no additional notice is required as long as the dates for completion of the public hearing agenda is announced at the hearing which has been recessed.

7. Speakers at Public Hearings.

All witnesses and speakers presenting facts, evidence or opinion at any public hearing shall provide their name, address and affiliation, if any, for the record. Witnesses or speakers may be required to give oath or affirmation regarding the truth of their statements. At the discretion of the person presiding over the hearing, speakers may be limited as to the time they are allowed to speak.

**10-3.3 Plan of Development Process (Land Disturbance Permits)**

In accord with the provisions of Article 3, Chesapeake Bay Preservation Area Overlay District.

**10-3.4 Zoning Permits**

- (1) Zoning Permit Required. No principal or accessory building, structure or use, permitted by right or permissible by special exception, may be constructed, reconstructed, moved, added to or structurally altered or otherwise allowed without a zoning permit issued by the Zoning Administrator. A zoning permit is required in all cases where a building permit is required. Failure to obtain a

zoning permit shall be a violation of this chapter and punishable under Article 11. The Zoning Administrator shall maintain a record of all zoning permits and a copy shall be furnished, upon request, to any person. It shall be the responsibility of the owner or agent, to obtain such permits.

- (2) Application for Zoning Permit. Each application for a zoning permit shall be made to the Zoning Administrator, who shall require and be furnished by the applicant with all plans and documents as may be determined to be necessary to evaluate whether the proposed structure and facilities will be in compliance with the provisions of this Ordinance. Each application shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property line of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the Administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance, a permit shall be issued to the applicant by the Administrator. One copy of the drawing shall be returned to the applicant with the permit.

In order for an application for a zoning permit to be deemed complete, each such application shall be accompanied by the following items, unless waived by the Zoning Administrator as not pertinent. The Zoning Administrator may also require additional information necessary in order to determine if the application conforms with the provisions of this Ordinance.

- A. A statement from the Health Department that all applicable regulations and requirements for water and wastewater facilities have been complied with.
- B. A complete description of the intended use or uses.
- C. If a dwelling, the number of housekeeping units within the structure.
- D. A plot plan signed by the applicant drawn to scale showing dimensions of the structure with respect to property lines and public highways; provided, no part of which is to be located less than the required setback distance from any property line or right-of-way of any public highway.
- E. Number, size, location and lighting of signs, if any.
- F. Off-street parking and other facilities.
- G. Proposed utilities and their locations.
- H. Drainage design and proposal.
- I. Topographic map, if determined to be necessary by the Zoning Administrator.

J. Fee in accord with the fee schedule adopted by the County Board.

- (3) Standards for Issuance. Zoning permits issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangement or construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided under Article 11.

No zoning permit shall be issued where it appears that the structure to be constructed or the use contemplated would be in violation of the provisions of this Ordinance or any other applicable law, ordinance or regulation. The issuance of a zoning permit shall not afford protection to any owner who is found to be in violation of this Ordinance or any other applicable law, ordinance or regulation.

If it appears that the proposed structure and use of land or structure is in conformity with the provisions of this chapter, a zoning permit shall be issued to the applicant by the zoning administrator. If an intended use is found to be in compliance with this Ordinance, before proceeding, the applicant is still required to ensure compliance with the Virginia Uniform Statewide Building Code, and all other applicable laws, ordinances and regulations.

Approval or denial of a zoning permit shall be made within ten (10) business days of the time at which the Zoning Administrator has deemed that the zoning permit application is complete.

- (4) Duration of Valid Zoning Permit. Any zoning permit issued shall be valid for one year. If an applicant has not completed construction of the building after one year of receiving the permit, the applicant may re-apply.

### **10-3.5 Building Permits**

1. Building Permit Required. No principal or accessory building, structure or use shall be constructed, reconstructed, moved, added to or structurally altered or otherwise allowed without a building permit issued by the Building Official. Failure to obtain a building permit shall be a violation of this chapter and punishable under Article 11 of this Ordinance. The Building Official shall maintain a record of all building permits and a copy shall be furnished, upon request, to any person.
2. Application for Building Permit. An application for a Building Permit shall be made to the Building Official, who shall require and be furnished with all such plans and documents as may be required to determine whether the proposed structure and facilities will be in compliance with the provisions of this ordinance and with the Virginia Statewide Uniform Building Code.

In order for an application for a Building Permit to be deemed complete, each such application shall be accompanied by the following items, unless an item is deemed not pertinent by the Building Official, and such additional information as the Building Official may require as being necessary in order to

determine if the application conforms with the provisions of this Ordinance and the Building Code:

- A. The size and shape of the parcel of land on which the proposed building is to be constructed
  - B. Scale drawings which accurately show the design, construction, dimensions and materials of all proposed buildings and structures
  - C. The location of such buildings and structures with respect to the property lines of said parcel of land, and the right-of-way of any street or highway adjoining said parcel of land.
  - D. Proposed utilities and their location.
  - E. Drainage scheme.
  - F. Fee in accord with the fee schedule adopted by the County Board.
3. Standards for Issuance. Building permits issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided under Article 11 of this Ordinance.

No building permit shall be issued before receipt of a zoning permit for the proposed use and structure. Building and zoning permits for the same use and structure may be submitted, reviewed and approved concurrently.

No building permit shall be issued where it appears that the structure to be constructed or the use contemplated would be in violation of the provisions of this Ordinance or any other applicable law, ordinance or regulation. The issuance of a building permit, however, shall not afford protection to any owner who is found to be in violation of this Ordinance or any other applicable law, ordinance or regulation.

If the proposed structure is in conformity with the provisions of this Ordinance and the Virginia Uniform Statewide Building Code, a building permit shall be issued to the applicant by the Building Official.

Approval or denial of a building permit shall be made within ten (10) business days of the time at which the Building Official has deemed that the application for permit is complete.

4. Duration of Valid Building Permit. Building permits issued shall be valid for one year.

### **10-3.6 Occupancy Permit**

1. **Occupancy Permit Required.** Land may be used, and buildings occupied, structurally altered, erected, or changed in use for any purpose as permitted in the District in which such land or building is located, only after an occupancy permit has been issued by the Building Official. Such a permit shall state that the building or the proposed use, or the use of the land, complies with the provisions of this Ordinance. A similar permit shall be issued for the purpose of maintaining, renewing, or changing a nonconforming use. An occupancy permit either for the whole or a part of a building or the use of the land shall be applied for simultaneously with the application for a building permit.
2. **Standards for Issuance.** The Occupancy Permit shall be issued within ten business (10) days after final approval by the Building Official of the erection or structural alteration of such building or part which has conformed with the provisions of this Ordinance and all previously issued permits and approvals for the site, including building permits, zoning permits and site plans. No Occupancy Permit shall be granted until all improvements shown on any approved site plan have been completed in accordance therewith.

### **10-3.7 Site Plan and Plan of Development**

Site Plan approval and Plan of Development approval shall be in accord with requirements of Site Plans set forth in Article 9 (Site Plans), Article 3 (Chesapeake Bay Preservation Overlay District), and with the Subdivision Ordinance of the County of Westmoreland.

### **10-3.8 Subdivision Plat**

Subdivision Plat approval shall be in accord with the Subdivision Ordinance of Westmoreland County.

### **10-3.9 Zoning Amendments, generally**

1. **Authority for Change.** Whenever the public necessity, convenience, general welfare, or good zoning practice require, the County Board of Supervisors may, by ordinance, amend, supplement, repeal or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the Board of Supervisors, or by motion of the Planning Commission, or by petition of any property owner or contract purchaser with the owner's written consent, addressed to the Board of Supervisors, in accord with the procedures and requirements of this Ordinance. Such amendments require a majority vote of the Board of Supervisors after recommendation by the Planning Commission, provided that a public hearing shall be held in relation thereto at which parties in interest and citizens shall have an opportunity to be heard; and that notice shall be given of the time and place of such hearing as provided for in §§ 15.2-2204 and 15.2-2285 of the Code of Virginia, as amended.



- 2. Submission of Application for Amendment.** Every application for amendment of the Zoning Ordinance or Map shall contain the following items, as applicable. Applicability shall be determined by the Planning Director who may waive or modify any of the designated submission items if appropriate given the nature of the application and so as to facilitate review by the County and the public. Five (5) copies of the complete application shall be submitted. A rezoning application may be submitted concurrently with a special exception application.
- A. The applicant's name, address, phone number and email address, and signature.
  - B. The applicant's authorized representative's name, address, phone number and email address.
  - C. The property owner's name, address, phone number and email address and signature.
  - D. A summary of existing data and conditions of the property, including the Existing zoning classification, Tax Map and parcel numbers, Address of the property, and Total acreage of the property.
  - E. A plan of the property, at a scale of 1"=200', showing the extent of the area to be rezoned, streets bounding and intersecting the area, the land use and zone classification of abutting districts, and photographs of the area to be rezoned and abutting areas.
  - F. A Conceptual Plan at a scale of 1" = 200', unless an alternative scale is requested and approved by the Planning Director, indicating the locations of existing and proposed topography based upon available topographic data, vegetation, floodplain, wetlands, structures, uses, streets, and areas for off-street parking and loading.
  - G. A boundary survey of the property to be rezoned
  - H. Information at the time of submission, on the subject property and all parcels contiguous to the subject property and any property within 100 feet of the boundary, including Existing zoning, Existing land use, Proposed land use and Historic buildings or structures.
  - I. A statement of justification that explains the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relied as reasons for supporting the proposed zoning amendment, including the degree of compliance of the proposed request and subsequent development plans with the provisions of the Comprehensive Plan.
  - J. The approximate time schedule for the beginning and completion of development in the area and any proposed phasing of the development.

- K. A Concept Development Plan for the property, to a scale of 1" = 200', unless an alternative scale is requested and approved by the Planning Director, showing the proposed development of the property, including the proposed general relationships of uses within the site and external to the site, structures, uses, streets, parking areas, open space areas, vegetation, sidewalks and trails and means of access to the existing road system.
- L. A Traffic Study that shows the projections for trip generation, traffic volume and levels of service on site and on the adjacent road system, including provisions for safely accommodating both vehicular and pedestrian traffic.
- M. Information about the market area to be served by the proposed development if a commercial use, including population, effective demand for proposed business facilities, and any other information describing the relationship of the proposed development to the needs of the market area.
- N. A statement of Impact Mitigation describing and analyzing the various impacts of the proposed rezoning, including fiscal, environmental conditions, and public facilities and utilities impacts, and the proposed methods for mitigating any anticipated impacts.
- O. Any development conditions or proffers.
- P. Disclosure of Real Parties in Interest.
- Q. Certificate of Payment of Taxes, verifying that real estate taxes have been paid for all property included in the application.
- R. Record of Pre-Application Conference.
- S. Fees, in accord with the fee schedule adopted by the Board of Supervisors.
- T. A statement describing in detail the existing character of the area.

### **3. Staff Review of Application**

- A. Pre-Application Conference. Prior to filing an application, an applicant shall meet with the Planning Director and discuss the proposed application and land uses and questions regarding the procedures or substantive requirements of this Ordinance. In connection with all such conferences, the Zoning Administrator shall be consulted as appropriate. A request for a pre-application conference shall be made to the Planning Director and shall be accompanied by a sketch map of the site, a description of the proposed project or use, and a list of the issues to be discussed at the conference. The Planning Director shall respond to each written request for a pre-application conference within fifteen (15) calendar days of receipt.
- B. Review of Application for Completeness. No application shall be accepted and reviewed unless determined by the Planning Director to be

complete. A complete application is one which meets the minimum submission requirements established herein. Each application shall be reviewed to determine if it includes the minimum submission requirements. The Planning Director shall maintain a current log of all pending complete applications.

- C. **Acceptance of Complete Application.** Within fifteen (15) calendar days of submission of the application, the Planning Director shall either officially accept the application as complete and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying those areas of additional information necessary for acceptance and review. If a notice of incompleteness is issued, the applicant may resubmit the application with the additional data required. Upon resubmission, the Planning Director will review the resubmitted application in the manner provided in this section for the original application. If the application is not resubmitted within sixty (60) days of being determined incomplete, the Planning Director shall notify the applicant that the original application has been rejected as incomplete.
- D. **Referrals.** Upon official acceptance of the application for zoning amendment, the Planning Director shall forward a copy of the application to all County departments and county or state agencies whose comments are necessary or desirable for full and appropriate review of the merits of the application. Each reviewing agency shall prepare a staff report of referral comments which sets out in writing its comments and recommendations regarding the application and shall forward such staff report to the Director of Planning. All referral comments shall be provided to and reviewed by the Director of Planning within thirty (30) calendar days after an application has been officially accepted. The Planning Director shall forward to the applicant a written review of the issues raised by the application.
- E. **Applicant Response.** Upon receipt of the written report from the Planning Director, an applicant may submit a written request for a meeting with the Planning Director to discuss the matters contained in the report and the application. Such request shall include a response to the matters raised in the Director's written report.
- F. **Required Action by Other Entities.** In the event that this ordinance requires that an application not be granted until acted upon by some government board or agency other than the County Planning Commission and Board of Supervisors, the Planning Director shall forward the application for amendment to such board or agency for appropriate action prior to notification to an applicant that an application is ready to be presented to the Planning Commission or Board of Supervisors. The Planning Commission may make its recommendations on an application contingent on required action by the other boards or agencies.
- G. **Report and Notice to Applicant.** The Planning Director shall compile the referrals and other information pertinent to the application, prepare a written staff report with proposed findings and recommendations as to the application,

and notify the applicant that the report is complete and the application is ready to be presented to the Planning Commission and Board of Supervisors for public hearing.

- H. Submission to Planning Commission. Within sixty (60) days of formal acceptance of the application, the Planning Director shall forward the application and staff report to the Planning Commission for its review.

#### **4. Amendment to Application**

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

However, if the additional information or proposed changes submitted by the applicant are at the applicant's request, then the Planning Director shall review the information within fifteen (15) calendar days of receipt and render a finding as to whether the submitted information necessitates repeating any portion of the review process including public hearings. If any portion must be repeated, the Director shall notify the applicant in writing within the fifteen (15) calendar day period that the additional information or proposed changes must be withdrawn, submitted as a new application, or will require the applicant to approve an extension of the time limits prescribed in this Section and such notice shall specify the required extension. The applicant will then have fifteen (15) calendar days to provide the Director with a written response either granting the necessary extension or withdrawing the additional information or proposed changes. If the applicant chooses to withdraw the information, then the application will proceed based on its original timeline.

#### **5. Withdrawal of Application**

An application for rezoning may be withdrawn at any time upon written request by the applicant and with the consent of either the Planning Commission or the Board of Supervisors, whichever body has advertised the hearing. There shall be no refund of rezoning fees in the case of withdrawal either before or after advertising. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action.

#### **6. Planning Commission Review.**

Within sixty (60) calendar days after a zoning amendment application has been submitted to the Planning Commission from the Planning Director, and generally within one hundred twenty (120) days after official acceptance of the application by the County, the Planning Commission shall hold a public hearing on the application after notice as required by § 15.2-2204 of the Code of Virginia.

**7. Report by Planning Commission**

The Planning Commission shall report to the Board of Supervisors its recommendation with respect to the proposed amendment. Failure of the Planning Commission to report to the County Board within one hundred (100) days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, shall be deemed a recommendation for approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period.

If the proposed amendment consists of a change in the text of this Ordinance, the Commission may recommend revisions to the proposal. If the proposed amendment consists of a change in zoning district boundaries, it may recommend that the land be rezoned to a different zoning district classification than that requested if, the Commission is of the opinion that such revision is in accord with sound zoning practice and the adopted Comprehensive Plan, is in furtherance of the purposes of this Ordinance and is not more intensive than the advertised/noticed proposed use. Before recommending a larger extent of land or a rezoning to a more intensive classification than was set forth in the application, the Commission shall hold an additional duly noticed public hearing on the matter.

In recommending the approval or denial of any proposed amendment to this Ordinance, the Planning Commission should state its reasons for such recommendation.

Tabling or deferring an application for rezoning on the grounds of inadequate data may be requested by the applicant for a period of no longer than ninety (90) days, after which the application shall be considered to be automatically withdrawn. All costs involved in re-applying and re-advertising shall be paid by the applicant.

**8. Board of Supervisors Review and Action.**

After receiving the report of the Planning Commission, or after the lapse of one hundred (100) days past the initial meeting of the Planning Commission on the application without Commission recommendation, the Board of Supervisors shall hold its own public hearing after notice and advertising required by § 15.2-2204 of the Code of Virginia. The Board may approve the zoning amendment as requested by the applicant, it may deny the amendment, or it may approve a zoning classification of less intensity than that requested, if available in the Ordinance, without holding a new hearing. No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing. The Board of Supervisors must act on the proposed zoning amendment within one year of official acceptance of the application, unless a delay is requested in writing from the applicant and the Board chooses to accept such request.

## **9. Evidentiary Matters Before the Board of Supervisors**

All information, testimony or other evidence presented by an applicant for a zoning amendment shall be presented to the Planning Commission in conjunction with its review and hearing on the application. If the Board of Supervisors determines that an applicant is presenting evidence which is substantially or materially different from that presented to the Commission, the Board may refer the application back to the Commission for such additional consideration and action as the Board may deem appropriate. All costs in re-advertising shall be paid by the applicant.

## **10. Contesting a Decision of the Board of Supervisors**

Every action contesting a decision of the Board of Supervisors for granting or failing to adopt a proposed zoning ordinance or amendment thereto, or granting or failing to grant a special exception shall be filed within thirty (30) days of such decision with the Westmoreland County Circuit Court.

## **11. Criteria for Consideration of Zoning Map Amendments.**

In considering requests for zoning map amendments or text amendments, the Planning Commission and Board of Supervisors should consider, among other issues, the following factors:

- A. whether the rezoning request, if granted, would further the public interest, and whether it conforms with the goals, objectives, and policies of the Comprehensive Plan;
- B. whether the rezoning is consistent with the County's plan for future land use, as identified in the Comprehensive Plan, and established character of the area and land use patterns;
- C. whether the rezoning is justified by changed or changing conditions;
- D. whether the rezoning, if granted, would create an isolated district unrelated to adjacent districts;
- E. whether utility, sewer and water, transportation, school, recreation, stormwater management and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned;
- F. whether the rezoning will be compatible with properties and uses in the vicinity and not have an adverse impact on these properties or their values; and
- G. whether there are adequate sites available elsewhere in the County for the proposed use, or uses, in districts where such uses are already allowed.
- H. whether the impact that the uses that would be permitted if the property were rezoned will have upon the volume of vehicular and pedestrian traffic

and traffic safety in the vicinity and whether the proposed rezoning provides sufficient measures to mitigate such impacts

- I. whether a reasonable and viable economic use of the subject property exists under the current zoning.
- J. whether the effect of the proposed rezoning on environmentally sensitive land or natural features, wildlife habitat, vegetation, water quality and air quality is compatible with the County's Comprehensive Plan.
- K. whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.
- L. whether the proposed rezoning considers the current and future requirements of the community as to land for various purposes, including housing and business, as determined by population and economic studies.
- M. the effect of the proposed rezoning to provide moderate housing by enhancing opportunities for all qualified residents of the County.
- N. the effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.
- O. for an amendment of the text of this Ordinance, the Planning Commission and Board of Supervisors shall also consider whether the proposed text amendment is consistent with the Comprehensive Plan and whether the proposed text amendment is consistent with the intent and purpose of this Ordinance.

## **12. Joint Public Hearing.**

The Board of Supervisors and the Planning Commission may hold a joint public hearing following proper public notice under § 15.2-2204 of the Code of Virginia, as amended.

## **13. Majority Requirement for Change in Ordinance.**

An affirmative vote of at least a majority of the members of the County Board shall be required to adopt, amend, or reenact a zoning ordinance.

## **14. Timing of Application Consideration and Reconsideration**

Proposed amendments shall be considered as soon as feasible, based on the regular schedule of the Planning Commission and the Board of Supervisors meetings and the schedule of newspaper publication relative to public notice.

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

from the time of denial by the County Board of Supervisors, unless this requirement is specifically waived by the Board.

### **10-3.10 Conditional Zoning**

#### **(1) Purpose.**

It is the purpose of this section to provide a more flexible and adaptable zoning method in order to mitigate the impacts of new development and land use through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. As part of a petition to rezone property and amend the official zoning map, the property owner may voluntarily proffer in writing, prior to a public hearing before the Board of Supervisors, certain conditions and restrictions on the use and development of his property in order to mitigate the impacts of the proposed use. Such conditions are in addition to, or modification of, the regulations provided for a particular zone or zoning district by this Ordinance. The Zoning Administrator shall be vested with all necessary authority to administer, interpret and enforce such conditions and restrictions, all in accordance with the terms of §15.2-2296, et seq., of the Code of Virginia, as amended. The provisions of this section shall not be used for the purpose of discrimination in housing.

#### **(2) Conditions as Part of a Rezoning or Amendment to the Zoning Map.**

Any applicant seeking a rezoning may voluntarily proffer reasonable conditions in addition to the regulations provided for the zoning district by this Zoning Ordinance in accordance with the guidelines in paragraph (C) below, provided that:

- (A) The rezoning itself must give rise for the need for the conditions;
- (B) Such conditions shall have a reasonable relation to the rezoning;
- (C) Such conditions may include a cash contribution to Westmoreland County, in accord with the County's adopted Capital Improvements Program;
- (D) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire department or other public facilities not otherwise provided for in the Residential Subdivision Ordinance of Westmoreland County;
- (E) Such conditions shall not include payment for construction of off-site improvements except those provided for in the Residential Subdivision Ordinance of Westmoreland County;
- (F) No condition shall be proffered that is not related to the physical development or physical operation of the property; and



(G) All such conditions shall be in general conformity with and not contrary to the Comprehensive Plan for Westmoreland County.

- (3) Administrative Steps.** Approval of Conditions as part of a rezoning amendment to zoning map. The owner of the property which is the subject of a rezoning request shall, if he elects to obtain conditional zoning, voluntarily proffer in writing such conditions as he deems appropriate at the time of filing an application to rezone the property.
- A) **When Proffers Are Made.** To be considered by the Planning Commission, proffers must be submitted with the application prior to public hearing notification. Proffered conditions made at the Planning Commission meeting shall be forwarded to the County Board prior to the Board's public hearing. The Board of Supervisors may consider additional proffers, deletions and/or amendment to all such conditions provided same have been voluntarily proffered in writing by the owner of the property which is the subject of the rezoning request prior to the public hearing at which the Board of Supervisors renders its decision.
- B) **Contents of Proffers.** For the purpose of this Ordinance, proffered conditions may include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as proffers shall be annotated with the following statement signed by the owner or owners of the subject property: "I (we) hereby voluntarily proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission unless an amendment thereto is mutually agreed upon by the Board of Supervisors, and the undersigned." Proffered conditions shall be signed by all persons having an ownership interest in the property and shall be notarized. Proffered conditions shall contain a statement that the owners voluntarily enter into the proffers contained therein.
- C) **Review and Revision of Proffered Conditions.** Additional conditions may be proffered by the applicant during or subsequent to the public hearing before the Planning Commission, provided however that after proffered conditions are signed and made available for public review and the public hearing before the Board of Supervisors has been advertised (whether or not jointly held with the Planning Commission) no change or modification to any proffered condition shall be approved without a second advertised public hearing thereon.
- D) **Modifications to Proffers.** After the Board of Supervisors' public hearing has been advertised, should additional or modified conditions be proffered by the applicant, which conditions were specifically discussed at the public hearing before the Planning Commission, then a second public hearing need be held only before the County Board before the application and the modified conditions can be reviewed and acted on by the Board of Supervisors.
- E) **Additional Conditions.** Should additional conditions be proffered by the applicant at the time of the public hearing before the Board of

Supervisors, which conditions were not addressed at the public hearing before the Planning Commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the Planning Commission, the application shall be the subject of a second public hearing before both the Planning Commission and the Board of Supervisors, which hearing may be held either separately or jointly.

**(4) Enforcement and Guarantees.** The Zoning Administrator shall be vested with all necessary authority on behalf of the Board of Supervisors of Westmoreland County to administer and enforce conditions attached to a rezoning or amendment to the zoning map, and such authority includes:

- (A) the ordering in writing of the remedy of any noncompliance with such conditions,
- (B) the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and
- (C) requiring a guarantee, satisfactory to the Board of Supervisors, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Zoning Administrator upon submission of satisfactory evidence that construction of such improvements has been completed in whole or in part.

Failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permit, as may be appropriate. Upon approval by the Board of Supervisors, proffered conditions shall become a part of the zoning regulations applicable to the property, and are enforceable under the same provisions for enforcement as all other provisions in this Ordinance.

**(5) Records.** The Zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready Records. The zoning map shall show by an appropriate symbol on the map access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone.

**(6) Petition for Review of Decision.** Any Zoning applicant or any other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of paragraph (D) above may petition the Board of Supervisors for review of the decision of the Zoning Administrator. All such petitions for review shall be filed with the Zoning Administrator and with the County Administrator within thirty days of the date of the decision for which review is sought, and such petitions shall specify the grounds upon which the petitioner is aggrieved.

- (7) **Amendments and Variations of Conditions.** There shall be no amendment or variation to the conditions created pursuant to the provisions of paragraphs (B) and (C) above, until after a public hearing before the Board of Supervisors advertised pursuant to the provisions of § 15.2-2204 of the Code of Virginia, 1950, as amended.
- (8) **Substantial Conformance Required.** Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with the approved zoning and all proffered statements, plans, profiles, elevations, or other demonstrative materials, and no development shall be approved by any County official in the absence of said substantial conformity. For the purpose of this Section, substantial conformity means that conformity which leaves a reasonable margin for adjustment due to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented or proffered by the applicant. Determinations of substantial conformance shall be made by the Zoning Administrator.
- (9) **No Permits Shall Be Issued That Do Not Comply With Proffers.** Failure to meet or comply with any proffered conditions shall be sufficient cause to deny the issuance of any site plan or subdivision approvals, grading permits, zoning permits, building permits, or certificates of occupancy as may be determined appropriate by the Zoning Administrator. In addition to the other penalties appropriate for violations of this Ordinance, failure to meet or comply with any proffered condition shall be sufficient cause to deny the issuance of any development approvals or permits relating to the land area which was the subject of the conditional zoning. To this end, each application for a development approval or permit shall include an affidavit by the applicant that all applicable proffers have or will be complied with as agreed upon at the time of rezoning. The burden shall be on the applicant to verify that proposed development complies with all proffered conditions.
- (2) **Change of Approved Conditions.** Once proffered conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with them, then an application shall be filed for an amendment of the proffered conditions. If the amendment concerns an approved site plan or plan of development, such application shall include the submission requirements for a site development plan set forth in this Ordinance, except that the Planning Director may waive any submission requirement if such requirement is not necessary for an adequate review of the amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application.

#### **10-3.11 Creation of a Planned Industrial Park Zoning District**

- (1) **Procedure.** Section 10.3.9 of this Ordinance sets forth the process to be followed when the zoning district classification of a property or a group of properties is changed. That procedure is to be followed when the zoning district classification of a property or a group of properties is to be changed to

Industrial Planned Unit Development. This section sets forth additional standards, requirements, and considerations to supplement and augment the requirements of Section 10.3.9.

- (2) Required Submittals. In addition to the prerequisites set forth above, and in addition to the submittals required pursuant to section 10.3.9 of this Ordinance, no application for a change in zoning district classification shall be deemed to be complete until the Planning Director finds that each of the items described below are included and complete.

(A) Narrative. The application shall include a written narrative which describes:

- (1) The general nature of the proposed development and the types of uses anticipated;
- (2) The existing conditions and development of the subject property; and
- (3) The nature and extent of the proposed development including, but not limited to all structures to be constructed during the initial development, the quantity and types of roads to be developed, the quantity and types of water, sewer, power, and telecommunications infrastructure to be developed.

(B) Environmental Assessment. The application shall include an environmental assessment which describes: (i) the existence and extent of the following resources on or near the subject property; (ii) the extent and probability to which the ultimate development might impact and will impact these resources; and (iii) measures to be undertaken to minimize and/or avoid such impacts:

- (1) historic and archaeological resources
- (2) threatened and endangered species
- (3) wetlands
- (4) wildlife habitat
- (5) air quality
- (6) water quality
- (7) prime agricultural land
- (8) toxic or hazardous wastes
- (9) noise from operations
- (10) transportation
- (11) water supply
- (12) waste water disposal
- (13) stormwater runoff
- (14) groundwater
- (15) marine resources
- (16) all other relevant environmental resources

(C) Review by Relevant Agencies. In addition to the environmental assessment described above, the applicant shall also advise the following public agencies of the proposed development and afford the agencies a minimum of thirty (30) days to provide written comments.

- 1 U.S. Army Corps of Engineers
- 2 U.S. Fish and Wildlife Service
- 3 Virginia Department of Conservation and Recreation
- 4 Virginia Department of Environmental Quality
- 5 Virginia Department of Historic Resources
- 6 Virginia Marine Resources Commission

(D) Public Impacts. The application shall also identify the public impacts of the proposed development, including the benefits to accrue to the public and the impacts to public services and resources.

1. Economic Development. The application should describe to what extent the proposed development will further the purposes of the County's Overall Economic Development Program, including expanded employment opportunities and an expanded and diversified economic base.
2. Water and Sewer Infrastructure. The application should describe the means of providing water and disposing of wastewater. When the public provision of water and sewer will be required, the application shall indicate that the existing infrastructure and capacity is adequate for the proposed development.
3. Other Public Utilities. The application should identify those public utilities which are available and which are needed for the proposed development. The application should indicate whether or not there currently exists the capacity to serve the proposed development.
4. Transportation. The application should describe and identify the impacts to the existing transportation system. The application should also include written verification from the Virginia Department of Transportation that access from the subject property to public roads can meet the minimum standards required by VDOT for industrial uses.

**(E) Additional Information. The application shall also include the following information.**

1. Ownership. The application shall identify each individual, firm, and/or corporation which has any interest in the title to the subject property(s). Copies of the deed shall also be included. When any corporation has any interest in the title, all officers of the corporation and all shareholders with a greater than ten percent (10%) interest in the corporation shall also be identified.
2. Contracts. Any and all contracts or agreements to convey any portion of the title to the subject property shall be a part of the application. A copy of such contract shall be included with the application. If at any time prior to the action of the Board of Supervisors on the request for the change in zoning district classification, such a contract or agreement is made or agreed to, or altered or amended in any way, then such contract or agreement, or alteration or amendment shall

become a part of the application and shall be immediately added to the application and made public. Any violation of this requirement is hereby deemed to be of a substantial nature and shall be grounds to rescind the change in zoning district classification if approved.

3. Long Term Maintenance and Operation. The application shall describe the institutional framework which is intended to assure the long term maintenance and operation of the facilities.
  4. A preliminary site plan shall be prepared in accordance with Article 9 of this Ordinance and shall be submitted with the application.
  5. Nearby Properties. The application shall include a map which identifies each property which is located in part, or in whole, within one thousand (1000) feet of any property boundary line of the subject property. If and when the application is scheduled for public hearing, the Zoning Administrator shall provide a notice of the public hearings to the applicant. The applicant shall be responsible for sending, by certified mail with return receipt, this notice to each of these property owners. Such notice shall be postmarked twenty one (21) days prior to the date of the first scheduled public hearing. Proof of the mailing of these notices and proof of receipt shall be submitted to the Zoning Administrator at least one business day prior to the first public hearing.
- (4) Public Hearing Before the Planning Commission. Once the Planning Director finds that the application is complete as described in 10-3.11 (2) above, the application will be advertised as required and scheduled for public hearing in accordance with Section 10-3.9 of this Ordinance.
- (A) The Planning Commission shall review the application according to the following criteria.
1. The proposal will provide public benefit by increased employment opportunity or by an increased and diversified economic base, or by other means.
  2. The proposal will not result in undue or unreasonable impacts to adjacent and nearby properties.
  3. Where the proposal will result in impacts to natural resources, such impacts are mitigated.
  4. Existing utilities and public services are adequate in capacity to serve the proposed development.
  5. There will be an institutional framework available to assure the long term maintenance and operation of the facilities.
  6. The proposal meets all other considerations for good planning and zoning.

7. The proposal is in conformance with the Comprehensive Plan.
  - (B) When the Planning Commission completes its review as provided herein, it shall forward the application to the Board of Supervisors with a recommendation.
- (5) Public Hearing Before the Board of Supervisors. The Board of Supervisors shall consider the application for a change in zoning district classification to Industrial Planned Unit Development after receiving a recommendation from the Planning Commission. No such hearing shall be scheduled until and after the Planning Commission shall have voted and made its recommendation to the Board of Supervisors. -The Board of Supervisors shall consider the recommendation from the Planning Commission, and shall review the application based on the seven criteria set forth in paragraph 10-3.11 (4) (A) above.
- (6) Time for Development. Any proposed development for an Industrial Planned Unit Development should generally have three (3) years from the date of approval of the change in zoning district classification to be developed, although it might take a longer time period for an industry to actually locate in the industrial park and to commence operations. Any Industrial Planned Unit Development which fails to be developed in such three year time period may be subject to a change in zoning district classification to a less intensive zoning district as part of a comprehensive plan revision.

#### **10-3.12 Special Exception Permit**

- (1) The location of uses designated as "Special Exception (S/E)" or listed in a zoning district as a "permissible use", shall require a special exception in addition to any required zoning permit. Responsibility for obtaining such a Special Exception permit rests with the owner or owner's agent.
- (2) Special Exceptions may be approved by the Board of Supervisors subject to such conditions as it deems necessary to carry out the intent of this Ordinance, the Comprehensive Plan, and the purposes of zoning as set forth in the Code of Virginia. Only those Special Exception permits that are expressly authorized in a particular zoning district, or elsewhere in this Ordinance may be approved. The Board of Supervisors may approve Special Exception permits subject to conditions on such permits that shall apply to the property or use, regardless of any change in ownership.
- (3) Conditions and Restrictions. In approving a Special Exception Permit, the Board of Supervisors may impose such conditions, safeguards and restrictions as may be necessary to avoid, minimize or mitigate any potentially adverse or injurious effect of such special uses upon other properties in the neighborhood, and to carry out the general purpose and intent of this Ordinance. Conditions and restrictions may include, but are not limited to, those related to fencing, planting or other landscaping, additional setbacks from property lines, location and arrangement of lighting, setting of reasonable time limitations and other reasonable requirements deemed necessary to mitigate the impacts of the use and safeguard the interests of

the public. The Board may require a guarantee or bond to ensure that conditions imposed will be complied with. When a deadline established by a condition requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, the deadline shall remain valid longer than five years if it was valid on January 1, 2009 and as provided in Section 15.2-2209.1, Code of Virginia. All required conditions shall be set out in the documentation approving the Special Exception Permit.

- (4) An application for a special exception under the provisions of this section shall be submitted on forms provided by the Administrator. The applicant will then be issued a temporary sign describing the proposed special exception and will be required to post the sign for public view at a conspicuous position on the property in question. The applicant shall assure that the sign remains so posted for a period of seven (7) days, or such longer period as the Administrator may require, and shall then return the sign to the Administrator with a signed statement attesting to the fact that the sign remained in public view for the required period. The applicant must complete a Westmoreland County, Virginia, Project Information form. Special exception permit applications shall contain the same information as required for zoning amendment applications set forth in Section 10-3.9 of this Ordinance and may be submitted concurrently with a rezoning application.
- (5) The application for such special exceptions shall be referred to the Planning Commission which shall give written notice to the owner or owners, their agent or the occupant of all abutting property and property immediately across the street or road from the property affected, including property in an adjoining Virginia county.

The Planning Commission shall conduct a public hearing advertised pursuant to the provisions of §15.2-2204 of the Code of Virginia, 1950, as amended, and thereafter shall submit its recommendations to the Board of Supervisors. The Board of Supervisors shall also consider this application following public hearing advertised pursuant to the provisions of §15.2-2204 of the Code of Virginia, 1950, as amended.

- (6) Evaluation Criteria; Issues for Consideration. In considering a Special Exception Permit application, the following factors should be considered. The applicant also shall address these factors in its statement of justification:
  - A. Whether the proposed Special Exception Permit is consistent with the Comprehensive Plan.
  - B. Whether the proposed Special Exception Permit will adequately provide for safety from fire hazards and have effective measures of fire control.
  - C. The level and impact of any noise emanating from the site, including that generated by the proposed use, in relation to the uses in the immediate area.
  - D. The glare or light that may be generated by the proposed use in relation to uses in the immediate area.



- E. The proposed location, lighting and type of signs in relation to the proposed use, uses in the area, and the sign requirements of this Ordinance.
- F. The compatibility of the proposed use with other existing or proposed uses in the neighborhood, and adjacent parcels.
- G. The location and area footprint with dimensions (all drawn to scale), nature and height of existing or proposed buildings, structures, walls, and fences on the site and in the neighborhood.
- H. The nature and extent of existing or proposed landscaping, screening and buffering on the site and in the neighborhood.
- I. The timing and phasing of the proposed development and the duration of the proposed use.
- J. Whether the proposed Special Exception Permit will result in the preservation or destruction, loss or damage of any significant topographic or physical, natural, scenic, archaeological or historic feature.
- K. Whether the proposed Special Exception Permit at the specified location will contribute to or promote the welfare or convenience of the public.
- L. The traffic expected to be generated by the proposed use, the adequacy of access roads and the vehicular and pedestrian circulation elements (on and off-site) of the proposed use, all in relation to the public's interest in pedestrian and vehicular safety, efficient traffic movement and access in case of fire or catastrophe.
- M. Whether the proposed use will facilitate orderly and safe road development and transportation.
- N. Whether, in the case of existing structures proposed to be converted to uses requiring a Special Exception Permit, the structures meet all code requirements of the County of Westmoreland.
- O. Whether the proposed Special Exception Permit will be served adequately by essential public facilities, services and utilities.
- P. The effect of the proposed Special Exception Permit on environmentally sensitive land or natural features, wildlife habitat and vegetation, water quality and air quality.
- Q. Whether the proposed Special Exception Permit use will provide desirable employment and enlarge the tax base by encouraging economic development activities consistent with the Comprehensive Plan.
- R. The effect of the proposed Special Exception Permit use in enhancing affordable shelter opportunities for residents of the County.

- S. The location, character, and size of any outdoor storage.
  - T. The proposed use of open space.
  - U. The location of any major floodplain and steep slopes.
  - V. The location and use of any existing non-conforming uses and structures.
  - W. The location and type of any fuel and fuel storage.
  - X. The location and use of any anticipated accessory uses and structures.
  - Y. The area of each proposed use.
  - Z. The proposed days/hours of operation.
  - AA. The location and screening of parking and loading spaces and/or areas.
  - BB. The location and nature of any proposed security features and provisions.
  - CC. The number of employees.
  - DD. The location of any existing and/or proposed adequate on and off-site infrastructure.
  - EE. Any anticipated odors which may be generated by the uses on site.
  - FF. Refuse and service areas.
- (7) No proposed 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, any certificates or permits granted by any governmental agency for the construction of a sewage treatment plant will 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. An application for a special exception for a sewer facility submitted in accordance with the foregoing section will be approved only after the applicant has established the conformance to these conditions.
- (8) For Uses to be Acted Upon by the Board of Supervisors, as listed in Article 2

Upon review of the application and supporting data, the Planning Commission shall make its recommendation to the Board of Supervisors as to whether the application complies with the Special Exception provisions in the particular district and the Comprehensive Plan, including

verification that the use is specifically authorized within the district, and whether it should be approved or denied.

Before submitting its recommendation to Board of Supervisors, the Planning Commission shall hold a public hearing which may be a joint public hearing with the Board, after notice as required by § 15.2-2204 of the Code of Virginia, as amended. Following the public hearing, the Commission shall forward its recommendation to the Board.

(9) Board of Supervisors Review and Hearing.

For those uses that are listed as permissible upon approval by the Board, the Board shall consider the recommendations of the County Planning Commission before granting or denying approval of a Special Exception permit. Before rendering a decision on a particular Special Exception, the Board shall hold a public hearing, which may be a joint public hearing with the Planning Commission, after notice as required by § 15.2-2204 of the Code of Virginia, as amended.

(10) Modifications to the Application or Conditions.

After the Planning Commission has made its recommendation to the Board of Supervisors, should the application be modified, or additional conditions be agreed to or offered by the applicant, then a second public hearing shall be held by the Planning Commission before the modified application can be heard by the County Board. The applicant shall be responsible for paying any additional advertising fees required for a subsequent public hearing before the Planning Commission or the County Board of Supervisors. The Board may still impose reasonable conditions on the applicant, in accord with § 15.2-2286 of the Code of Virginia, as amended.

However, should additional information or modified conditions be submitted by the applicant after the Planning Commission has made its recommendation to the Board, which modifications or conditions were discussed at the public hearing before the Planning Commission, then a second public hearing before the Planning Commission shall not be required.

- (11) Period of Validity. In the event the activity authorized by a special exception issued under the provisions of this ordinance has not begun within 365 days after the date such permit was approved by the Board of Supervisors, such special exception shall be null and void, provided that special exceptions issued prior to April 12, 2006 on which the activity authorized has not begun within 365 days after the date of written notice given by the Zoning Administrator, shall be null and void. Such notification shall be sent to the address shown for the applicant at the time the special exception was issued. The Board of Supervisors, after notice given pursuant to §15.2-2204 of the 1950 Code of Virginia, may extend the special exception up to an additional 365 days; provided however, that no hearing before the Planning Commission shall be required prior to the hearing before the Board of Supervisors. A special exception approval related to a new residential or commercial development shall also remain valid longer than 365 days after

the date such permit was approved by the Board of Supervisors if it was valid on January 1, 2009 and as provided in Section 15.2-2209.1, Code of Virginia. As a condition of approval, a Special Exception Permit may be granted for a specific period of time with expiration of the approval to occur at the termination of a stated period. In such case, an extension may be granted prior to expiration by the original approving body, upon written application, without notice or hearing. After expiration, no extension may be granted without complying with the requirements for an initial application for a Special Exception Permit.

- (12) A petition to amend this ordinance or to obtain a Special Exception, either of which is substantially the same as a petition previously denied by the Board of Supervisors, shall not be accepted for reconsideration by the Board within a twelve-month period following the date of denial.
- (13) Construction Already Commenced. Nothing contained herein shall require any change in the plans or construction of any building or structure subject to a vested right prior to the effective date of this Ordinance.
- (14) When a case is referred to the Board of Supervisors by the Zoning Administrator under the provisions of Article 11 of the Zoning Ordinance, the Board may revoke or amend a Special Exception if the Board determines that there has not been compliance with the terms or conditions of the permit. No Special Exception may be revoked or amended except after notice and hearing as provided by § 15.2-2204 of the Code of Virginia.

### 10-3.13 Variance

1. **Variations Authorized.** The Board of Zoning Appeals may authorize variations from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship; provided, that the spirit of this Ordinance shall be observed and substantial justice done.

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of specific piece of property at the time of effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variations shall be in harmony with the intended spirit and purpose of the Ordinance, the Board may grant a variance to alleviate those conditions, under the terms and procedures provided for herein.

No such variance shall be authorized by the Board unless it finds:

- A). That the strict application of the Ordinance would produce undue hardship;
- B). That such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- C). That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance; and
- D). That the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the Ordinance.

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

**3. Public Hearing Required.** No variance shall be authorized except after notice and hearing as required by §15.2-2204 of the Code of Virginia as amended.

**4. Unauthorized Variances**

- A No variance shall be authorized that would permit the establishment of any use not otherwise permitted in the zoning district under the specific provisions of this Ordinance.
- B No variance shall be authorized that would result in an increase in density from that permitted by the applicable zoning district regulations.
- C No variance shall be authorized that would relate to nonconforming uses.
- D No variance shall be authorized that would reduce the amount of off-street parking space required by Article 5.
- E No variance shall be authorized that would relate to signs.
- F No variance shall be authorized in cases where the applicant, subsequent to the effective date of this Ordinance, has purchased a portion of a larger parcel, which portion has an area or width less than required by the provisions of this Ordinance at the time of such purchase or which portion has unusual physical characteristics, that are set forth as the basis for the application for a variance, which would not exist if such portion had not been detached by such purchase from the larger parcel of which it was a part.

- G No variance shall be authorized that would permit the establishment of any use not otherwise permitted in a floodplain.
- H No variance shall be authorized merely for the purpose of convenience or economic hardship.

## 5. Procedures for Variances

- A. Application for Variance. Pursuant to provisions of this article and §15.2-2309 of the Code of Virginia, as amended, any person seeking a variance from the application of regulations of this chapter, shall first submit his proposal to the Zoning Administrator on a form to be provided by the Zoning Administrator, including therewith satisfactory evidence that any delinquent real estate taxes owed to the county which have been properly assessed against the subject property have been paid, and all plans and information relating to the application required by the Board of Zoning Appeals pursuant to §15.2-2310 of the Code of Virginia. The application shall be transmitted promptly to the secretary of the Board of Zoning Appeals, who shall place the matter on the docket to be acted upon by the board.
- B. Decision on Variance Application. Upon receipt of an application or appeal, the Board of Zoning Appeals shall fix a reasonable time for a hearing of such application or appeal in conformance with §15.2-2204 of the Code of Virginia.

The proposal shall then be advertised pursuant to provisions of §15.2-2204 of the Code of Virginia prior to public hearing by the Board of Zoning Appeals. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board or appear as a party at the hearing.

The Board of Zoning Appeals shall render a decision on any application submitted to it within sixty (60) days after the date of the hearing thereon.
- C. Burden of Applicant. The applicant for a variance shall bear the burden of producing evidence to support the required findings and to establish that the requested variance satisfies all standards for a Variance.
- D. Withdrawal of Application. An application or appeal to the Board of Zoning Appeals may be withdrawn by the applicant or appellant at any time prior to the deadline for cancellation of the newspaper advertisement for the first public hearing. After such deadline, an application or appeal may be withdrawn only with the permission of the Board of Zoning Appeals. An application or appeal which is not withdrawn pursuant to this subsection shall be either granted or denied on its merits.
- E. Re-Application. If any application is denied by the Board of Zoning Appeals on its merits, no application requesting the same relief with respect to all or part of the same property shall be considered by the Board within twelve (12) months after the date of such denial.

**10-3.14 Commission Permit (“2232 Review”)****1. Permit Required**

In accord with the Code of Virginia, §15.2-2232, no street, park or other public area or public structure, public utility, public building or public service corporation facility other than railroads, whether publicly or privately owned, shall be constructed, established or authorized unless and until the general location or approximate location, character and extent thereof has been submitted to and approved by the Planning Commission as being substantially in accord with the adopted comprehensive plan or part thereof.

Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval, unless involving a change in location or extent of a street or public area.

**2. Application**

An application for a commission permit shall be filed with the Zoning Administrator and shall meet the minimum submission requirements as prescribed for a zoning permit in Section 11-3.4.2. and in addition shall include a written statement of justification from the applicant as to why the proposed improvement should be deemed to be in accord with the Comprehensive Plan.

An application is not necessary for features already specifically shown on the Comprehensive Plan, as determined by the Planning Director.

**3. Planning Commission Action**

In connection with any such determination, the Planning Commission may, and at the direction of the Board of Supervisors shall, hold a public hearing, after notice as required by §15.2-2204 of the Code of Virginia.

The Planning Commission shall communicate its findings pursuant to this section to the Board of Supervisors, indicating its approval or disapproval, along with written reasons therefore. Failure of the commission to act within sixty (60) days of submission of an application, unless such time is extended by the Board, shall be deemed approval.

**4. Issuance of Permit; Board of Supervisors Review**

The Zoning Administrator, on behalf of the Planning Commission, shall issue a Commission Permit following approval by the Planning Commission pursuant to this section. The Board of Supervisors may overrule the action of the Commission by a vote of a majority of its membership.

## **5. Appeal of Denial Permit**

The owners or their agents may appeal the decision of the Planning Commission to the Board within ten (10) days after the decision of the Commission. The appeal shall be by written petition to the Board setting forth the complete reasons for the appeal. The appeal shall be heard by the Board of Supervisors within sixty (60) days of its submission. A majority vote of the Board of Supervisors shall overrule the Commission.

### **10-3.15 Appeals to the Board of Zoning Appeals**

#### **1. When Appeals May be Taken**

- A. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the Zoning Administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article or any ordinance adopted pursuant thereto.
- B. Such appeal shall be made within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certified to the Board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise, than by a restraining order granted by the a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

#### **2. Appeal Procedure**

- A. Appeals shall be filed with the Board of Zoning Appeals in care of the Zoning Administrator, who shall provide a copy of the appeal to the secretary of the Board, and a third copy provided to the individual, official, department, or agency concerned, if any.
- B. Appeals requiring an advertised public hearing shall be accompanied by cash payments to the County in accordance with the Fee Schedule as set by County Board by resolution.
- C. Upon receipt of an application or appeal, the Board shall fix a reasonable time for the hearing, give public notice thereof in accord with § 15.2-2204 of the Code of Virginia, as well as due notice to the parties in interest.
- D. The Board shall make its decision within ninety days of the filing of the application or appeal.



- E. In exercising its powers the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the Ordinance or to effect any variance from the Ordinance.
- F. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

### **3. Withdraw of Appeal**

An application or appeal to the Board of Zoning Appeals may be withdrawn by the applicant/appellant at any time prior to the deadline for cancellation of the newspaper advertisement provided for in this article. After such deadline, an application or appeal may be withdrawn only with the permission of the Board. An application or appeal which is not withdrawn pursuant to this subsection shall be either granted or denied on the merits by the Board, either in whole or in part.

### **4. Court Petition**

- A. Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the County may present to the circuit court of the county a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board.
- B. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowances of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.
- C. The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- D. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law,

which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

- E. Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

#### **10-3.16. Zoning Amendment Generally or Conditional Zoning Procedures In tandem with Special Exception Permit**

When an application to rezone property as a Zoning Amendment or as a Conditional Zoning is proposed and the identified future use of the property is permitted with the issuance of a Special Exception, the applicant shall adhere to the requirements and procedures for both the Zoning Amendment or the Conditional Zoning and the Special Exception simultaneously, so that both applications can be considered at the same time.

#### **10-3.17. Additional Governmental Approvals.**

All departments, officials and public employees of the County vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits or licenses for uses, buildings or purposes only when they are in conformance with the provisions of this Ordinance. Any such permit or license, if issued in conflict with the provisions of this Ordinance, shall be null and void.

#### **10-4. Uses Not Permitted or Otherwise Provided for**

If, in a district established under this ordinance, a use is not specifically permitted, it shall not be allowed in that district, unless and until the Zoning Ordinance is amended in accord with the procedures set forth in this Article.

#### **10-5 Structure Maintenance, Demolition and Removal.**

- (1) Unoccupied or burned buildings, unsafe walls, open wells or other structures which endanger the public health or safety shall be repaired, secured or removed to eliminate such condition or prevent such endangerment. Prior to county removal of a building, property owners shall have an opportunity to establish the historical significance of any structure or property. Should such significance be present, the county will assist the property owner in obtaining state or federal listing of its historic status and/or assist in the pursuit of appropriate assistance to restore, rehabilitate or stabilize associated structures.
- (2) The owner of property having structures which endanger the public health or safety or illegally placed manufactured homes shall have reasonable notice and time to perform the necessary work to correct problems noted by the governing body or its agent. Notice shall include 1) certified or registered mail, return receipt requested, sent to last known address of the property owner and 2) publication of violation notice and intent to act once a week for two successive weeks in a newspaper having general circulation in the County. The County may, at its option, remove or secure any unoccupied or burned building, unsafe wall, open well, manufactured

home or any other structure. No action shall be taken by the governing body or agent to remove or secure any unoccupied or burned building, unsafe wall, open well, manufactured home or any other structure for at least thirty (30) days following the later of the return of the receipt or newspaper publication.

- (3) In the event the County, through its own agents or employees, removes or secures any unoccupied or burned building, unsafe wall, open well, manufactured home or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. Every charge authorized by this section, with which the owner of any such property has been assessed and which remains unpaid, shall constitute a lien against such property ranking on parity with liens for unpaid local taxes. The County shall provide advice to the landowner of optional installment methods that can be used to mitigate or repay any such lien.

## **ARTICLE 11 - ENFORCEMENT AND PENALTIES**

### **11-1 Permits required**

It shall constitute a violation of this ordinance for any person, firm or corporation, either owner, agent or occupant, to undertake any changes, modifications or revisions to property which would require a permit under this ordinance without having first obtained such a permit lawfully and in accordance with the procedures and regulations of this ordinance.

Any permit duly issued upon a false statement of any fact which is material to its issuance shall be void and subject to the appropriate penalties as prescribed herein and in accord with any other applicable State and County Code provisions. Whenever the fact of such false statement shall be established to the satisfaction of the Zoning Administrator, the Administrator shall, at the direction of the Board of Supervisors, immediately revoke the permit by notice in writing to be delivered to the holder of the permit upon the premises where the violation occurred. If the permit holder is not present at same premises, the notice of revocation shall be posted conspicuously and in plain view upon the premises. Any person, firm or corporation who shall proceed with work or use relating to the permit without having properly obtained a new permit in accordance with this ordinance shall be deemed to be in violation of this ordinance.

### **11-2 Violations generally**

It shall constitute a violation of this ordinance for any person, firm or corporation, either by owner, agent or occupant, to violate, disobey, neglect or refuse to comply or resist the enforcement of any of the provisions of this ordinance. Each day that such action continues shall be deemed a separate violation and subject to the cumulative penalties of this ordinance.

### **11-3 Penalties**

It shall be unlawful and constitute a misdemeanor for any person, firm or corporation to violate any of the provisions of this ordinance. Any person, firm or corporation that is convicted of a violation of this ordinance shall be punished by a fine of not less than one hundred dollars (\$100.00) for each occurrence. Such fine shall not be charged more frequently than once in any ten-day period and shall not exceed three thousand dollars (\$3000.00) for any series of violations arising from the same operative set of facts. Each failure, refusal to comply, neglect or violation and each day that such violation continues shall constitute a separate offense. Failure to remove or abate a zoning violation within the time period as established by the Court shall constitute a separate punishable offense and any such failure during any succeeding thirty (30) day period shall constitute a separate misdemeanor offense for each successive thirty (30) day period.

Repeated and flagrant violations will be prosecuted and may be subject to criminal penalties as provided by State and/or County Code.

### **11-4 Enforcement authority**

The Zoning Administrator shall have all necessary authority on behalf of the Board of Supervisors to administer and enforce this ordinance including the ordering in writing of the remedying of any condition found in violation of this ordinance and the bringing of legal action in accord with Article 10 of this ordinance and any other applicable State and County Code provisions, to insure compliance with this ordinance including injunction, abatement or other appropriate action or proceeding.

## ARTICLE 12 DEFINITIONS

**12-1 Definitions.** For the purpose of this ordinance, certain words and terms are defined below as referenced in Article 1.3.4.

*Accessory Structure:* A subordinate structure customarily incidental to and located upon the same lot occupied by the main use or building, including, but not limited to, private garage, carport, parking space other than for residential, swimming pool, tennis court, storage or utility building, decks, balconies, porticos, porches and living quarters for household employees or caretakers. Accessory structures can be attached or detached, depending upon their use and construction.

*Accessory Use:* A subordinate use customarily incidental to and located upon the same lot and in the same structure occupied by the main use.

*Acre:* A measure of land equating to 43,560 sq. ft.

*Acreage:* A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

*Aerobic Treatment Unit:* Any mechanical sewage treatment plant, designed to treat sewage from a single family dwelling, or other structure, utilizing the process of extended aeration, or activated sludge.

*Agricultural Lands:* means those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

*Agricultural processing (produce processing):* Processing operations for agricultural products including meat preparation; feed mills; dairy processing; timber processing; and fruit and vegetable packing, sorting and grading, as an accessory use to an agriculture, horticulture or animal husbandry use.

*Agriculture, General:* The use of land for purposes of raising plants and animals useful to humans, including field crops, pasture, fruits, vegetables, floral and greenhouse products, sod, viticulture, silviculture, aquaculture, apiculture, poultry and other fowl, horses and other livestock, including owning, breeding, leasing, training and recreational usage of livestock, and the necessary accessory uses for packing, storing and treating produce, equipment and materials, including primary processing and storage of agricultural goods produced on the premises for distribution to final processing plants and markets; provided, however, that the necessary accessory uses shall be secondary to that of the main agricultural activities. The term does not include processing plants, livestock markets and slaughter houses.

*Agriculture, Intensive (see also "Intensive Agricultural Facility"):* The raising, breeding and keeping of animals in concentrated, confined conditions, which may include such operations as swine, veal, sheep; houses and pens for poultry or other fowl; feed lots for beef, dairy cattle, swine, sheep and other animals; livestock markets and pet farms.

*Agriculture, Limited:* The use of land, not exceeding 2,500 square feet, for raising plants and animals useful to humans, including field crops, fruits, vegetables, floral and greenhouse products,

poultry and other fowl. Limited Agriculture does not include onsite processing or retail sales of products from this use except as may be authorized as a minor or major home occupation. Limited Agriculture does not include the keeping, breeding, leasing, training, and/or recreational use of horses and other livestock onsite. Limited Agriculture includes the use of land for sod production, viticulture, aquaculture, and apiculture, provided that the products of these activities are for personal use. The intent of this definition is to identify Limited Agriculture as a sub-set of agricultural land use that is generally appropriate in lower density residential areas. Land use that meets the definition of Limited Agriculture may be classified as Agriculture or General Agriculture as used within this ordinance and as appropriate, but activity that does not meet this definition shall not be classified as Limited Agriculture.

*Agritourism:* Activity carried out on a farm that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, farm breweries, farm wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. The provision of overnight accommodations may be an accessory to agritourism activity.

*Airport:* A facility for the landing and takeoff of aircraft, together with servicing facilities including service to patrons, from which revenue is derived.

*Airport, Private:* A facility for the landing takeoff and tie down of private aircraft weighing not more than 12,500 pounds (maximum gross weight), from which no flight instruction, charter or rental service is given and from which no revenue is derived; except, that the use of the facility as a temporary base of operations for sprayer and duster aircraft is permitted.

*Alley:* A narrow parcel of land either public or private intended for vehicular traffic which has a minimum width of twenty (20) feet which is designed to give access to the side or rear of properties whose principal frontage is on another street.

*Alternative Sewage Treatment System:* See “sewage treatment system, alternative.”

*Alteration:* Any change, addition, or modification in the total floor area, use, adaptability, or external appearance of an existing structure.

*Amusement Enterprise:* A building or use whose primary purpose is to provide or stage public entertainment for which a charge is imposed, either as an entrance fee, or as separate fees, for the use of amusement devices located on the premises. Buildings used for other legitimate businesses that have amusement devices that are clearly incidental to the operation of the business, shall not be considered amusement enterprises.

*Animal or Poultry Husbandry:* The keeping, boarding, breeding or raising of any number of cattle, sheep, swine, horses, ponies, mules, goats, poultry or other customary farm animals for any purpose.

*Animal hospital:* A facility for the provision of surgical or other medical treatment to animals. Such animals may be kept in the facility during the recovery period or while under medical treatment only.

*Animal unit:* The equivalent of one (1) head of beef cattle. For the purposes of this chapter, the following equal one (1) animal unit: one (1) head of beef cattle; one (1) dairy cow; two (2) calves of less than one-year old; one (1) buffalo; one (1) llama; one (1) horse; one (1) mule; five (5) sheep;

five (5) goats; two (2) swine; two (2) deer; one hundred (100) chickens; fifty (50) turkeys; three (3) ostriches; or one hundred (100) rabbits.

*Apartment House:* (subsumed under revised multi-family definition)

*Assembly Plant:* A structure used for the fitting together of parts or components to form a complete unit.

*Auction Yard:* An approved location or place for the public sale of property, livestock, animals, fowl, vehicles and manufactured items, such as furniture, equipment, and construction equipment that is delivered and sold to the highest bidder. Such sale shall be conducted by a licensed auctioneer.

*Auto Sales and Service:* A place that sells and may service, small motor vehicles such as automobiles, pick-up trucks, all-terrain vehicles, golf carts, motorcycles and the like.

*Automobile Graveyard:* Any outdoor lot or place upon which more than five (5) inoperative motor vehicles are found, placed or located. The term "inoperative" shall include vehicles that are currently inoperative and would not be economically practical to make operative. Such use may include dismantling of automobiles, including the collection and storage of parts for resale, and/or the storage of inoperative automobiles for future salvage or sale.

*Automotive Race Track:* Paved raceway for the purpose of competitive motor vehicle racing on a track in accordance with the rules and requirements of any nationally or internationally recognized organization governing the sport of professional motor vehicle racing.

*Bakery:* An establishment where bread, pastries and other baked goods are made and prepared and, where offered for sale, the products are usually offered in bulk quantity and not for immediate consumption.

*Basement:* That portion of a building which is partly below and above grade and having at least one-half (1/2) its height above grade. A basement is counted as a story of a building. (See also cellar).

*Bed and breakfast homestay:* An owner-occupied single-family dwelling, or portion thereof, where short-term lodging is provided, with or without meals, for compensation. Meals may be provided to lodgers only. Up to five (5) guest rooms may be provided. This definition does not include short-term limited residential lodging (also see "Bed and breakfast inn" and "Country inn").

*Bed and breakfast inn:* A single-family dwelling, or portion thereof, where short-term lodging is provided for compensation. The operator may or may not live on the premises. Meals may be provided to lodgers only. Up to fifteen (15) guest rooms may be provided. This definition does not include short-term limited residential lodging (also see "Bed and breakfast homestay" and "Country inn").

*Berth:* The place where a ship or boat lies at wharf or pier.

*Best Management Practices or "BMPs":* means a practice, or a combination of practices, that is determined by a state or designated area-wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals.

**Biosolids Composting:** Any composting facility that uses biosolids in its operation. "Biosolids" as used herein means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains limited levels of pollutants, such that it is acceptable for use by land application, marketing or distribution in accordance with the Virginia Pollution Abatement Permit Regulation (9VAC25-32) and the Virginia Pollutant Discharge Elimination System Permit Regulation (9VAC25-31). Biosolids Composting as defined herein is not intended to include composting operations at the site of a public or private wastewater treatment plant, where such composting is authorized under the Virginia Sewage Collection and Treatment Regulations (9VAC25-790).

**Blacksmith Shop:** A building usually equipped with a forge, used for the shaping and repair of iron and other metals.

**Board, The:** The Board of Supervisors of Westmoreland County, Virginia.

**Boarding House:** A building where lodging and meals are provided, for compensation, to not less than five (5) and not more than fourteen (14) persons.

**Boat Wharf:** Structure which extends from the land into the water to afford convenient passage for persons to boats along the sides thereof which may include berths for boats.

**Boat Wharf, Commercial:** A berthing facility or wharf that may be operated by a private entity for a fee or revenue generating purposes.

**Boat Wharf, Private:** Non-public berthing facility or wharf from which no revenue is derived.

**Boat Wharf, Public:** A berthing facility or wharf that may be operated by a public entity, with or without a fee.

**Boathouse (Covered Boat Slip):** A covered structure built on pilings or any other method, above tidal waters used for the purpose of storing watercraft.

**Buffer Area:** means an area of natural or established vegetation managed to protect other components of a Resource Protection Area and state waters from significant degradation due to land disturbances. The width of the buffer shall be measured in a horizontal plane.

**Building:** Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or property of any kind.

**Building, Accessory:** A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure.

**Building, Commercial:** Any building used for activities that involve trade, commerce, barter, exchange, manufacture, marketing, repair, assembly, services or business.

**Building, Height of:** The height shall be measured from the average elevation of the ground surface along the front of the building to the top of the roof sheathing of a flat roof or to the mid-point of the pitch of a gable roof (for roofs with multiple gables, the height shall be determined by the highest of the gables).



**Building, Main:** The principal building or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

**Building Setback Line:** (subsumed under setback)

**Bulkhead:** A wall-like structure that may include riprap or sheet piling, constructed to separate land or water and establishing a permanent shoreline or to prevent erosion of soil from wave action.

**Bulk Oil Storage:** The storage of petroleum products in total quantity of not more than 125,000 gallons.

**Business Support Service:** Establishment or place of business engaged in the sale, rental or repair of office equipment, supplies and materials, or the provision of services used by office, professional and service establishments. Typical uses include office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, mail and packaging stores, as well as temporary labor services.

**Camp, Day or Boarding:** A lot, or tract of land operated either as a commercial or non-commercial enterprise in which seasonal facilities are provided for all or any of the following: camping in tents, picnicking, boating, fishing, swimming, outdoor games and sports, and activities incidental and related to the foregoing, but not including golf, golf driving ranges, miniature golf, mechanical amusement devices or permanent housing facilities for guests. Day or Boarding does not mean Recreational Vehicle Park nor Mobile Home Park nor Campground as defined herein. May include uses and structures for the lodging of guests engaged in outdoor recreation activities. Boarding Camp does not mean Mobile Home Park as defined herein.

**Campground:** An area upon which are located sites for two or more travel trailers, campers or other camping facilities for seasonal or temporary recreational occupancy.

**Camper:** A vehicular portable structure mounted on wheels constructed with collapsible, partial side walls of fabric, plastic or other pliable materials for folding compactly while being transported.

**Cannery:** A structure used for the processing and canning of foods.

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

**Caregiver:** An adult who provides care for a mentally or physically impaired person within the Commonwealth of Virginia. A caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom he or she is caring.

**Caretaker's Dwelling:** A secondary, accessory dwelling unit or apartment contained within, or detached from, a principal structure which is (i) used as a residence by a caretaker or watchman, or (ii) inhabited to provide added security to the premises.

**Cellar:** That portion of a building which is partly or completely below grade and having more than one-half (2) its height below grade. A cellar is not counted as a story of a building. (see basement).

**Cemetery:** A graveyard or place for burial of the dead.

*Central Water System:* See Water System, Central.

*Chesapeake Bay Preservation Area or "CBPA":* means any land designated by the Westmoreland County Board of Supervisors pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01, and section 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area. All of the lands of Westmoreland County which are not in a Resource Protection area are in the Resource Management Area, and, consequently, all of the lands in Westmoreland County are in the Chesapeake Bay Preservation Area.

*Child-Care Center:* Child-Care Center as defined by Chapter 10, 63.1-195 of the Code of Virginia, 1950, as amended.

*Church:* Place of worship (church, synagogue, mosque, etc.), an institution which people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" or "place of worship" shall not carry a secular connotation, and shall include buildings in which the religious services of any denomination are held.

*Club:* A group of people associated for a common purpose, usually in an organization that meets regularly. The term includes lodges, fraternities, sororities, veterans' groups, political groups and similar organizations.

*Club Facilities:* The facilities, other than the clubhouse, used by the members of a club to carry out the activities of the club.

*Club House:* A room or building used as a meeting place or social center by the members of a club.

*Cluster Development:* A form of development in which "cluster" lots that are less than the average lot size of the development are clustered together such that most of the original tract is preserved in very large "conservation" lots and/or common open space, suitable for agricultural and/or open space uses.

*Commercial Recreation, Indoor:* Any enclosed or semi-enclosed establishment operated as a commercial enterprise (open to the public for a fee) for the following activities: games and athletics, bowling, billiards or pool, darts, bingo, slot cars, hard and soft courts, miniature golf, golf driving nets, cultural activities, martial arts, archery, roller or ice skating, skateboarding, swimming, and activities incidental to the foregoing.

*Commercial Recreation, Outdoor:* Any outdoor establishment operated as a commercial enterprise (open to the public for a fee) for the following activities: games and athletics, batting and pitching cages, darts, hard and soft courts, miniature golf, radio-controlled vehicles and airplanes, pony rides, waterslides, cultural activities, martial arts, archery, camping, roller or ice skating rinks, skateboarding, picnicking, boating, fishing, swimming, golf driving ranges, and activities incidental to the foregoing, but not including amusement rides, amusement parks, theme parks or automotive race tracks.

*Commission, The:* The Planning Commission of Westmoreland County, Virginia.

*Community Water System:* see Water System, Community.

*Concrete Plants and Distribution:* A structure or area used for the manufacture of concrete and concrete products.

*Conditional Zoning:* As part of classifying land into zoning districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to the regulations provided for a particular zoning district by the zoning ordinance.

*Condominium:* A building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis. An owners association is organized for the purpose of maintaining, administering and operating the common areas and facilities and as further defined in Chapter 4.2 Sections 55-79.41 (f), (g), (h), (i), (j), (n) and (p) of the Code of Virginia, as amended.

*Conservation Area:* Public or private lands, marshes and water courses, the use of which is controlled for their protection or restoration to natural states.

*Construction Footprint:* means the area of all impervious surfaces including, but not limited to, buildings roads and drives, parking area, and sidewalks and the area necessary for construction of such improvements.

*Construction Office, Temporary:* A trailer used as a temporary office during a construction operation. This use includes construction office trailers occupied in conjunction with residential or non-residential development.

*Contractor's Offices and Shops:* Establishments for the installation and servicing of such items as air conditioners, electrical equipment, flooring, heating, painting, plumbing, roofing, tiling and ventilating and establishments for the planting and maintenance of gardens, grounds and yards such as landscape contractors and lawn maintenance services. Such establishment shall not include retail sales to the general public except as a subordinate ancillary activity and display area accessible to the general public shall be limited to the lesser of either ten (10) percent of the gross floor area of the establishment or 1000 square feet.

*Contractor's Storage Yard:* Any site, lot, parcel, tract or place where material, goods, equipment and/or parts used or associated with maintenance, repair and/or a construction operation are kept or stored while awaiting their disposal or usage.

*Convenience Store; convenience service center:* Retail establishment which contains less than 5,000 square feet of gross floor area and which is used for the retail sale of food or food and other items, generally purchased in small quantities but not including the sale of gasoline. Convenience food store is not designated for on-site consumption of the products purchased on the premises, and characterized by the rapid turnover of customers and high traffic/trip generation.

*Conventional Septic System:* See "Septic system."

*Country club:* A land area and buildings containing recreational facilities, club house and normal accessory uses, primarily open to members and their guests for a membership fee, and which may include but are not limited to swimming pools, tennis courts, golf courses, stables and riding facilities, equestrian events but not racetracks; may include overnight accommodations for members and guests and dining facilities which may be for use by members, guests and the general public.

*Country Inn:* Overnight lodging of up to thirty (30) rooms is available and a full-service restaurant may provide meals to guests and the general public (also see "Bed and breakfast inn").

*Country Store:* A single store of not more than two thousand five hundred (2,500) square feet of gross floor area, which offers for sale, primarily, most of the following articles: Bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines and general hardware articles. Does not include sales of gasoline or other fuels.

*Covered Boat Slip:* See Boathouse.

*Dairy:* A commercial creamery established for the manufacture, processing and/or sale of dairy products.

*Density, gross:* The ratio of the total number of lots or dwellings on a tract to the total number of acres within the tract.

*Density, net:* The number of dwelling units per acre of land on site that is devoted to residential buildings and accessory uses within the site including roads and permanent open space, but excluding land devoted to other public facilities, stormwater detention facilities, wetlands, 100-year floodplain, and nonresidential development.

*Development:* means the construction, or substantial alteration, of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

*Diameter at Breast Height or "Dbh":* means the diameter of a tree measured outside the bark at a point 4.5 feet above ground.

*District:* See Zoning District.

*Dock:* an area of inundated land abutted on one, two or three sides by piers, or wharves, for the purpose of boat use, mooring and storage.

*Dock, community:* a pier or wharf providing moorage for pleasure craft and recreational activities for use in common by residents of a certain subdivision or community. Marinas are not considered community docks.

*Dripline:* means a vertical projection to the ground surface from the furthest lateral extent of a tree's leaf canopy.

*Drive-In Facility* (same as "Drive-Through"): Any portion of a building or structure from which customers can receive a service or obtain a product while in their motor vehicle.

*Driveway, Entrance:* That portion of a single lot or parcel of land, which otherwise contains proper road frontage, used for vehicular ingress and egress, to or from a road, for that lot only. At least one side other than the ends of a driveway must adjoin and be an integral part of the single lot or parcel of land which the driveway serves. A driveway shall be a private way and may be of any length, width or construction and need not be platted.

*Dump Heap (Trash Pile):* Any area of one hundred (100) square feet or more lying within one thousand (1,000) feet of a State Highway, residence, dairy barn or food handling establishment

where trash, garbage, or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.

*Dwelling:* Any structure which is designed and used for long-term residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, motels, apartment, trailers and campers.

*Dwelling, Accessory:* A second dwelling unit either in or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the principal dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the principal dwelling.

*Dwelling, Dormitory:* A space in a building, or a building, where group sleeping accommodations are provided for persons not necessarily members of the same family group, in one room or in a series of closely associated rooms. Dormitories may be for farm labor or for non farm purposes, subject to the regulations of Article 2 and Article 4. (also see Group Housing for Farm Labor)

*Dwelling, Manufactured/Mobile:* See "Manufactured Dwelling."

*Dwelling, Modular:* A dwelling constructed within a factory to the same building code standards as for on-site, "stick-built" dwellings, and for which major sections are shipped to the site and assembled on-site.

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

*Dwelling, Single-family:* A residential building containing only one (1) DWELLING UNIT, arranged or designed to be occupied by one (1) family.

*Dwelling, Single family attached:* A group of three (3) or more closely placed, interrelated single family dwelling units which are generally joined to one another by a common party wall, a common floor-ceiling or garage. Each unit shall have its own outside entrance. For the purpose of this Ordinance, dwellings such as semi-detached, garden court, patio house, zero lot line, 'piggyback' townhouse, 'back to back' townhouse and townhouse shall be deemed single family attached dwellings.

*Dwelling, Single family detached:* A single family dwelling unit which is entirely surrounded by open space or yards on the same lot (parcel of record).

*Dwelling, Two-family:* A dwelling unit arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling unit; may also be commonly referred to as a duplex.

*Dwelling Unit:* One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit.

*Engineer:* A civil or professional engineer certified by the Commonwealth of Virginia.

*Engine Repair, Small:* The repair of small motors such as lawn mowers (smaller than 19 hp) chain saws, trimmers, etc., outboard motors (not attached to boats). Such use shall not include the storage of boats whose motors are being repaired.

*Evergreen:* A coniferous or other plant that retains its leaves or needles in all seasons.

*Family:* One (1) or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boardinghouse, tourist home, lodging house, motel or hotel. One (1) or more persons related by blood, marriage, adoption or guardianship, including servants, caregivers, and no more than two (2) roomers or boarders; or a group of not more than four (4) unrelated persons; or residents of a dwelling used as a group home or assisted living facility as provided in 15.2-2291, Code of Virginia. As used in this definition, roomers and boarders are residents of the premises occupying the premises for 30 or more consecutive days.

*Family Day-Care Homes:* Family Day-Care Home means the same as a “family day home” as defined by Section 63.2-100 of the Code of Virginia, 1950 as amended.

*Farm Brewery:* A brewery that operates under a limited brewery license as provided by subsection 2 of Section 4.1-208, Code of Virginia.

*Farm enterprise:* A farm enterprise is one of those economically important and common types of activity at farms in Virginia which have been granted special status under Section 15.2-2288.6, Code of Virginia, provided that the activities are conducted at an agricultural operation. An agricultural operation as used herein means an operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity. Farm enterprises include: (1) agritourism; (2) the sale of agricultural or silvicultural products, or the sale of agricultural-related or silvicultural-related items incidental to the agricultural operation; (3) the preparation, processing, or sale of food products in compliance with subdivisions A 3, 4, and 5 of § 3.2-5130 or related state laws and regulations; and (4) other activities or events that are usual and customary at Virginia farms. -Other examples of a farm enterprise include, but are not limited to, the following: farm tours; petting, feeding and viewing of farm animals; hayrides; annual festivals; crop mazes; animal walks; and horse and pony rides. This definition would not include land application of sludge, sawmills, meat processing plants, slaughterhouses, wood processing and similar.

*Farm machinery repair:* A commercial enterprise for the repair of equipment normally or routinely used on farms and gardens, and related parts, tools and accessories, but not of non-farm equipment or materials.

*Farm machinery sales, rental and service:* An establishment for the sale, rental, and/or service of equipment normally or routinely used on farms and gardens, and related parts, tools and accessories, but not of non-farm equipment or materials.

*Farm Winery:* A winery that operates under a limited brewery license as provided by subsection 2 of Section 4.1-208, Code of Virginia.

*Feed Mill:* A commercial enterprise engaged in the provision of animal feed, which may include storing, processing and milling grain for agricultural use. Ancillary sales of bedding and accessories and farm and garden supplies (such as seed, fencing, hardware, pesticides, and fertilizer) to

agricultural, horticultural, and/or animal husbandry operations, may be permitted if not more than 10% of the floor area or display or storage area utilized for the enterprise is devoted to heavy equipment and machinery.

*Financial Institution:* Any establishment, to include an unmanned bank teller machine(s), where the primary occupation is concerned with State regulated businesses such as banking, savings and loans, loan companies and investment companies; however, for the purpose of this Ordinance, any financial institution having a drive-in window(s) or drive-in unmanned bank teller shall also be subject to the definition of drive-in facility as defined herein.

*Fire and/or rescue station:* Facilities for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles and equipment and housing and feeding of emergency personnel.

*Flag Lot:* (see Lot, Pipestem)

*Flea Market:* A retail business in which separate stalls, booths or spaces are rented from an owner or/and operator to individuals who offer for retail sale new and/or used items and subject to the provisions of Article 4 of this Ordinance.

*Forestry:* The planting, growing and harvesting of trees, but not including sawmilling or other processing of trees or parts thereof.

*Frontage:* The minimum width of a lot measured from one side lot line to the other along a straight line, as measured at the front building setback or from the mean low water line on waterfront lot.)

*Frontage, Waterfront:* The distance measured in a straight line from the two low water mark corner points of the property.

*Funeral Home:* A structure used for human funeral services. A funeral home may contain facilities for the preparation of the dead for burial and the storage of caskets and funeral supplies.

*Garage, Private:* Accessory building designed or used for the storage of private automobiles owned or used by the occupants of the building to which it is accessory.

*Garage, Public:* A building or portion thereof, other than a private garage, designed or used as a business enterprise with a fee or service charge being paid to the owner for renting, selling, or storing motor-driven vehicles.

*General Store:* (subsumed under retail sales establishment)

*Golf Driving Range:* A practice range for hitting golf balls from a common tee-off area, and for purposes of this Zoning Ordinance, not operated in conjunction with a golf course or country club.

*Golf Course:* Any golf course, publicly or privately owned, on which the game of golf is played, including customary accessory uses and buildings.

*Governing Body:* The Board of Supervisors of Westmoreland County, Virginia.

*Grade:* A reference plane representing the average of finished ground level adjoining the building to all exterior walls.

*Grain and Fertilizer Storage, Commercial:* A commercial enterprise engaged in storing grain, animal feed, and fertilizer for agricultural use.

*Group Housing for Farm Labor:* A space in a building, or a building, where group sleeping accommodations are provided in one room or in a series of closely associated rooms, for persons employed as farm laborers, who are not necessarily members of the same family group.

*Health Official, Public:* The head of the Westmoreland County Health Department, or designated deputy.

*Heavy Equipment:* Bulldozers, fork lifts, compactors, paving cutters, backhoes, skid loaders, and any other motorized or similar equipment which is primarily used to perform heavy work activities, and not used to transport passengers, and which do not require or use Department of Motor Vehicle tags; and dump trucks requiring 26,000 pounds gross vehicle weight; and passenger and tour buses, excluding school buses and 16-seat commuter vans; and vans and large pick-up trucks modified for heavy work, all of which are used for off-site income producing purposes. See also, "Vehicle, commercial.

*Highway Engineer:* The Resident Engineer of Westmoreland County, Virginia of the Department of Transportation of Virginia, or designated deputy.

*Historical Area:* An area indicated on the zoning map which is subject to the provisions of the ordinance intended to protect historic features, structures and heritage.

*Home Doctor's Office:* The office and occupational facility of a medical doctor or doctor of dental surgery when (a) such use is conducted within a dwelling which is a bona fide residence of the practitioner, or within a conforming accessory building on the same parcel as the residence, and (b) not more than one other person is employed on the premises in conjunction with the doctor's practice, and (c) there is no outside display of goods or advertising, other than the doctor's nameplate.

*Home Occupation:* A business, profession, occupation or trade conducted for gain or support within a residential building or its accessory buildings by a resident or residents of the dwelling which use is incidental and secondary to the use of the buildings for dwelling purposes and which does not change the residential character of such buildings. Home occupations are grouped into two classes: minor home occupations and major home occupations. Minor home occupations are home occupations that meet the standards in Section 4-3.3 and thus have no or minimal potential impact on nearby properties. Major home occupations are home occupations that do not meet one or more of the standards for minor home occupations and thus may impact nearby properties without appropriate controls as provided in Section 4-3.4.

*Home Professional Office:* The office, studio, or occupational room of a lawyer, architect, or other licensed person when (a) such use is conducted entirely within a dwelling which is a bona fide residence of the practitioner or within a conforming accessory building on the same parcel as the residence, and (b) not more than one other person is employed in the same occupation, and (c) there is no outside display of goods or advertising, other than a nameplate.



*Horizontal drilling:* An oil and gas well drilling process in which the well bore being drilled is not kept vertical but is turned using controlled means along a predetermined path to a particular subsurface target. Horizontal drilling includes directional drilling.

*Hospital:* Any institution receiving in-patients and rendering medical, surgical or obstetrical care, to include general hospitals and specialized institutions in which care is oriented to cardiac, eye, ear, nose, throat, pediatric, orthopedic, skin and cancer and obstetric cases, etc., and as defined by Chapter 5, 32.1-123(1) of the Code of Virginia, 1950 as amended.

*Hospital, Special Care:* (replaced with medical care facility)

*Hotel, motel:* A building or portion thereof or a group of buildings which provide sleeping accommodations in six (6) or more separate units or rooms for transients on a daily, weekly or similar short-term basis, whether such establishment is designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, tourist home or otherwise. A hotel or motel shall be deemed to include any establishment which provides residential living accommodations for transients on a short-term basis, such as an apartment hotel. A hotel or motel may contain one or more eating establishments as a subordinate use, provided that such establishment is located within the principal hotel/motel structure, and meeting rooms and/or conference facilities.

*Impervious Cover:* means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

*Independent Living Facility:* A residential development that is limited to occupancy by elderly persons and/or by persons with handicaps.. Such a facility shall provide: (a) dwelling units with complete kitchen facilities, (b) supportive services, such as meals, personal emergency response systems, recreation and transportation services, and (c) design features, such as wider doorways and hallways, accessible-ready bathrooms and lower light switches.

*Institutional uses or buildings:* Buildings or uses owned and/or operated by private, educational and philanthropic organizations, including museums, art galleries, nature centers, lecture halls, and similar uses where such uses are the principal use of the structure. Offices of philanthropic organizations, private schools, public schools and public libraries are not considered and other similar uses specifically defined herein.

*Intermittent Sand Filter System:* A system designed to treat sewage by causing the sewage to be dosed at preset intervals through a properly designed bed of graded sand media.

*Intensive agriculture facility:* An intensive agriculture facility is any enclosed field, range, pen or building where three hundred (300) or more total animal units are confined or housed for either more than forty-five (45) consecutive days or more than ninety (90) total days in any part of any twelve-month period, and crops, vegetation, forage growth or post-harvest residues are not sustained over any significant portion of such field, range, pen, or building. Any poultry operation containing ten (10) or more animal units in a single enclosed field, range, pen or building, or twenty (20) or more animal units on a single tract.

*Equivalent of 300 animal units:*

- 300 slaughter or feeder cattle

- 750 swine
- 150 horses
- 3,000 sheep or lambs
- 200 mature dairy cattle
- 16,500 turkeys
- 30,000 laying hens or broilers

*Jetties:* Structures generally perpendicular to shore extending through or past the intertidal zone. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift. Jetties also serve to protect channels and inlets from storm waves or cross currents.

*Junk Yard:* The use of any area of land lying within one thousand (1,000) feet of a primary highway and five hundred (500) feet of a secondary highway or the use of more than one thousand (1,000) square feet of land in any location for the storage, keeping or abandonment of scrap metals or other scrap materials. The terms "JUNK YARD" shall include the term "AUTOMOBILE GRAVEYARD" as defined in ' 33.1-348, Code of Virginia.

*Kennel, commercial:* An establishment for keeping, boarding, training, breeding, handling, selling, treating or boarding dogs, cats, or other household pets as a business. Does not include establishments in which the sole function is grooming.

*Kennel, private:* A place prepared to house, board, breed, handle or otherwise keep or care for dogs and cats for enjoyment of the resident owner. However, more than four dogs of six months or greater in age kept upon any lot or premises shall be considered a commercial kennel.

*Laboratory - Pharmaceutical and Medical:* A structure used for the preparation of chemicals and drugs, including scientific experimentation and research thereon.

*Laboratory - Research and Development:* A structure used for scientific study, research and experimentation.

*Landfill, Sanitary:* A disposal facility for solid waste so located, designed and operated that does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water or groundwater, and shall not include hazardous waste, sludge or sewage.

*Landing, Public:* structure providing a place where boats can land people or goods.

*Length/width ratio:* The ratio of the length of a lot to its width, calculated by dividing the lot depth as defined herein, by the lot width as defined herein.

*Library:* Structure, either publicly or privately owned, used for collection and storage of books, periodicals, and similar materials, and providing facilities for reading, research and/or borrowing of the collected materials.

*Livestock:* All horses and animals of the equine species, all cattle and animals of bovine species, all hogs or animals of the porcine species, all sheep and animals of the ovine species, all goats or animals of the caprine species, and any other grazing animals such as llamas or alpacas kept for food, fiber, work, or other productive purpose. This definition is not intended to include animals which are kept as pets and kept within the residence.

*Livestock Market:* A commercial establishment wherein livestock is collected and sold.

*Lot:* A single parcel of land undivided by a public waterway or road.

*Lot, cluster development:* A lot within a cluster development that is smaller than the average lot size of the development, so as to allow a majority of the tract to be preserved in conservation lots and/or open space.

*Lot, cluster conservation:* A lot within a cluster development that is larger than the average lot size of the development and is preserved for agricultural and/or open space uses.

*Lot, Corner:* A lot abutting on two or more streets at their intersection. The yards abutting the streets shall both be treated as front yards; the other two yards shall be treated as side yards.

*Lot Coverage:* (see impervious cover).

*Lot, Depth of:* The average horizontal distance between the front and rear lot lines.

*Lot, Double Frontage:* An interior lot having frontage on two streets; a through-lot.

*Lot, Flag:* (see Lot, Pipestem)

*Lot, Interior:* Any lot other than a corner lot.

*Lot Line, Common:* A boundary line between two parcels of land of different ownership.

*Lot, Pipestem:* A lot that does not meet the required frontage at the setback line, due to being configured with a narrow panhandle or pipestem portion forming an access corridor to the bulk of the lot which is located behind the bulk of other lots or parcels. (may also be referred to as a flag lot.) Must be created in accord with the requirements of Article 4.

*Lot, Through:* A lot that has road frontage at both the front and rear lot lines; a double-front lot.

*Lot of Record:* A lot, a plat or description of which has been recorded in the Clerk's office at the Circuit Court.

*Machine Shop:* A business in which metal objects are processed, reduced, or finished by turning, shaping, planning, or milling by machine-operated tools.

*Manufacture and/or Manufacturing:* The processing and/or converting of raw, unfinished materials or products, or either of them, into articles or substances of different character for use for a different purpose. Accessory uses may include offices, in some instances eating facilities for employees, outdoor storage associated with the use, repair facilities, and caretaker's quarters.

*Manufactured/Mobile Home:* A structure which is transportable in one or more sections; is 8 body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single family dwelling, with or without permanent utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. The term mobile/manufactured home" as defined and used in this ordinance shall include and apply to Class A, Class B and Class

C manufactured homes as defined by the National Manufactured Housing Construction and Safety Standards Act.

Manufactured home, Class A: A multisectional manufactured home constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. Manufactured homes are also commonly referred to as "mobile homes" and differ from "modular homes" as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

Manufactured home, Class B: A traditional single section manufactured home constructed after July 1, 1976, that meets or exceeds the Manufactured Home Construction and Safety Standards, promulgated by the U.S. Department of Housing and Urban Development. Manufactured homes are also commonly referred to as "mobile homes" and differ from "modular homes" as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

Manufactured home, Class C: A manufactured home constructed before July 1, 1976, and consequently does not meet the criteria of a Class A or Class B manufactured home. Manufactured homes are also commonly referred to as "mobile homes" and differ from "modular homes" as defined herein, in that they do not necessarily comply with BOCA or Virginia Uniform Statewide Building Code standards.

*Manufactured Home, Sales and Service:* The use of any structure or land area for the display and sale and/or rental of new or used manufactured homes automobiles, and including any warranty repair work and other manufactures home services conducted as an accessory use.

*Marina, Commercial or Club Type:* Boating facilities designed and operated for profit, or operated by any club or organized group, where hull and engine repairs, boat and accessory sales, packaged food sales, restaurants, personal services, fueling facilities, storage and overnight guest facilities or any combination of these are provided.

*Marina, Private Noncommercial:* A marina designed and intended to be used for mooring of boats by residents of the general neighborhood with no commercial facilities other than those necessary for minor servicing and repairs.

*Medical Care Facility:* Any institution, place, building, or agency, whether or not licensed or required to be licensed by the State Board of Health or the State Hospital Board, by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two (2) or more non-related mentally or physically sick or injured persons, or for the care of two (2) or more non-related persons requiring or receiving medical, surgical or nursing attention or service as acute, chronic, convalescent, aged, physically disabled, or crippled; including but not limited to general hospitals, sanatorium, sanitarium, assisted living facility, nursing home, intermediate care facility, extended care facility, mental hospital, mental retardation facility, medical schools and other related institutions and facilities, whether operated for profit or nonprofit, and whether privately owned or operated by a local government unit. This term shall not include a physician's office, first aid station for emergency medical or surgical treatment, medical laboratory,

*Mentally or Physically Impaired Person:* A person who is a resident of Virginia and who requires assistance with two or more activities of daily living, as defined in Section 63.2-2200, Code of

Virginia, as certified in a writing provided by a physician licensed by the Commonwealth of Virginia.

*Mezzanine:* An intermediate level between the floor and ceiling of any story, and covering not more than thirty-three percent (33%) of the floor area of the room in which it is located.

*Minimum Lot Area:* The area of the minimum lot size permitted for any development or subdivision of land in the Zoning Districts set forth in Article III - Dimensional Requirements of the Zoning Ordinance. The specified minimum lot area is the minimum area required for each residential structure or for each family unit in a multi-family structure and is exclusive of all rights-of-way or other easements, except for easements for utilities used solely for the benefit of such specific lot and utility and drainage easements which lies entirely within the area of such lot between the lot boundary lines and the building setback lines applicable to such lot.

*Mobile/Manufactured Home Park:* Any site, lot, parcel or tract of land which is improved, used or intended to provide a location for the accommodation of two or more manufactured homes which are used for living purposes, regardless of whether or not a charge is made for such accommodations.

*Museum:* Facility used for the primary purpose of displaying artifacts, art work, historical documents, photographs, costumes, and other natural or man-made objects. The facility may include accessory meeting rooms and lecture halls.

*Nonconforming Activity:* The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located.

*Nonconforming Lot:* An otherwise legally platted lot that does not conform to the minimum requirements of the ordinance for the district in which it is located.

*Nonconforming Structure:* An otherwise legal building or structure that does not conform to the use regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance, for the district in which it is located.

*Nonpoint Source Pollution:* means pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and use.

*Nontidal Wetlands:* means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U. S. Environmental Protection Agency pursuant to section 404 of the Federal Clean Water Act, in 33 C. F. R. 328.3b, dated November 13, 1986.

*Noxious Weeds:* means weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and multiflora rose.

*Nursery, horticultural production:* A commercial establishment in which nursery stock is grown and propagated for wholesale distribution to retail centers or large users.

*Nursery, retail:* A commercial establishment for the retail sale of nursery stock, garden equipment, tools, seeds and supplies.

*Nursery, wholesale:* A commercial establishment for the wholesale sale of nursery stock, garden equipment, tools, seeds and supplies.

*Nursing Homes:* Nursing Homes as defined by Chapter 5, ' 32.1-123(2) of the Code of Virginia, 1950 as amended, for the purposes of this ordinance, considered a medical care facility.

*Office, administrative, professional and business:* A building, room or group of rooms used for conducting the affairs of a business, profession, services or government. For the purpose of this Zoning Ordinance, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing or repair of materials, goods or products.

*Office, medical:* The use of space by individuals licensed in the Commonwealth of Virginia to practice medicine, osteopathy, dentistry, chiropractic, podiatry, psychiatry, clinical psychology or other health-related professions on an outpatient basis. The professional services provided in the medical office space are for the occupant's own patients and not for patients of unrelated outside practitioners. A medical office shall not be deemed to include a veterinary clinic.

*Off-street Parking Area:* Space provided for vehicular parking outside the dedicated street right-of-way.

*Oil and Gas Well Drilling:* Boring or drilling into the earth for the purpose of finding or extracting oil or natural gas resources, the extraction of those resources, and all related activities and development. This includes, but is not limited to, the drilling and facility location; facilities, operations, and any on-site processing or storage; transportation; and the closure and restoration of the site. This activity is not considered or allowed as a temporary use, even though the use is expected to be terminated at some point; and it is not considered as part of a public utility or public utility facility, even if owned, operated, and/or connected to a public utility.

*Parcel:* An area of land, legally recorded in the County Clerk's office as a separate unit of land for purposes of ownership, taxation and other such matters.

*Parent Tract:* Any lot or contiguous lots of record existing as contiguous lots on the effective date of this amended Ordinance.

*Park:* A public area reserved for natural or artificial landscaping, which may include recreational facilities and structures.

*Parking Area/Lot:* Surface facility, other than a street or alley, used for parking automobiles, other passenger vehicles or trucks, but not for storage of such vehicles.

*Party Lot Line:* (replaced with lot line, common)

*Pawnbrokers Shop:* A place of business of any person authorized by the Circuit Court for Westmoreland County, and licensed by the Commissioner of the Revenue for Westmoreland County to engage in the business of a Pawnbroker as defined by the Code of Virginia, ' 54.1-4000 et. seq.

*Pen:* A small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop. Enclosed pasture or range with an area in excess of one hundred (100) square feet for each hog or small animal or two hundred (200) square feet for each larger animal shall not be regarded as a pen.

*Personal Service Establishment:* Any service wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. For the purpose of this Zoning Ordinance, personal service establishments shall include, but need not be limited to, barber shops, beauty parlors, pet grooming establishments, laundering, cleaning and other garment servicing establishments, tailors, dressmaking shops, shoe cleaning or repair shops, and other similar places of business: services, personal do not include dry cleaning plants or laundries solely devoted to cleaning, processing, etc., or linen or diaper service establishments. Personal service establishments shall not include offices of physicians, dentists, and veterinarians, garment cleaning establishments where there is on-site cleaning of garments, or linen or diaper cleaning service establishments.

*Pier:* A structure on the land that extends into the water for recreational purposes.

*Pipestem Lot:* (see Lot, Pipestem).

*Place of Worship* (church, synagogue, mosque, etc): An institution which people regularly attend to participate in or hold religious services, meetings and other activities. The term "place of worship" shall not carry a secular connotation, and shall include buildings in which the religious services of any denomination are held.

*Plan of Development:* means the process for site plan or subdivision plat review to ensure compliance with '10.1-2109 of the Code of Virginia and this Article, prior to any clearing or grading of a site or the issuance of a building permit.

*Plat:* The schematic representation of land divided or to be divided.

*Playground:* An area of land where recreational equipment for children is installed out of doors.

*Post Office:* Retail sales or business services establishment, owned or operated by the United States Postal Service, to facilitate the transmittal and receipt of letter, bulk, and package mail. Establishments offering transmittal of mail and packages, and packaging services that are owned and operated by private entities, excluding large scale processing and distribution centers, shall be considered business service establishments.

*Potable Water:* Water fit for human consumption and domestic use.

*Precious Metals Dealer's Shop:* The place of business of any person permitted by the Sheriff of Westmoreland County to engage in the business of a Dealer in Precious Metals and Gems as defined in Chapter 12, Precious Metals and Gems, of the Code of Westmoreland County.

*Preserve:* An area maintained for the protection of wildlife or natural resources.

*Printing Plant:* A commercial/light industrial use devoted to printing or bookbinding, including related large-scale storage and transshipment.

*Property:* A parcel, lot or acreage of land as defined herein.

*Public Sewer System:* Includes "wastewater treatment plant, public" and "wastewater system trunk lines, public."

*Public Use:* Any area, building or structure held, used or controlled exclusively for public purposes by any department or branch of the Federal Government, Commonwealth of Virginia, or the Westmoreland County government under the direct authority of the Board of Supervisors, or the Westmoreland County School Board without reference to the ownership of the building or structures or the realty upon which it is situated.

*Public Utility:* A business or service having an appropriate franchise from the State, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need such as electricity, gas, water, transportation or communications and As defined in ' 56-265.1 of the Code of Virginia, 1950, as amended.

*Public utility trunk lines, other, and system components (gas, electric):* major distribution lines that serve neighborhoods, districts, large sites or multiple sites as opposed to smaller lines that provide individual service connections.

*Public utility trunk lines, water or wastewater:* see “utility trunk lines, water or wastewater, public”

*Public Wastewater Treatment Plant:* see “wastewater treatment plant, public”

*Public Water Treatment Plant:* see “water treatment plant, public”

*Recirculating Sand Filter System:* A system which treats sewage effluent by repeatedly passing the sewage through a pump chamber and sand filter to achieve alternating wetting and drying cycles.

*Recreational use, Active:* Intensive play or athletic activity involving individual or group participation in games, sports or other activity. Includes such activities as baseball, basketball, tennis, soccer, golf, swimming, riding and other activities involving physical exertion. May be private, public or commercial in nature.

*Recreational use, passive:* Recreational uses (such as hiking, nature observation, and picnicking) not requiring constructed facilities, but making use of areas which are largely left in their natural state except for basic facilities as bathrooms, benches, picnic tables, and trails.

*Recycling Collection Point:* A facility used for the purpose of collecting household waste materials suitable for recycling for holding until transfer to a storage site or processing facility.

*Redevelopment:* means the process of developing land that is or has been previously developed or used within the past (20) years from the date of adoption of this Article. Land or improvements which have been in disuse for more than said twenty (20) year period shall not be deemed previously developed.

*Required Open Space:* Land used for lawns, decorative plantings, walkways, yard area, recreation, resource protection, amenity and/or buffers as required in any front, side or rear yard. In no event shall any area of a lot constituting the minimum lot area of said lot nor any part of an existing or future road or right-of-way be counted as constituting open space.

*Restaurant:* An establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers. Customers are provided with an individual menu and are served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are



consumed. Customers are not expected to clear their table or dispose of their trash. Notwithstanding the above, a cafeteria where food, frozen desserts, or beverages are: (a) generally consumed within the establishment; and (b) served on non-disposable plates or containers, and non-disposable eating utensils are provided shall be deemed an eating establishment. An eating establishment may provide a carry-out service, provided that such carry-out service is clearly not the principal business of such establishment.

*Restaurant, Carry-Out:* An establishment that provides prepared food for pick-up by the customer or delivery by the restaurant employees, but not eat-in facilities.

*Restaurant, Drive-Through:* An establishment that delivers prepared food, beverages, and/or desserts to customers in motor vehicles, regardless of whether or not it also serves customers who are not in motor vehicles, for consumption on or off the premises.

*Restaurant, Fast Food:* An establishment whose principal business is the sale of pre-prepared or rapidly prepared food, beverages, and/or desserts directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

*Resource Extraction:* A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use type shall be grading and removal of dirt associated with an approved site plan or subdivision, or excavations associated with, and for the improvement of, a bona fide agricultural use.

*Resource Management Area or "RMA":* means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMAs include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area. The Resource Management Area of Westmoreland County consists of all the lands in Westmoreland County which are not in the Resource Protection Area.

*Resource Protection Area or "RPA":* that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters.

*Retail Sales Establishment:* Any use wherein the primary occupation is the sale of merchandise in small quantities, in broken lots or parcels, not in bulk, for use or consumption by the immediate purchaser. For the purpose of this Zoning Ordinance, retail uses shall not be deemed to include vehicle sale, rental and/or service, manufactured home rental and/or service or convenience retail.

*Retaining Wall:* A wall built to support or prevent the advance of a mass of earth or water.

*Road:* A highway, street, avenue, boulevard, road, lane or other undefined way. When used with the adjective "private", the word shall mean a public way.

*Road, Dead End:* A road with only one outlet and having one end permanently closed with an appropriate turn-around at the closed end for safety and convenient reverse traffic movement.

*Road, Public:* a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (§10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed and maintained, or both, by Westmoreland County in accordance with the standards of Westmoreland County.

*Sales Office, temporary:* A building in a recorded subdivision used as an office for the sale of property or homes in such subdivision.

*Sawmill:* An operation consisting of machinery and equipment used for the purpose of sawing logs into lumber, either finished or unfinished, which may include planning, milling or other processing of wood into lumber and may include pertinent processing and storage areas for raw materials and/or finished wood products, provided that no sawdust, slabs and/or shavings shall be deposited any closer than 300 feet from any public road.

*Sawmill, Permanent:* A sawmill, as defined herein, which is intended to remain on same lot or parcel of land with logs, or other raw material to be processed, brought to the site from other locations.

*Sawmill, Portable or Temporary:* A sawmill, as defined herein, which is erected or placed on a lot or parcel of land for a limited period for the purpose of sawing and otherwise processing logs which are cut from trees on or in the near vicinity of the lot or parcel of land on which the sawmill is located, provided that in the event logs are brought to a portable or temporary sawmill for processing, which logs are not from trees growing on or in the near vicinity of the lot or parcel of land on which the sawmill is located, the sawmill shall become a permanent sawmill.

*School, Commercial or special Instruction:* A school primarily devoted to giving instruction in professional, musical, dramatic, artistic, scientific or other special subjects, exclusive of a conventional primary or secondary curriculum.

*School, General Education (non-public):* A parochial or private school giving regular instruction during a normal school year.

*School, Elementary:* An educational institution devoted to teaching not more than grades pre-school through sixth.

*School, Middle:* An educational institution devoted to teaching not more than grades six through nine.

*School, High:* An educational institution devoted to teaching not more than grades eight through twelve.

*School, Public:* An educational institution operated by a duly constituted governmental entity.

*School, Technical:* A school which primarily provides instruction to adults in vocational skills.

*Seafood Facility - Non-processing:* A facility at which any form of fish, including shellfish, is received and handled for the purpose of sale, resale or transfer without processing as set forth herein for a seafood processing facility; provided that the facility is operated as a business, whether

or not for profit. The act of icing or holding in a refrigerated area and/or boxing or crating for shipment shall not be considered processing at such a facility. The manufacture of fertilizer, fish meal, fish oil or other commercial products shall not be included in this category.

*Seafood Facility - Processing:* A facility at which fish, including shellfish, is received and modified or changed in some manner such as, but not limited to, cooking, cleaning and/or filleting fish; shucking oysters, clams or other shellfish; cooking and/or picking crabs; holding crabs in tanks for purpose of peeling or shedding for soft shell crabs; and holding, growing and/or desliming of eels; provided that the facility is operated as a business, whether or not for profit. Processing such products solely for the personal use of the operator and/or his immediate family and others who are part of his household is authorized in any district without a zoning permit. The manufacture of fertilizer, fish meal, fish oil or other commercial products shall not be included in this category.

*Seawall:* An embankment to prevent erosion of a shoreline.

*Secured:* For the purposes of Section 6-19, secured is defined as minimal steps taken by a property owner or the county to impede trespass or inappropriate access.

*Self Storage Facility:* A structure or structures consisting of individual, self-contained storage spaces which may be owned, leased or rented to individuals.

*Septic System:* A “conventional” sewage disposal system consisting of a septic tank, distribution box, drain field and related piping approved by the Health Department. This category specifically includes conventional septic tank disposal systems, including remote drainfields, pump systems, and low pressure distribution systems including systems such as elevated sand mounds and peat moss filter (e.g. puraflo) systems.

*Service Station:* Buildings and premises where the primary use is the supply and dispensing of retail motor fuels, lubricants, batteries, tires, motor vehicle accessories, and/or light maintenance activities, performed within an enclosed building, such as engine tune-ups, lubrication, and minor or emergency repairs. This definition does not include heavy automobile maintenance activities such as engine overhauls, automobile painting, and body or fender work.

*Service Station/Mini-mart:* Building and premises for a combination service station and retail sales of food and other items, with the building area limited to a maximum gross floor area of 2500 square feet, excluding any automotive service or repair areas. A service station with retail sales of food and/or other items in excess of 2500 square feet of gross floor area, exclusive of automotive service or repair areas, shall be deemed a service station and convenience store.

*Setback:* The minimum distance by which any building or structure must be separated from the lot lines or from the mean low water line on waterfront lots.

*Sewage:* Water-carried and non-water-carried human excrement, kitchen, laundry, shower, bath, or lavatory wastes separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

*Sewage Treatment Works:* Any device or system used in the collection, storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power, and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for

the ultimate disposal of residues or effluent resulting from such treatment, except that the term shall not include the piping and fixtures within the building from which such sewage is collected.

*Sewage treatment system, alternative:* "Alternative discharging sewage treatment system" or "discharging system" means any device or system which results in a point source discharge of treated sewage for which the Virginia Department of Health may issue a permit authorizing construction and operation when such system is regulated by the SWCB pursuant to a general VPDES permit issued for an individual single family dwelling with flows less than or equal to 1,000 gallons per day on a yearly average. Such a system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all weather stream, an intermittent stream, a dry ditch, or other location approved by the department. In addition, alternative systems include all sewage treatment works which serve a single family dwelling or dwellings and which do not utilize conventional subsurface soil absorption for the treatment and disposal of sewage effluent, as defined herein, and which may be permitted subject to special exception approval where permitted by Article 2. Such systems shall include but not be limited to spray irrigation systems and other systems intended to serve single family dwellings which are permitted pursuant to current regulations of the Virginia Department of Health, a Virginia Pollution Discharge Elimination System (VPDES) Permit issued by the Virginia Department of Environmental Quality, or a Virginia Pollution Abatement Certificate issued by the Virginia Department of Environmental Quality.

*Short-term Lodging:* The provision of lodging for fewer than 30 consecutive days. May also be referred to as overnight lodging or transient lodging.

*Short-term Limited Residential Lodging:* The accessory or secondary use of a residential dwelling unit or a portion thereof by the primary resident to provide room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy, provided only that (i) the primary use of the residential dwelling unit shall remain residential, (ii) any applicable taxes required to be collected and remitted by state and local law for each booking transaction are collected and remitted by a registered hosting platform pursuant to the provisions of the Limited Residential Lodging Act or directly by the limited residential lodging operator, and (iii) such accessory or secondary use does not regularly include simultaneous occupancy by more than one party under separate contracts. As used in this definition, the "primary resident" is either (i) the owner of the residential dwelling unit who occupies the dwelling unit as his principal place of residence and domicile or (ii) a tenant who has lived in the residential dwelling unit for at least 60 days and who treats the residential dwelling unit as his principal place of residence and domicile. This definition is intended to implement the Limited Residential Lodging Act and shall be interpreted consistent with that act.

*Sign:* As defined in ' 33.1-351 of the Code of Virginia, as amended.

*Sign, Advertising:* Any sign calling attention to a product, commodity, service or event other than a business sign, as herein defined.

*Sign Area:* (a) The area of a free-standing or attached sign shall be determined from its outside measurements, excluding as a part thereof, the height and overall width of supports and supporting structure and any other portion or portions thereof, outside the normal area upon which an advertisement is posted or intended to be posted. (b) The area of a sign displayed on a building or structure surface, other than a free-standing sign, shall be the area included within the highest and lowest points and the widest points on each side of the elements constituting the sign.

*Sign, Attached:* A sign attached to a building or structure by the sign support mechanism, with no support for the sign support mechanism other than the building or structure to which the sign is attached.

*Sign, Business:* An on-premises sign designating the type of business conducted in generic terms, such as restaurant, bowling, motel or auto sales and services; such sign may also include the name of the proprietor. An on-premises sign advertising a brand name product manufactured, packaged, refined or stored exclusive of other products, except those of the same manufacturer. An on-premises sign advertising a brand name product, the sale, service or storage of which constitutes the primary use of the premises.

*Sign, Combination:* Any sign which combines two or more types of signs as herein defined.

*Sign, Directional:* An off-premises sign, one end of which may be pointed, or on which an arrow may be painted, indicating the direction and/or distance to a location or establishment and containing no other advertising.

*Sign, Free-standing:* A sign standing either entirely apart from or partially fastened to a building or structure which sign is supported by the sign support mechanism.

*Sign, Home Occupation:* An on-premises sign which directs attention to a bona fide, authorized home occupation as defined in this ordinance.

*Sign, Noncommercial and Public Service:* Any sign devoted to religious, charitable, cultural, governmental or educational messages, including but not limited to the advertising of events sponsored by a governmental agency, school, church, civic or fraternal organization, or other organizations not engaged in activities for profit. This definition shall apply to outdoor church bulletin boards.

*Sign, Off-premises:* A sign which directs attention to: (1) any activity not conducted on, or (2) any matter not related to the premises upon which the sign is located.

*Sign, On-premises:* A sign which directs attention to: (1) any activity conducted on, or (2) any matter related to the premises, including any rights-of-way thereto, upon which the sign is located.

*Sign Support Mechanism:* The supports; uprights, bracing and framework of any sign or billboard, whether single-faced, double faced, V-type or otherwise.

*Sign, Surface Mounted:* A sign which uses no separate sign support mechanism but is fastened directly to a building or structure. Such sign may use its own sign surface or be painted, stenciled, or otherwise applied directly to the surface of a building or structure.

*Sign, Temporary Message:* A sign on a permanent support structure which applies to an activity of short duration or a fixed period of time such as, but not limited to, horse shows, auctions, elections and sales of land and property.

*Sign, Temporary Structure:* A sign, including the sign information portion and the support mechanism, which is intended to remain in place for a specified period of time of short duration.

*Site Plan:* The proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of

development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

*Solid Waste Collection Point, Transfer Station:* A facility at which household waste and/or recyclable materials are deposited, not including hazardous waste, construction debris or other such materials that require special handling.

*Specialty shop:* A business of a local nature selling specialty items including, but not limited to, items such as crafts, sewing supplies, antiques, and souvenirs.

*Stone Works:* Commercial or industrial stone quarries or operations involving removal from a site of natural accumulations of sand, rock, soil or gravel. The meaning of "stone quarrying", includes appurtenant structures such as crushers, screeners, and washers and also includes, as an accessory use, retail sales of stone products, but does not include any other industrial use, such as concrete batching plants or asphalt mixing plants.

*Storage Yard, Lumber and Coal:* The use of any space, whether inside or outside a building, for the storage of lumber, coal or fuel supplies.

*Story:* That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

*Story, Half:* A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished for use.

*Street Line:* The dividing line between a street or road right-of-way and the contiguous property.

*Street or Road:* See "Road."

*Structure:* Anything constructed or erected, the use of which requires either permanent location on the ground or attachment to something having permanent location on the ground, driveways, fences, gates, gateway structures, roads and sidewalks are not included in the term structure as used in this ordinance.

*Subaqueous Beds:* Any land submerged under waters including private and/or public waters.

*Subdivision Sales Office:* A building in a recorded subdivision used as an office for the sale of property in such subdivision.

*Subsurface Soil Absorption:* A process which utilizes the soil to treat and dispose of sewage effluent.

*Surveyor:* A land surveyor certified by the Commonwealth of Virginia.

*Swimming Pool, public and private:* A structure, often a concrete-lined excavation of rectangular shape that is filled with water and used for swimming.

*Telecommunications Use and/or Structure:* A use provided by or a structure utilized by a public service utility or commercial public telecommunications service under the jurisdiction of the Virginia State Corporation Commission and/or licensed by the Federal Communications Commission to

provide commercial public telecommunications services. A telecommunications structure may include a tower, monopole, and other antenna support structure or equipment buildings. Telecommunications use and/or structure does not include non-commercial applications, such as amateur radio operations. Telecommunications use and/or structure does not include those uses or structures that are accessory to and solely used by an individual business.

*Antenna:* Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels and microwave dishes, and omni-directional antennas, such as whips and satellite dishes, but not including satellite earth stations.

*Monopole:* A single, self-supporting pole-type structure, tapering from base to top and supporting a fixture designed to hold one or more antennas. For the purpose of this Ordinance, a monopole shall not be deemed to be a transmission tower.

*Transmission Tower:* A lattice-type structure, guyed or self-supporting, used to support antennas. Also called a communication, telecommunication or radio tower.

*Telecommunication facility, freestanding:* A structure that stands alone for the sole purpose of supporting antennas, dishes and other such telecommunications equipment.

*Telecommunication facility, attached:* A structure or building whose main purpose is to support or house other uses, and to which antennas, dishes and other such telecommunications equipment is attached so as to avoid constructing a freestanding tower.

*Temporary Mobile and Land Based Telecommunication Testing Facility:* Whip antennas, panels antennas, microwave dishes, and receive-only satellite dishes and related equipment for wireless audio transmission with low wattage not to exceed 500 watts, from a sender to one or more receivers, such as for mobile cellular telephones and mobile radio system facilities.

*Temporary family health care structure:* A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, (iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform Statewide Building Code (§ 36-97 et seq.), and (v) is not placed on a permanent foundation.

*Theater, Drive-in:* An outdoor structure with associated parking area designed for the enactment of dramatic performance and/or showing of motion pictures

*Theater, Indoor:* A building, structure or place designed or used primarily for the commercial exhibition of motion pictures to the general public or used for the performance of plays, acts, dramas or musical productions by actors, actresses and/or musicians.

*Tidal Shore or Shore:* means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

*Tidal Wetlands:* means vegetated and nonvegetated wetlands as defined in '62.1-13.2 of the Code of Virginia.

*Tourist Court, Auto Court, Motel, Cabin or Motor Lodge: (Subsumed under hotel/motel)*

*Tourist Home:* A dwelling where only lodging, including short-term lodging is provided for compensation for up to fourteen (14) persons (that is – no meals are provided in contradistinction to hotels and boarding houses). This definition does not include the short-term rental of an entire dwelling for residential occupancy under a single rental agreement, which is considered as residential use. This definition also does not include short-term limited residential lodging.

*Townhouse: (subsumed under single family attached dwelling)*

*Trail:* A recorded public or private way established for walking, hiking, jogging or similar pedestrian use or for use of non-motorized vehicles. Trails are exempt from all provisions of the subdivision ordinance.

*Travel Trailer:* A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational or vacation use; with the manufacturer's permanent identification 'Travel Trailer' thereon; and when factory equipped for the road, being of any length provided its gross weight does not exceed 4500 pounds, or being of any weight provided its overall length does not exceed twenty-nine (29) feet. For the purpose of this Ordinance, a travel trailer shall not be deemed a mobile home or camper.

*Travel Trailer Park:* A lot, parcel, or tract of land used, designed, or maintained to accommodate one (1) one or more trailers, including all structures, vehicles, accessories, appurtenances used or intended as equipment of such trailer parks, whether or not a charge is made for use of the park and/or its facilities. A trailer park does not include automobile or trailer sales lots, on which unoccupied trailers are parked for inspections and sale.

*Tree, Canopy:* A deciduous tree that normally exceeds thirty (30) feet in height at maturity, and is shown on the list of species in Article 6 of this Ordinance.

*Tree, Ornamental:* A tree that normally does not exceed thirty (30) feet in height at maturity, and is shown on the list of species in Article 6 of this Ordinance.

*Tributary Stream:* means any perennial stream that is so depicted on the most recent U. S. Geological Survey 7-1/2 minutes topographic quadrangle map (scale 1:24,000).

*Trucking Terminal:* A commercial or public facility primarily used for refueling, servicing and/or repairing heavy trucks such as tractor-trailers.

*Use, Accessory:* A subordinate use which is customarily incidental to and located upon the same lot occupied by the main use.

*Utility trunk lines, water or wastewater, public:* see wastewater system trunk lines, public; water system trunk lines, public.

*Variance:* A relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Any variance sought which is not specifically authorized by this ordinance to be



granted by the Commission or the Board shall be in accordance with ' 15.2-2309 et seq. of Article 8 of the Code of Virginia, 1950, as amended.

*Vehicle, Business: Business vehicles.* Automobiles, vans, pick-up trucks, motorcycles, and other similar vehicles requiring Department of Motor Vehicle tags and designed and primarily used to transport people. Business vehicle may not have more than two axles.

*Vehicle, Commercial:* Except for those vehicles specifically excluded in this definition, this means every motor vehicle, vehicle or combination of vehicles used to transport passengers or property which either: (i) has a gross vehicle weight rating of 26,001 or more pounds; or (ii) has a gross combination weight rating of 26,001 or more pounds inclusive of a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds; or (iii) is designed to transport 16 or more passengers including the driver; or (iv) is of any size and is used in the transportation of hazardous materials as defined in this section. Every such motor vehicle or combination of vehicles shall be considered a commercial motor vehicle whether or not it is used in a commercial or profit-making activity. The following shall be excluded from the definition of commercial motor vehicle: any vehicle when used by an individual solely for his own personal purposes, such as personal recreational activities; or any vehicle which (i) is controlled and operated by a farmer, whether or not it is owned by the farmer, and which is used exclusively for farm use, (ii) is used to transport either agricultural products, farm machinery or farm supplies to or from a farm, (iii) is not used in the operation of a common or contract motor carrier, and (iv) is used within 150 miles of the farmer's farm; or any vehicle operated for military purposes by (a) active duty military personnel, (b) members of the military reserves, (c) members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms), but not U.S. Reserve technicians, and (d) active duty U.S. Coast Guard personnel; or emergency equipment operated by a member of a firefighting, rescue, or emergency entity in the performance of his official duties.

*Vehicle, Inoperable:* Any motor vehicle which is not in operating condition or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. This definition shall not apply to vehicles exempted under the provisions of sections 46.2-650 through 46.2-653, 46.2-663 through 46.2-680, 46.2-723 and 46.2-750 of the Code of Virginia. This definition shall also not apply to vehicles in a public landfill.

*Vehicle, Recreational:* A unit primarily designed as temporary living quarters for leisure, recreation, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle. A recreational vehicle placed on a site for more than one hundred eighty (180) days shall be considered a manufactured home for purposes of this chapter.

*Vehicle Sales and/or Rental Facility:* The use of any structure or land area for the display and sale and/or rental of new or used automobiles, trucks, vans, trailers, recreation vehicles, boats or other vehicles and including any warranty repair work and other vehicle services conducted as an accessory use.

*Vehicle and/or Equipment Service Facility:* An establishment where the maintenance, servicing, repair or painting of vehicles, heavy equipment or large commercial appliances is conducted

*Veterinary Clinic, Hospital:* A facility where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

*Warehouse:* Any building or structure in which goods, material, equipment or parts are stored for safe keeping while awaiting the removal of said goods, material, equipment or parts to another building, structure, place or site for their disposal, usage or the sale of the before mentioned.

*Warehousing and Distribution:* Uses including storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses includes wholesale distributors, storage warehouses, truck terminals and moving/storage firms.

*Wastewater System Trunk Lines, Private:* The lines, pipes, pumps, tanks and other appurtenant parts of the collection facilities of a private wastewater system; where trunk lines are permitted, all other elements, including service lines to individual connections, are permitted as well.

*Wastewater System Trunk Lines, Public:* The lines, pipes, pumps, tanks and other appurtenant parts of the collection facilities of a public wastewater system; where trunk lines are permitted, all other elements, including service lines to individual connections, are permitted as well.

*Wastewater Treatment Plant, Private:* The central facility for treatment and purification of wastewater, as part of a private sewer system that serves multiple users.

*Wastewater Treatment Plant, Public:* The central facility for treatment and purification of wastewater, as part of a public sewer system that serves multiple users.

*Wastewater Treatment Systems:* See “Water and Sewer Systems”; also see “wastewater treatment plant, public” “wastewater treatment plant”, and “water treatment plant, public”

*Wastewater Treatment System, Central:* See “wastewater treatment plant, public”, “wastewater system trunk lines, public”, “wastewater treatment plant, private” and “wastewater system trunk lines, private.”

*Water and Sewer Facilities, Public:* System facilities, including but not limited to pumping stations, storage facilities, wells, and collection, distribution and transmission lines owned and operated by political jurisdictions such as an authority, county or town.

*Water And Sewer Systems, Public:* Community water or sewer systems owned and operated by a municipality or county for public use, or owned and operated by a private individual or a corporation serving the public for a fee.

*Water System, Community (waterworks):* Any water supply consisting of a well, springs, or other source and the necessary pipes, conduits, mains, pumping stations and other facilities used in the storage, collection, purification, treatment and distribution of potable water except the piping and fixtures inside the building where such water is delivered, to serve or to be capable of serving more than three connections, or an average of 25 individuals for at least 60 days as set forth in ' 15.2-2149, code of Virginia, 1950, as amended, but not more than 200 service connections. May be publicly or privately owned and managed.

*Water System, Central, Private:* A privately owned and operated water supply and associated pipes, conduits pumping stations and other facilities serving or capable of serving more than one but no more than three connections. The term shall also apply to any water supply system and

associated facilities not otherwise regulated by the Virginia Department of Health or other regulations of Article VII of this ordinance.

*Water System Trunk Lines, Private:* The lines, pipes, pumps, tanks and other appurtenant parts of the collection facilities of a private, central, water system; where trunk lines are permitted, all other elements, including service lines to individual connections, are permitted as well.

*Water System Trunk Lines, Public:* The lines, pipes, pumps, tanks and other appurtenant parts of the collection facilities of a public, central, water system; where trunk lines are permitted, all other elements, including service lines to individual connections, are permitted as well.

*Water Systems, Unregulated:* As defined in ' 56-265.10(a) of the Code of Virginia, 1950, as amended.

*Water Treatment Plant, Private:* The central facility for treatment and purification of water, as part of a private sewer system that serves multiple users.

*Water Treatment Plant, Public:* The central facility for treatment and purification of water, as part of a public sewer system that serves multiple users.

*Water Well or Well:* Any artificial opening or artificially altered natural opening, however made, by which ground water is sought or through which ground water flows under natural pressure or is intended to be artificially drawn. Specifically exempted from this definition are wells used for the following purposes: i) exploration or production of oil or gas, ii) building foundation investigation, iii) elevator shafts, iv) grounding of electrical apparatus, or v) the modification or development of springs.

*Water Well Drilling:* Boring or drilling a hole in the earth for the purpose of finding and drawing groundwater resources

*Water-dependent Facility:* means a development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; and (v) fisheries or other marine resources facilities.

*Waterfront Frontage:* see Frontage, Waterfront

*Waterfront Lot:* A residential or non-residential lot which abuts a river, creek or stream that is typically navigable by water craft.

*Waterfront Lot Line:* The line which follows the mean low-water mark for the property adjacent to a bed under public waters.

*Waters, Private:* All surface waters in Westmoreland County other than public waters including, but not limited to, waters over the beds of lagoons, lakes, ponds, pools, runs and streams.

*Waters, Public:* All waters in the bays, rivers and creeks which are over beds within the jurisdiction of the Commonwealth of Virginia whether or not such beds are the property of the Commonwealth.

*Wayside (Roadside) Stand or Market:* Any structure or land abutting a public thoroughfare which is used for the sale of agricultural or marine produce.

*Welding Shop:* A business in which metal is joined, united, repaired, produced, or created by heating and allowing the parts to flow together, or by hammering or compressing with or without previous heating.

*Wellhead Protection Radius:* The radius around a well, intended to be protected from possible sources of contamination or other interference with proper well operation as provided in this ordinance.

*Well Pad:* The activity area for oil and gas well drilling which includes the site used for drilling one or more wells in close proximity, and including the related staging area, onsite storage and/or processing facilities, and other facilities and operations onsite for the well drilling or subsequent extraction operations. This definition is not intended to include access roads, pipe lines, or other such other facilities that are not part of the compact operations.

*Wetlands:* means tidal and nontidal wetlands.

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

*Yard:* An open space, other than a court, or a lot, which shall be unoccupied and unobstructed by structures from the ground upward except as otherwise permitted in this ordinance.

*Yard, Front:* An open, unoccupied space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

*Yard, Rear:* An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot, and extending the full width of the lot.

*Yard Sale:* A general sale, open to the public, conducted from or on a residential premise in any zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "auction," "backyard," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than two (2) specific items are held out for sale and all advertisements of such sale specifically names those items to be sold. (b) Personal Property, for the purposes of this definition, shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise that was purchased for resale or obtained on consignment.

*Yard, Side:* An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

*Zoning Administrator:* An appointed County official who serves as the Zoning Administrator, charged with the interpretation, administration and enforcement of this Ordinance for Westmoreland County, Virginia, or his/her designee.

*Zoning District.* The various classifications of agricultural, residential, commercial, industrial and other zoning categories provided for in this Ordinance, and the areas on the zoning map in which such different districts are mapped. As used in this Ordinance, the term “zoning district” can refer either to the zoning category or the areas mapped in such uses on the zoning map.

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

July 1, 1971

Article XV – EFFECTIVE DATE - This zoning ordinance of Westmoreland County, Virginia, shall be effective at and after 12:01 A.M., July 1, 1971. [Recorded Deed on this date begin with DB 233 PG 710.]

July 12, 1972

Board of Supervisors Book #5 - Amend Section 1-27.1

April 1, 1973

Board of Supervisors Book #5 - Amendment ARTICLE II, DISTRICTS - 1-2, 1-3.3, 1-3.5, 1-3.6, ARTICLE III - DIMENSIONAL REQUIREMENTS, ARTICLE IV - USE REGULATIONS - Section 1-10, ARTICLE VI - GENERAL PROVISIONS - Sections 1-21.2, 1-21.3, 1-21.4, 1-21.5, 1-22.1, ARTICLE VI - GENERAL PROVISIONS - Section 1-25.1, 1-26, 1-26.5, ARTICLE VII - AMENDMENTS - Section 11-29.1, ARTICLE XIV - DEFINITIONS - Section 1-38.07, 1-38.88

June 13, 1973

Board of Supervisors Book #5 - Amend Section 1-22 and Section 1-22.2

July 11, 1973

Board of Supervisors Book #5 - Listed Residential (R-2) District Areas

November 18, 1974

Board of Supervisors Book #6 - Amended Section 1-22

June 11, 1975

Board of Supervisors Book #6 - Amended Use Column to add "Administrative Office", "Antique Shop" and "Farm Machinery Sales and Services"

January 14, 1976

Board of Supervisors Book #6 - Amended Use Column to add " Water Well Drilling"

January 19, 1977

Board of Supervisors Book #7 - Amended Use Column to add "Automotive Repair Garage".

September 21, 1977

Board of Supervisors Book #8 - Amended Use Column to add "a-10 Automotive Repair Garage in an Industrial (M-1) District". Listed Business (B-2) District Areas and entered on the line "j-02 Junk Yard" under B-2 District.

December 21, 1977

Board of Supervisors Book #8 - Amended ARTICLE XIV - DEFINITIONS - Add Section 1-38.62:1. ARTICLE IV - USE REGULATIONS - "a-02 Administrative Offices permitted in R-1 District with a conditional use permit"

June 14, 1978

Board of Supervisors Book #8 - Amended ARTICLE XIV - DEFINITIONS - Add Sections 1-38.01:1, 1-38.06:1, 1-38.20:1, 1-38.20:2, 1-38.30:1, 1-38.36:1, 1-38.43:1, 1-38.43:2, 1-38.68:1, 1-38.68:2, 1-38.70:1, 1-38.70:2, 1-38.71:3, 1-38.80:1, 1-38.85:1, 1-38.87:1, 1-38.91:1, 1-38.91:2

August 16, 1978

Board of Supervisors Book #9 - Amended Use Column to add :Contractors a-14 to permit in B-2 and A-1 with Conditional Use Permit"

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

April 18, 1979

Board of Supervisors Book #9 - Add to definition of Minimum Lot Area "except for easements for utilities used solely for the benefit of such specific lot"

May 11, 1979

Board of Supervisors Book #9 - ARTICLE IV - USE REGULATIONS - Add "c-15 Communication Facilities and/or Tower in a Business (B-1) District"/ Add C/U as permitted use in A-1 District column.

May 16, 1979

Board of Supervisors Book #9 - ARTICLE VI - GENERAL PROVISIONS - Sections 1-27.1, 1-27.2

August 15, 1979

Article IV, Section 1-10, c-02 Campground - Delete "X", Article IV, Section 4-1: Add p-15 - Permanent Sawmill, Article VI, Section 6-1; Add 6-1.4 - Zoning Permits.

September 19, 1979

Board of Supervisors Book #10 - Amend Article XIV - Definitions - Section 14-1.10, Article IV - Use Regulations - Amend to add Business (B-3) District column; Article IV - Use Regulations - Add "r-06, Race Track, Automotive" and amend Business (B-3) District column to add "S/E" as a permitted use with a special exception. Article IV - Use Regulations - Amend "t-01 Theaters" to read "t-01, Theaters, other than Drive-In" and delete "S/E" under Agricultural (A-1) District column to add "S/E" as a permitted use with a special exception. Article II - Districts - Section 2-1, "Map Symbol" column add B-2 and B-3 opposite Business District. Also under "Map Color" column change "Red" opposite "B-1" to "Red, Solid"; add "Red, diagonal" opposite "B-2"; and add "Red, cross hatch" opposite "B-3".

November 21, 1979

Board of Supervisors Book #10 - Article XIV - Definitions - Amend Section 14-1.105 and add 14-1.106 and 14-1.107, Article II - Districts - Insert "General" after "Business District". Add 2-2.9 "Business - Restricted, (B-2) and 2-2.10 "Business - Open Land (B-3)". Article IV - Use Regulations - Section r-01, Recreation Area Change use column to read "Recreational Area, Private" and delete "X" under R-1 and R-2 and insert "S/E" under R-1 and R-2. Add "r-01.1 Recreation Area, Public" and insert "S/E" under B-3. Article VIII - Administration - Add Section 8-2.1, Article XIV - Definitions - change 14-1.143 (delete last two sentences.)

January 15, 1980

Board of Supervisors Book #10 - Article XIV - Definitions - Amend Section 14-1.79, Article III- Dimensional Requirements - Amend Section 3-1 under B-1 and M-1 and Section 3-1 under R-1 and R-2.

February 19, 1980

Board of Supervisors Book #10 - Article XIV - Definitions - Amend Sections 14-1.16, 14-1.32, 14-1.64, 14-1.88, 14-1.128 and 14-1.89, Article IV - Use Regulations - Amend "g-02" to read "Grain and Fertilizer Storage, Commercial" instead of g-02 Graineries and Grain Elevators."

April 17, 1980

Board of Supervisors Book #10 - Article III - Dimensional Requirements - Amend Section 3-1 under B-2 and B-3 columns. Article VI - General Provisions - Add to Section 6016.1 "Zoning Permit When Accompanied with a Building Permit – No Zoning Fee".

June 19, 1980

Board of Supervisors Book # 10 - Article VI - General Provisions - Amend Section 6-15 by deleting the words "Zoning Administrator". Amend Section 6-15.5 by deleting the words "Zoning Administrator" and insert in lieu thereof "County".

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

## September 18, 1980

Board of Supervisors Book #10 - Article IV - Use Regulations - Use Column - Amend as follows: under "w-06, Water Well Drilling" permitted with "S/E" in Agricultural, A-1 District.

## January 14, 1981

Board of Supervisors Book #10 - Article IV - Use Regulations - Use Column - Amend as follows: Under "f-01, Farming, General" delete in its entirety.

## May 21, 1981

Board of Supervisors Book #10 - Article XIV - Definitions - Amend Section 14-1.89.

## November 19, 1981

Board of Supervisors Book #10 - Article XIV - Definitions - Add Section 14-1.77, amend Article IV - Use Regulations - Use Column - Amend as follows: Under "l-06 Landfill, Sanitary" permitted with "S/E" in B-2, Business District, Restricted.

## January 13, 1982

Board of Supervisors Book # 10 - Article IV - Use Regulations - Use Column - Amend as follows: Under "a-10 Automotive Repair Garage" permitted with "S/E" in B-1, Business District, General.

## July 14, 1982

Board of Supervisors Book #11 - Article IV - Use Regulations - Delete uses shown on lines s-07, s-08, s-09, s-10, s-11 and s-12 and insert new uses; Article VI - Section 1-28 Sign Regulations - Article XIV - Definitions - Delete all definitions for signs and add new definitions.

## September 8, 1982

Board of Supervisors Book #11 - Change Index to include Waterfront Related Structures and A Waterways; Change Article II - Districts to add Seafood, S-1 District and also add new Section 2-2.12 and delete present sections and add new Section 2-3.2; Change Article III - Dimensional Requirements to provide for new S-1 and other changes; change Article IV -Use Regulations p Delete items s-03, Seafood Processing Plant, and add new s-03 and s-03.1 and use indicator symbols to provide for S-1; change Article VI - General Provisions - add 6-6 through 6-6.6; and change Article XIV - Definitions.

## November 10, 1982

Board of Supervisors Book #11 - Article IV - Use Regulations, Article V - Nonconforming Uses, and Article XIV - Definitions - make changes and additions concerning home occupations; Article VI - General Provisions - add new subsection 6-2.6 setting time limits on special exceptions; and Article VI - General Provisions - add new section 6-18 concerning inoperative motor vehicles.

## December 8, 1982

Board of Supervisors Book #11 - Article III - Dimensional Requirements - In sections 3-2, 3-3, 3-4 and 3-5 add the following in each category: "Business (B-2) and (B-3) - To be established as a term of the special exception, if issued; Article IV - Use Regulations - On line a-10, Accessory Uses, insert the symbol "S/E" under the "B-2" and "B-3" columns; and Article III - Dimensional Requirements - Make additions as shown.

## February 9, 1983

Board of Supervisors Book #11 - add to Article III - Dimensional Requirements - a new section 3-7 entitled "Exception for Adjacent parcels of the Same Owner".



# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

April 21, 1983

Board of Supervisors Book #11 - Article II - Districts add R-3, Residential Planned Development and Subsection 2-2.6, Residential Planned Development and subsection 2-2.6, Article IV - Use Regulations add R-3, Residential, Planned Development, Article VI - General Provisions - Add 6-7, 6-7.1, 6-7.2, 6-7.3 and 6-7.4.

June 16, 1983

Board of Supervisors Book #11 - Article IV - Use Regulations - Delete "c-06, Clubs, Fraternal and Civic, c-07 - Clubs, Golf and Country, c-08 - Clubs, Hunting and Fishing and c-09 -Clubs, Yacht and add c-06 - Clubs, Article VI - General Provisions add 6-3 and Article XIV - Definitions add 14-1.34, 14-1.33, 14-1.36 and 14-1.132.

July 13, 1983

Board of Supervisors Book #11 - Article II - Districts add sentence to 2-2.8, Article VI - General Provisions add 6-8.

April 19, 1984

Board of Supervisors Book #11 - Article II - Districts add sentence to 2-2.8, Article VI - General Provisions add 6-8.

August 8, 1984

Board of Supervisors Book #11, amend Article XIV - Definitions; Agriculture; and Animal or Poultry Husbandry; add Article IV - Use Regulations a-11, Animal or Poultry Husbandry; amend Article II, Districts to include Campgrounds, Manufactured home Parks and Travel Trailer Parks District; amend Article XIV - Definitions - Campgrounds; delete Trailer, Manufactured home, Camper and Tent; add - Travel Trailer; Delete - Trailer Park or Camper; add - Travel Trailer Park; add - Manufactured home; add - Manufactured home Park; Delete existing sections on manufactured homes; add 6-11 & 6-12 - Manufactured home Parks; 6-13, - Area Requirements 6-13.1 - Width; 6-13.2 - Distance between Manufactured homes; - Sanitary Facilities; - Water and Sewer; - Fire Protection; Setbacks; - Site Plan; amend Article IV - Use Regulations - Use Column; delete c-02 Campground; add c-02 Campground; add m-08 Manufactured home Parks; delete t-03 - Trailer, Camps and Parks; add t-03 - Travel Trailer Parks.

December 12, 1984

Board of Supervisors Book #12 - Amend Section 2-2.4 - Residential District (R-1); amend Section 6-11, Mobile/Manufactured Home Parks; Amend Subsection 6-13.1 - Area Requirements; Amend Subsection 6-13.3, Electrical Connections; add Subsection 6-12.3 - Recreational Area; add Subsection 6-12.4 - Refuse Disposal; add Subsection - Site Plan; amend Section - Hospital; and amend Section 14-1.90, Manufactured home/Manufactured Home.

March 13, 1985

Board of Supervisors Book #12 - delete section *Marina*; add Section 14-1.86, *Marina, Commercial or Club Type* add Section 14-1.87, *Marina, Private Non-Commercial*.

May 8, 1985

Board of Supervisors Book #12 - Article IV - Use Regulations - add - *Section c-07 - Child Care Centers*, add *Section f-01 - Family Day Care Home*, add *Section h-06 - Hospital, Special Care*. Article XIV - Definitions - add - *Child-Care Centers*, add - *Family Day-Care Homes*, delete - *Nursing Homes*.

August 14, 1985

Article II - District to include a new district "*Townhouse, condominium and Apartment District*", amend Article XIV - Definitions, add - 14-1.138 - *Townhouse*, add - 14-1.42 - *Condominium*, and amend Article IV - Use Regulations, delete - c-13 - *Contractors Storage Yard*, as a permitted use in a B-1 and a conditional use within A-1 and add as a permitted use within B-3 District. Delete s-03.1 "*Seafood Facility, Processing*" as a permitted use within B-1 and B-3 Districts. Delete w-01 "*Warehouse*" as a special exception within B-1, add as a permitted use within B-1, B-2 and B-3 Districts. Article XIV - Definitions, add "*Warehouse*" and "*Contractor's Storage Yard*".

October 9, 1985

Article XIV - Section 14-1.137 - *Pertaining to Travel Trailers, changing the length from 32 feet to 40 feet*.

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

December 11, 1985

Article VI - Section 6-16, "Fees and Costs - 6-16.1 - Increase Variance and Appeal Application fee from \$20.00 to \$75.00.

March 12, 1986

Article VI, Section 6-16, Fees and Cost - 6-16.1 - Special Exception Applications, Special Use Permit Applications, Change of Zoning District Classification Applications and applications for Zoning Ordinance Amendments. Article IV - Use Regulations - amend "c-14, Contractors to read c-14 - Contractors office" as a permitted use in B-1 and B-3 Zoning Districts and permitted by special exception in an A-1 District.

May 14, 1986

Board of Supervisors Book #12, Article IV - Use Regulations - Amend as follows; add e-01, Small Engine repairs and Sales by special exception in A-1, B-1 and B-2 Districts and as a permitted use in M-1 District. Under k-01, Kennel, delete "S/E" under B-1 and add "S/E" under B-3. Under l-02, Laboratory, Research and Development - amend A-1 District Column to add "X" as a permitted use and amend B-2 and B-3 District Columns to add "S/E" as a permitted use with a special exception. Under l-05, Lumber and Building Supply, amend B-2 and B-3 District Columns to include "X" as a permitted use. Under m-01, Machine Shops, amend B-3 District to include "X" as a permitted use. Under m-02, manufacture, Assembly ....., amend A-1 District Column to delete the "S/E" and add "S/E" under B-2 and B-3 District Columns, Under m-03, Manufacture of Pottery, ....., delete the "S/E" under A-1 District and insert "S/E" under B-2 and B-3 District. Under m-04, Marinas - change to read "m-04 - Marinas, Commercial" and delete "S/E" under A-1, R-1 and R-2 District Columns. Amend m-05 to include "Marinas, Private" and add "S/E" in R-1, R-2, R-3, R-4 B-2 and B-3 District Columns. Amend Article XIV - Definitions, add Engine Repair, Small and amend Article V- Nonconforming Conditions, Sections 5-1.1 and 5-1.6.

April 8, 1987

Article IV - Use Regulations, Subsection, d-03, Dwelling, Multi-Family, add "S/E" under R-4 District Column. Amend Article IV - General Provisions - 6-7 add wording "or R-4"

May 6, 1987

Amend Article III - Dimensional Requirements regarding Campgrounds, Manufactured home parks and Travel Trailer Parks, under Article VI - General Provisions, amend 6-11, 6-11.1, 6-12, 6-12.1, 6-12.2, 6-12.3, 6-12.4, 6-12.5, 6-12.6, 6-12.7, 6-12.8, 6-12.9 and 6-12.10; amend 6-13 - Specific Requirements - Manufactured home Park, 6-13.1, 6-13.2 and 6-13.3; amend 6-14 - Specific Requirements Campgrounds and Travel Trailer parks, 6-14.1 and 6-14.2.

June 10, 1987

Amend Article VI - General Provisions - Under 6-1 - Zoning Permits amend sub-section 6-1.1.

July 1, 1987

Amend Article IV - Use Regulations - Section 4-1, h-04 - Hospital, h-06 - Hospital, Special Care and n-01 - Nursing Home.

September 14, 1988

Amend Business, B-3, District Column to add "S/E" under "Auction Yard" add definition for Auction Yard.

February 8, 1989

Article VI - General Provision, 6-16 - Fees and Cost, 6-16.1, amend to read as follows: Zoning Permits - \$20.00, Special Exception - \$100.00, Rezoning - \$100.00 plus \$10.00 per acre.  
Amend Article IV, Section 4-1, Subsection c-08 - add "Carwash", as a permitted use in a B-1 District and by "C/U" in A-1, B-2 and B-3 Districts.

March 16, 1989

Amend Article IV, Section 4-1, Subsection "b-09" add "Bed and Breakfast" as a permitted use under A-1, B-1, B-2 and B-3 District.

## WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

Amend Article VI, Section 4-1, subsection - s-15, "Swimming Pool, Private" as a permitted use in R-4 Zoning District and subsection - s-16, "Swimming Pool, Public" permitted by "S/E" in R-4 Zoning District

April 12, 1989

Amend Article IV, Section 4-1, subsection "c-07 - Child Care Center", "f-01 - Family Day Care Homes" . "h-05 - Houses, Board or Rooming", "b-04 - Boat Building", "p-07 - Post Office", "p-12 - Public Landing", "s-08 - Business Signs", "s-09 - Sign, Direction" DELETE the above items as permitted uses with a "S/E" in a Residential, R-2, District; and under subsections "s-04 - Libraries and m-08, Museums" DELETE the "X" as a permitted use in Residential, R-2 District; and under subsections "s-02 - Schools, DELETE the "X" as a permitted use and insert "S/E " permitted by special exception in lieu thereof in a Residential, R-2 District AND under Subsection "a-07 - Antique Shop" insert "X" as a permitted use in a Business, B-1 District.

Amend Article IV, Section 4-1, Subsection b-09, *Bed and Breakfast*"; add "S/E" under Residential, R-1 Zoning District Classification.

May 10, 1989

Amend Article IV, Section 4-1, Subsection "m-02" delete "Manufacture of Wood Products" add "w-07", *Wood Product Manufacturing*" as a permitted use with a special exception in an Agricultural, A-1 District and under subsection s-10, sign "Home Occupation" delete its use entirely under R-1 and R-2 and under subsection "g-03" add *Golf Driving Range* as a permitted use with a Special Exception in an Agricultural, A-1 District. Amend Article VI, General Provisions, Section 6016 Fees and Cost ADD: "6-16.3 *When the Board determines that a zoning request, a rezoning request, a special exception application, or special use permit application should be re-advertised for any reason, not caused by the applicant, the cost of such re-advertisement shall be waived.*"

June 14, 1989

Amend Article VI, General Provisions, 6-1.3 and 6-2.3 Special Exceptions Add, *The applicant SHALL complete a Westmoreland County, Virginia, Project Impact Form.*" Amend Article IV, Section 4-1, subsection "d-06", add *Dwelling, Dormitory*, as a permitted use with a "S/E" in an Agricultural, A-1 District, and ADD under Article XIV - Definitions, Section 14-1 dd subsection "14-1.47 *Dwelling, Dormitory: A space in a building where group sleeping accommodations are provided for persons not necessarily members of the same family group, in one or in a series of closely associated rooms.*"

Amend the Westmoreland County Zoning Ordinance, Article IV, Section 4-1, subsection s-17, "Subdivision Sales Office" Add as a permitted use with a special exception in an Agricultural, A-1 District.

October 11, 1989

Amend Article VI - General Provisions, 6-2.6 Add: *The Board of Supervisors, after notice given pursuant to Section 15.2-2204 of the 1950 Code of Virginia, may extend the Special Exception up to an additional 365 days; provided however, that no hearing before the Planning Commission shall be required prior to the hearing before the Board of Supervisors.*"

November 8, 1989

Amend Article IV, Section 4-1, subsection "o-03" ADD: "Drilling of Oil and Gas Wells", as a permitted use with a Special Exception in an Agricultural, A-1 District, Business, Restricted, B-2 District, and Business, Open Land, B-3 District.

May 8, 1990

Amend Article IV - General Provision to Add: "6-6.6 "Boathouse - Criteria and Conditions", and under Article XIV - Definitions, *Boathouse* - DELETE the existing definition and insert in lieu there of new definition and, under Article IV - Use Regulations, 4-1, ADD: *b-10, Boathouse*", as a permitted use with a special exception in ALL Districts.

September 12, 1990

Add Article VII - *Chesapeake Bay Preservation Area Overlay District - 7-1 through 7-17.3.*

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

## March 13, 1991

Amend Article IV, Section 4-1, subsection, "s-01", *Sand and Gravel Pits*, DELETE the "X" for a permitted use in an Industrial, M-1 District and insert in lieu thereof, "S/E", permitted with a Special Exception.

Amend Article VI - General Provisions, ADD 6-3 through 6-3.7 "Conditional Zoning" and ADD: under Article XIV - 14-1.38, *Conditional Zoning*".

## April 10, 1991

Amend Article IV - Use Regulations, Section 4-1, Subsection "s-06, *Shops, Retail Sales and Personal Services*" add permitted with a "S/E" in a B-2 District, and add under Section 4-1, Subsection "s-14, *Stores, Retail Sales and Services*", as a permitted use with a "S/E" in a B-2 District.

## June 12, 1991

Amend Article IV - Use Regulations to allow "*Flea Market*" as a permitted use under with a special exception in a Business, B-3, District.

Amend Article IV - Use Regulations to allow "*Machine Shops and Welding Shops*" in Seafood, S-1 District with a special exception.

Amend Article IV - Use Regulations to add definition for "*Flea Market*"

Amend the Entire Westmoreland County Zoning Ordinance as follows: *Re-number the entire ordinance so that section numbers correspond with Article numbers* and DELETE the words "Conditional Use Permit" and insert in lieu thereof "*Special Exception*" throughout the entire ordinance.

## September 11, 1991

Amend Zoning Ordinance to add definitions of "*Pawnbroker Shop, Machine Shop, Welding Shop and Precious Metals Dealer's Shop*". ADD under Article IV, Section 4-1, Subsection p-06, "*Precious Metals Dealer's Shop*" as a permitted use, by special exception, in a B-1, Business, General Uses District and "*p-05, Pawnbroker's Shop*", as a permitted use, by special exception, in a B-1, Business, General Uses District.

## December 11, 1991

Amend Zoning Ordinance to delete existing description of "*Seafood, S-1, District*" under Article II - Districts, Subsection 2-2.12 insert in lieu thereof a new description.

## February 12, 1992

Amend Zoning Ordinance under sections 2-2.6, 4-1, and 6-7 to expand the R-3, *Residential, Planned Development District*" to add a new description, adding 22 additional uses and several minimum general conditions.

## November 11, 1992

Amend Zoning Ordinance, under Article V, Nonconforming Conditions, Section 5-5, Nonconforming Unimproved Lots, subsection 5-5.2 delete the word "*unimproved*" in both places.

## February 16, 1994

Amend Zoning Ordinance, to ADD Article VIII, Water and Sewage Requirements and Amend Article IV - Use Regulations in accordance with new Zoning Uses in Article VIII and renumber the Zoning Ordinance Accordingly (Case #94A06)

## May 13, 1997

Amend the Westmoreland County Zoning Ordinance to Add: Article IX - *Home Occupation Ordinance*.

## April 14, 1997

Amend Article IV, Use Regulations, section 4-1, subsection a-09 to allow "*automotive, sales and services*" by S/E in a Business, B-2 Zoning District Classification.

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

September 8, 1997

Amend Article VIII, Water Supply and Sewage Disposal Requirements to add paragraph (H) under section 8-8.

Amend the entire Ordinance by renumbering it in its entirety so that there is a consistent numbering scheme used throughout.

February 9, 1998

Amend Article IV to add Self Storage Facilities as a use permitted by Special Exception in the General Business (B-1) District, Restricted Business (B-2) District, the Open Land Business (B-3) District and the Industrial (M-1) District and add under Article XVI a definition for "Self Storage Facility".

Amend Article III, Dimensional Requirements to add the following: 3-9 Public Water and Sewage Facilities. Lots intended for public water and public sewage facilities and other public utilities and structures erected for these purposes shall be waived from the minimum lot area, minimum setback, minimum frontage and minimum year requirements, of the District in which they are located provided such facilities are landscaped and/or fenced with opaque materials to screen them from nearby roads, residences and other development, under Article IV, Use Regulations, amend to add Water and Sewer Facilities, Public as a use permitted by Special Exception in the Campgrounds, Manufactured home Parks and Travel Trailer Parks (C-2) District, Residential, Planned Development (R-3) District, Townhouse, Condominium, Apartment (R-4) District, restricted Business (B-2) District and the Open Land Business (B-3) District, and under Article XVI, Definitions and definition for "Water and Sewer Facilities, Public: System facilities, including but not limited to pumping stations, storage facilities, wells, and collection, distribution and transmission lines owned and operated by political jurisdictions such as an authority, county or town.

June 8, 1998

Amend under Article VI, General Provisions, 6-16 Fees and Costs to **delete** subsection (A), (1) through (7) and **insert** in lieu thereof the following: (A) Fees shall be paid to Westmoreland County at the time of submission of an application per the fee schedule established by the Board of Supervisors.

August 10, 1998

Amend Article III, dimensional Requirements, add "Section 3-10 Exception for Parcels of Same Owner Separated by Right-of-way".

Amend Article IV, Use Regulations, Section 4-1, add "Manufactured Homes, Sales and Services" as a permitted use by Special Exception under Business, General, B-1 District and Business Restricted, B-2 District.

December 14, 1998

Case #9812-ZA-07 - Article VI, General Provisions, add under 6-16 Fees and Costs (D) Payment of real Estate Taxes Prior to Processing Any Land Use Permit Application. Prior to initiation of any application for a special exception, special use permit, variance, rezoning or other land use permit including, but not limited to, land disturbing permits, home occupation permits and exceptions in accordance with Section 7-16 or, prior to issuance of final approval, satisfactory evidence shall be provided that any delinquent real estate taxes owed to the County which have been properly assessed against the subject property have been paid.

January 11, 1999

Case #9901-ZA-01 - Article IV, Use Regulations, amend the use "Libraries" to add or delete as a use permitted by right in the following districts: 4-1 Use Regulations, amend Article IV to add Libraries as a Permitted Use in the Agricultural (A-1) District, Campgrounds, Manufactured home Parks and Travel Trailer Parks (C-2) District, Residential, Limited Uses (R-2) District and the Residential, Planned Development (R-3) District and Amend Article IV to delete Libraries as a Permitted use in the Seafood (S-1) District.

March 8, 1999

Case #9903-ZA-02 - Amend Article VIII, Water and Sewage Requirements, Section 8-3, Required Water Supply, Subsection (C) to read as follows (C) A private well ~~shall not~~ *may* be used provided potable water to a lot or parcel if *when a privately owned and operated* community waterworks is available.

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

May 10, 1999

Case #9904-ZA-03 - Article VIII, Water & Sewage Requirements, Section 8-3, Required Water Supply (A) add (2) A Central Water System having more than one but no more than three contiguous connections as permitted by the governing body; under (B)(1) omit (a) and (b) add (B) (2) items (a), i, ii and iii regarding requirements for Center Water System, under (3) add the wording "by Special Exception" and under (3) delete subsections (a) and (b) and add (5) regarding wellhead protection radius requirements and under (c) delete "potable" and add wording "no more than three connections among lots or parcels and add wording Pools or irrigation shall not be included in determining the number of connections, add subsection and under (C) delete existing text and add "No setbacks shall be required for a private well, central water system well, noncommunity waterworks wells or community waterworks well used for a potable water supply other than those required pursuant to the Private Well Regulations of the Virginia Department of Health or as determined by the governing body. Minimum lots sizes shall apply to all privately owned and operated wells and associated structures shall be subject to setback requirements." under (E) delete wording "hereby expressly" and delete Planning Commission and insert in lieu thereof The Board of Supervisors and delete Commission and insert in lieu thereof Board add (F) "All unused, discontinued or abandoned wells shall be properly abandoned in accordance with requirements of the Virginia Department of Health." And under Article XVI Definitions add definitions for Central Water System and Wellhead Protection Radius.

October 29, 1999

Administrative correction - to insert sections omitted during renumbering of entire ordinance:

6-1(E) was Article VIII, Section 8-1 - "This ordinance shall be enforced by the administrator who shall be appointed by the governing body. The administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body".

5-2(C) was Article VIII, Section 8-2 - "Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this ordinance".

6-2(G) was Article VIII, Section 8-2.1 - A petition to amend this ordinance or to obtain a special exception, either of which is substantially the same as a petition previously denied by the Board of Supervisors, shall not be accepted for reconsideration by the Board within a twelve-month period following the date of denial".

December 13, 1999

Case #9912-ZA-04 Under Article IV - Add Section 6-19 Structure Maintenance, Demolition and Removal and under Article XVI, Definitions, add "Secured" - For the purposes of Section 6-19, secured is defined as minimal steps taken by a property owner or the county to impede trespass or inappropriate access.

April 10, 2000

Case #0004-ZA-01 ADD Article XVII, Site Plan, Sections 17-1 through 17-17

Case #0004-ZA-02 ADD Article XVIII, Landscaping, Sections 18-1 through 18-8

Case #0004-ZA-03 Amend under Article XI, General Provisions, Section 6-17, Sign Regulations (A) through ( L)

The complete amendments referenced above are on file in the Land Use Administration Office

October 11, 2000

Case #0010-ZA-05 Amend Article VIII, Water Supply and Sewage Disposal Requirements - The complete amendment is on file in the Land Use Administration Office.

March 10, 2003

Case #0303-ZA-01 Amend Article II, Sections 2-1 and 2-2 to add the Industrial Planned Unit Development District (I-PUD) Zoning District Classification referenced in Article X, Industrial Planned Unit Development Zoning District Regulations.

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

March 10, 2003

Case #0303-ZA-02 Amend Article X, Industrial Planned Unit Development Zoning District Regulations, Section 10.6(D)(7) to delete the provision limiting outside storage to 25% of a lot or parcel and adding landscaping as a supplement or alternative to opaque fencing.

March 10, 2003

Case #0303-ZA-03 Amend Article VII, Chesapeake Bay Preservation Overlay District for consistency with revised state regulations. The complete amendment is on file in the Land Use Administration Office.

August 11, 2003

Case # 0308-ZA-04 Amend Article IV, Use Regulations to include the following: Boat Sales and Services add "X" under Industrial, M-1, to allow by right, Flea Market add "S/E" under Business, B-1 and Business, B-2 to allow by Special Exception, and Contractor's Storage Yard add "S/E" under Business, B-1, to allow by Special Exception  
Case #0308-ZA-05 Amend Article VI - General Provisions to add Section 6-20: Specific Requirements - Piers and Accessory Structures - Piers and Accessory structures such as sheds and storage buildings are permitted in the absence of a principle structure in the A-1, R-1, R-2, R-3 and R-4 zoning districts subject to the following conditions:

September 8, 2003

Case #0309-ZA-06 Amend Article II - Districts to add: 2-4 Split Zoning

December 8, 2003

Case #0312-ZA-04 Amend Article VII- Chesapeake Bay Preservation Area Overlay District - Amend to reflect changes required by CBLAD in letter dated June 23, 2003

May 9, 2005

Article IV, Use Regulations, Section 4.1, of the Ordinances of Westmoreland County, Virginia, is hereby amended and reenacted as follows: The word "Boathouse" and the special exceptions applicable thereto are hereby repealed.

Article VI, Section 6-6 Waterways (E), is hereby amended and reenacted as follows:  
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, provided, however, that no boathouse or other structure shall be permitted on any structure which extends into public waters. The prohibition contained in this subsection is applicable only to non-commercial uses and is not applicable to marinas, businesses or commercial enterprises.

Article VI, Section 6-6 (F), is hereby repealed.  
All other provisions of the ordinances are continued in full force and effect.

June 13, 2005

Case # 0504-ZA-01 Amend Article VII, Section 7-5(A)(1) - Chesapeake Bay Preservation Area Overlay District -The Resource Protection Area includes, under (d)delete the wording "including Steep slopes"

## **March 13, 2006 -- THE ENTIRE ZONING CODE WAS AMENDED**

**The Board of Supervisors approved the amending of and renumbering of all sections of the existing Zoning Ordinance including the addition of several new zoning districts while keeping the existing zoning map and districts. The adoption included that the amended zoning code will go into effective in 30 days being April 12, 2006.**

April 11, 2006 – REQUESTED DEFERRAL FEE

"The Board of supervisors approved the Zoning Ordinance fees to require that whenever a rezoning application is deferred for whatever reason there shall be a supplemental fee of 25% of the original application fee. No deferred case shall be submitted until the supplemental fee is received by the County. This shall apply to each and every deferral, unless the deferral is the result of error by the County. This fee shall go into effect immediately."

# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

## April 12, 2006 - ERRATA SHEET TO THE AMENDED CODE

The Zoning Administrator issued an Errata sheet #1 for minor corrections of issues found within the amended Zoning Code Text that shall be corrected by the Administrators interpretation of the intent to include and forward items from the existing code prior to this date. (The Zoning Code text included this data in its January 10, 2007 printing.)

## December 10, 2006 - CASE #0611-ZA-01 – PIER ALLOWED ON A VACANT LOT

Request by the Westmoreland County Planning Commission on their own motion to amend the following listed districts of the Zoning Ordinance, to expand the list of Permitted Uses (by right) to include “pier, plus boat slips, covered boat slips (boat houses), electricity, and well on the lot, without the concurrent authorization for other accessory uses as regulated in Article 4”.

To: Section 2-1.2 Agricultural Conservation (AC) Permitted Uses (by-right)  
Section 2-2.2 Rural Conservation (RC) Permitted Uses (by-right)  
Section 2-3.2 Rural Residential (RR) Permitted Uses (by-right)  
Section 2-4.2 Residential Neighborhood (RN) Permitted Uses (by-right)  
Section 2-5.2 Planned Residential Development (PRD) Permitted Uses (by-right)  
Section 2-6.2 Planned Village Development (PVD) Permitted Uses (by-right)  
Section 2-12.2 Residential Urban (RU) Permitted Uses (by-right)  
Section 2-13.2 Agricultural (A-1) Permitted Uses  
Section 2-14.2 Conservation (C-1) Permitted Uses (by-right)  
Section 2-15.2 Campgrounds, Mobile Home Parks and Travel Trailer Parks (C-2)  
Permitted Uses (by-right)  
Section 2-16.2 Residential General Uses District (R-1) Permitted Uses (by-right)  
Section 2-17.2 Residential Limited Uses District (R-2) Permitted Uses (by-right)  
Section 2-18.2 Residential General Uses District (R-3) Permitted Uses (by-right)  
Section 2-19.2 Townhouses, Condominium, Apartment District (R-4)  
Permitted Uses (by-right)  
Section 2-25.2 Seafood District (S-1) Permitted Uses (by-right)

ADD: Pier plus boat slip, covered boat slip (boat houses), electricity, and well on the lot, without the concurrent authorization for other accessory uses as regulated in Article 4 of the Westmoreland County Zoning Ordinance.

## December 10, 2006 - CASE #0612-ZA-03 – REPLACEMENT WELL

Request by the Westmoreland County Planning Commission on their own motion to amend the Westmoreland County Zoning Code, Article 4, Section 4-6.3.2 that would allow a replacement well to be located on the property at no greater detriment to the abutting properties.

## December 10, 2006 - CASE #0612-ZA-02 ENTIRE SITE PLAN ARTICLE 9 AMENDMENTS

Request by the Westmoreland County Board of Supervisors on their own motion to consider adoption of Amendments to the Zoning Ordinance. This action consists of adopting the Revised Draft Amendments to Article 9 of the Zoning Ordinance (Site Plans) prepared by the Zoning Ordinance Review Committee (ZORC) and dated September 16, 2006, as modified by the report entitled “Proposed Errata and Refinement Sheet for the 9-16-06 Draft Amendments to the Westmoreland County Subdivision Ordinance and Article 9 of the Zoning Ordinance (Site Development Plans)” dated November 8, 2006, which makes modifications to the material prepared by the ZORC. The modifications are refinements and corrections made by the Westmoreland County Planning Commission to the draft and other technical amendments to the Zoning Ordinance to align the Zoning Ordinance with the Subdivision Ordinance.

## December 10, 2006 - CASE #0612-SA-01 SUBDIVISION REGULATIONS AMENDMENTS

**Request by the Westmoreland County Board of Supervisors on their own motion to consider adoption of Amendments to the Subdivision Ordinance. This action consists of adopting the Revised Draft Amendments to: Subdivision Ordinance prepared by the Zoning Ordinance Review Committee (ZORC) and dated September 16, 2006, as modified by the report entitled “Proposed Errata and Refinement Sheet for the 9-16-06 Draft Amendments to the Westmoreland County Subdivision Ordinance and Article 9 of the Zoning Ordinance (Site Development Plan)” dated November 8, 2006, which makes modifications to the material prepared by the ZORC. The modifications are refinements and corrections made by the Westmoreland County Planning Commission to the Draft.**

**The Amended Subdivision Ordinance makes organizational changes to the current Subdivision Ordinance.**



# WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS

**It modifies the review and approval process, and changes the provisions for exempt subdivisions. It generally updates the Subdivision Ordinance to conform to the current State Code and current County policies. Becomes effective on January 10, 2007.**

## November 16, 2007 - CASE #0711-ZA-04 SEXUALLY ORIENTED BUSINESS AMENDMENTS

Request by the Westmoreland County Board of Supervisors after consideration by the Planning Commission a motion to amend Article 4 of the Zoning Code with Subsection 4-17 was unanimously adopted by the Board.

## November 26, 2007 – CASE # 0710-ZA-03 Amendment to the Telecommunication facilities section.

Upon a motion be Mr. Redmond, second by Mr. Lyburn and carried with a 4-1 majority vote with Mr. Lyburn, Mr. Redmond, Mr. Hynson and Mr. Fisher voting Aye and Mr. Brownley voting nay, the Board approved the following amendment to the Westmoreland County Zoning Ordinance, Section 4-7, regarding Telecommunication facilities

## July 14, 2008 – Case # 0807-ZA-03 Amended the Wellhead Radius and Central Water System.

Section 4-6.3 Water Supply Standards was amended that included criteria that the administrator used to approve a new well location, clarifying that 3 single family homes are allowed to use a single well, clarify the only a well lot is allowed not to front upon a road and clarify that an existing central water system, community water system or a non-community water system shall not require special exception approval if an expansion of the system was included in the original special exception approval.

## August 10, 2009 – Case # 0907-ZA-01 Amendment of Article 4-1 concerning Accessory Uses and Structures.

Article 4-1, Accessory Uses and Structures, was amended to allow certain residential uses and structures prior to the principal use or structure, including an accessory structure of 150 square feet or less. The lists were also modified to specify which residential accessory structures typically require permits and which typically do not require permits.

## January 10, 2011 – Case # 1012-ZA-02 Amendment to site plan approvals in Article 9 and special exception approvals in Article 10 of the Zoning Ordinance (as well as plat approvals in Article 3 of the Subdivision Ordinance)

Article 9-9 (Final Approval – Term of Validity) and Article 10-3-12 (Special Exception Permit) were amended to comply with Code of Virginia section 15.2-2209.1. Article 3 of the Subdivision Ordinance was also amended. The amendment allows for certain approvals to be extended beyond their standard deadlines, provided the approvals were valid on January 1, 2009.

## March 14, 2011 - CASE # 1102-ZA-01 - Amendment to the Westmoreland County Zoning Ordinance 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.

Added definitions for 'caregiver,' 'mentally or physically impaired person' and 'temporary family health care structure.' Added Article 4-10 and Article 4-1.2.1(15). Changes are proposed in Article 4 of the Zoning Ordinance to provide an approval process for this option as an accessory use. Changes are proposed in Article 12 to include related definitions. This proposal addresses changes in state law, Code of Virginia Section 15.2-2292.1.

## August 8, 2011 - CASE #1107-ZA-02 - Amendment to the Westmoreland County Zoning Ordinance to provide a specific process for the revocation or amendment of Special Exception permits and to update related provisions.

Amended Article 10-2.3 and added Article 10-3.12(14). The changes proposed would provide for the Board of Supervisors to revoke or amend Special Exception permits, remove that authority from the Board of Zoning Appeals, clarify that the Board of Zoning Appeals has authority to hear appeals of decisions of the Planning Commission regarding Article 3 of the Zoning Ordinance, and update cross-references in the Ordinance.

## April 9, 2012 - CASE #1204-ZA-01 - Amendment to the provisions for the placement of private wells 4-6.3.2 and the related definition in Article 12 of "wellhead protection radius".

## April 9, 2012 - CASE #1204-ZA-02 - Amendment to the provisions for sign lighting to remove restrictions to internally lit signs (7-3.6.1) and to signs lit during non-business hours (7-3.2).

## November 14, 2012 – CASE #1211-ZA-03 – Amendment to Article 4-6.4.3 (C) to allow septic systems to be retained under certain conditions after connection is made to a central wastewater treatment system.

## **WESTMORELAND COUNTY ZONING ORDINANCE AMENDMENTS**

April 8, 2013 – CASE #1304-ZA-01 – Amendment to Article 2-17.3 to allow the use Family Day-care Home with a Special Exception in R-2 zoning districts, to Article 4-1.2.2 to allow Family Day-care Home as a residential accessory use under certain conditions, and also to amend the definition of Family Day-care Home.

December 13, 2013 – CASE # 1311-ZA-02 – Amendment to Article 4-6.2.6 to allow the continued use of septic systems that meet current VDH regulations even if the property is within the service area of a central wastewater treatment system.

July 14, 2014 – CASE # 1406-ZA-01 - Amendment to ZO Article 3 and County Code section 54-4 in order to be consistent with the recently amended Virginia Stormwater Management Act and other state regulations. Also added County Code chapter 55.

January 12, 2015 – CASE # 1501-ZA-01 Amendment to ZO Article 3-1.10(B)(5)(b) to require that inspections of septic systems done pursuant to the CBPA requirements be done by an operator or on-site soil licensed or certified under Chapter 23 of Title 54.1, amendment to take effect 90 days from approval date

January 12 2015 – CASE # 1501-ZA-03 Amendment to adopt updated agritourism provisions consistent with changes to the Code of VA Section 154.2-2288.6. Added definitions for farm brewery and farm winery. Amended definition of Farm Enterprise. Removed Farm Enterprise restrictions from Article 4-5.2. Amended Article 2 to allow Farm Brewery by-right in AC, RC, and A-1. Amended Article 2 to allow Farm Brewery by Special Exception in RR, C-1, R-1, R-2, and S-1. Amended Article 2 to allow Farm Enterprise by-right in A-1. Amended Article 2 to allow Farm Enterprise by Special Exception in RR, C-1, R-1, R-2, and S-1. Amended Article 2 to allow Farm Winery by-right in AC and A-1. Amended Article 2 to allow Farm Winery by Special Exception in RR, C-1, R-1, R-2, and S-1.

September 14, 2015 – CASE # 1509-ZA-05 Amendment to add 'Biosolids Composting' to the definitions and as a Permissible Use by Special Exception to sections 2-1.3, 2-2.3, 2-3.3, 2-13.3, 2-14.3, 2-16.3, and 2-25.3 (zoning districts AC, RC, RR, A-1, C-1, R-1, R-2, and S-1).

September 14, 2015 – CASE # 1509-ZA-06 Amendment to add 'Dwelling, Accessory' as a Permitted Use (by-right) to sections 2-13.2, 2-14.2, 2-16.2, 2-17.2, and 2-25.2 (zoning districts A-1, C-1, R-1, R-2, and S-1) and make a correction to section 4-5.7.1(D) and amend section 4-5.6.3 to clarify that manufactured homes are not prohibited for use as accessory dwellings when otherwise permitted.

August 10, 2016 – CASE # 1608-ZA-01 Amendment to Article 1-4.1.1 to change the word 'must' to 'should' to imply that it is recommended but not required to rezone to one of the New Base Zoning Districts. Also, added B-3 Open Land Business to list of Existing Base Zoning Districts and re-lettered accordingly, in order to correct Scrivener's error.

August 10, 2016 – CASE # 1605-ZA-03 Amendment to Article 12 Definitions to add definitions of 'Short-Term Lodging' and 'Short-Term Limited Residential Lodging,' as well as to revise the definitions of 'Tourist Home,' 'Bed and Breakfast Homestay,' 'Bed and Breakfast In,' and 'Family.'

August 10, 2016 – CASE # 1605-ZA-02 Amendment of Article 4-3 Home Occupation Uses. Added definition of 'Home Occupation' and deleted individual definitions of 'Minor Home Occupation' and 'Major Home Occupation.'

November 13, 2017 – CASE # 1710-ZA-02 Amendment to create the use "Agriculture, Limited" and change the allowed use from "Agriculture" to "Agriculture, Limited" in zoning districts RR, R-1, R-2, and S-1 (S-1 includes aquaculture). Also added definitions of "Agriculture, Limited" and "Livestock."

December 11, 2017 – CASE # 1509-ZA-04 Amendment to create zoning district "2-26 Resource Extraction – Planned Development" and all related uses and text. Removed the use "Oil and Gas Wells, Drilling" from zoning districts AC, A-1, B-2, and B-3. Removed the use "Stone and Monument Works" from AC, IG, and PIP. Removed the use "Sand and Gravel Pits" from C-1 and M-1. Removed the uses "Sand and Gravel Extraction" and "Sand and Gravel Processing Facility" from IG. Removed the use "Stone Works" from C-1 and M-1. Also revised the definition of "Oil and Gas Well Drilling" and added definitions of "Horizontal Drilling" and "Well Pad."