

*ALBEMARLE COUNTY CODE*

**CHAPTER 18**

**ZONING**

**SECTION 5**

**SUPPLEMENTARY REGULATIONS**

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**5.1 SUPPLEMENTARY REGULATIONS**

The following supplementary regulations apply to referenced uses in all districts whether or not such uses are permitted by right or by special use permit. These supplementary regulations are in addition to all other requirements of this chapter, the Code, and all other applicable laws. Any requirement of section 5.0 may be modified or waived in an individual case, as provided herein:

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- a. The commission may modify or waive any such requirement upon a finding that such requirement would not forward the purposes of this chapter or otherwise serve the public health, safety, or welfare; or that a modified regulation would satisfy the purposes of this chapter to at least an equivalent degree as the specified requirement; except that, in no case, shall such action constitute a modification or waiver of any applicable general regulation set forth in section 4.0 or any district regulation. In granting such modification or waiver, the commission may impose such conditions as it deems necessary to protect the public health, safety, or welfare.
- b. The board of supervisors shall consider a modification or waiver of any requirement of section 5.0 only as follows:
  - 1. The denial of a modification or waiver, or the approval of a modification or waiver with conditions objectionable to the developer may be appealed to the board of supervisors as an appeal of a denial of the plat, as provided in section 14-226 of the Code, or the site plan, as provided in sections 32.4.2.7 or 32.4.3.9, to which the modification or waiver pertains. A modification or waiver considered by the commission in conjunction with an application for a special use permit shall be subject to review by the board of supervisors.
  - 2. In considering a modification or waiver, the board may grant or deny the modification or waiver based upon the finding set forth in subsection (a), amend any condition imposed by the commission, and impose any conditions it deems necessary for the reasons set forth in subsection (a).

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

**5.1.01 AIRPORTS; HELIPORTS; HELISTOPS**

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

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

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

**5.1.02 CLUBS, LODGES**

Each club or lodge shall be subject to the following:

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

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

**5.1.03 COMMERCIAL STABLE**

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

**5.1.04 COMMUNITY CENTER**

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

**5.1.05 DAY CAMP, BOARDING CAMP**

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

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

### **5.1.06 DAY CARE CENTER, FAMILY DAY HOME**

Each day care center or family day home shall be subject to the following: (Added 10-3-01)

- a. No such use shall operate without the required licensure by the Virginia Department of Social Services. It shall be the responsibility of the owner/operator to transmit to the zoning administrator a copy of the original license. Failure to do so shall be deemed willful noncompliance with the provisions of this chapter; (Amended 10-3-01)
- b. Periodic inspection of the premises shall be made by the Albemarle County fire official at his discretion. Failure to promptly admit the fire official for such inspection shall be deemed willful noncompliance with the provisions of this chapter; (Amended 10-3-01)
- c. These provisions are supplementary and nothing stated herein shall be deemed to preclude application of the requirements of the Virginia Department of Social Services, Virginia Department of Health, Virginia State Fire Marshal, or any other local, state or federal agency. (Amended 10-3-01)

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

### **5.1.07 GROUP HOMES**

Each group home shall be subject to the following: (Added 10-3-01)

- a. Conditions may be imposed on such homes to insure their compatibility with other permitted uses, but such conditions shall not be more restrictive than those imposed on other dwellings in the same districts unless such additional conditions are necessary to protect the health and safety of the residents of such homes;
- b. Each group home shall be subject to Albemarle County fire official review. (Amended 10-3-01)

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

### **5.1.08 DRIVE-IN THEATRE**

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

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

**5.1.09 FIRE, AMBULANCE, RESCUE SQUAD STATION (VOLUNTEER)**

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

- a. Any such use seeking public funding shall be reviewed by the commission in accordance with section 31.2.5. Specifically, the commission shall find that the proposed service area is not already adequately served by another such facility. In addition, the commission shall consider: growth potential for the area; relationship to centers of population and to high-value property concentrations; and access to and adequacy of public roads in the area for such use. The commission may request recommendation from the Albemarle County fire official and other appropriate agencies in its review;
- b. Subordinate uses and fund-raising activities such as bingo, raffles and auctions may be conducted outdoors during daylight hours and shall be conducted in an enclosed building at all other times. (Amended 6-14-00; 10-3-01)

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

**5.1.10 JUNK YARDS**

- a. All storage and operational areas shall be enclosed by a solid, light-tight, sightly fence not less than eight (8) feet in height or alternative screening and/or fencing satisfactory to the commission;
- b. Storage yards and access to public roads shall be maintained in a dust-free surface.

**5.1.11 COMMERCIAL KENNEL, VETERINARY SERVICE, OFFICE OR HOSPITAL, ANIMAL HOSPITAL, ANIMAL SHELTER** (Amended 6-14-00)

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

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

- a. Except where animals are confined in soundproofed, air-conditioned buildings, no structure or area occupied by animals shall be closer than five hundred (500) feet to any agricultural or residential lot line. For non-soundproofed animal confinements, an external solid fence not less than six (6) feet in height shall be located within fifty (50) feet of the animal confinement and shall be composed of concrete block, brick, or other material approved by the zoning administrator; (Amended 11-15-89)
- b. For soundproofed confinements, no such structure shall be located closer than two hundred (200) feet to any agricultural or residential lot line. For soundproofed confinements, noise measured at the nearest agricultural or residential property line shall not exceed fifty-five (55) decibels; (Amended 11-15-89; 6-14-00)
- c. In all cases, animals shall be confined in an enclosed building from 10:00 p.m. to 6:00 a.m. (Amended 11-15-89; 6-14-00)
- d. In areas where such uses may be in proximity to other uses involving intensive activity such as shopping centers or other urban density locations, special attention is required to protect the public health and welfare. To these ends the commission and board may require among other things: (Amended 11-15-89)

-Separate building entrance and exit to avoid animal conflicts;  
(Added 11-15-89)

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-Area for outside exercise to be exclusive from access by the public by fencing or other means. (Added 11-15-89)

**5.1.12 PUBLIC UTILITY STRUCTURES/USES**

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

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

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

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

**5.1.13 REST HOME, NURSING HOME, CONVALESCENT HOME, ORPHANAGE**

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

**5.1.14 SANITARY LANDFILL**

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

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

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

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

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

### **5.1.15 SAWMILL, TEMPORARY OR PERMANENT**

Each temporary or permanent sawmill shall be subject to the following: (Added 10-3-01)

- a. No structure and no storage of lumber, logs, chips or timber shall be located closer than one hundred (100) feet to any lot line. Trees and vegetation within the one hundred (100) foot setback shall be maintained as a buffer to adjoining properties and uses, provided that during the last three months of operation such trees may be removed;
- b. No saw, planer, chipper, conveyor, chute or other like machinery shall be located closer than six hundred (600) feet to any dwelling on other property in the area;
- c. No sawing, planing, chipping or operation of other processing machinery shall occur between 7:00 p.m. and 7:00 a.m. No loading/unloading of wood/wood products shall occur between 12:00 midnight and 7:00 a.m.;
- d. All timbering and milling operations, including reforestation/restoration and disposal of snags, sawdust and other debris, shall be conducted in accordance with Title 10.1 of the Virginia Code and the regulations of the Virginia Department of Forestry; (Amended 10-3-01)
- e. All such operations shall be subject to the noise limitation requirements of section 4.18. (Amended 10-3-01)

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



**5.1.16 SWIMMING, GOLF, TENNIS CLUBS**

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

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

**5.1.17 TOURIST LODGING**

The zoning administrator shall issue a zoning compliance clearance for tourist lodging provided that the Albemarle County fire official and the Virginia Department of Health issue their approvals for the use, and all other applicable requirements of this chapter are satisfied. (Amended 10-3-01)

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

**5.1.18 TEMPORARY CONSTRUCTION HEADQUARTERS AND TEMPORARY CONSTRUCTION YARDS**

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

- a. *Temporary construction headquarters.* The zoning administrator is authorized to issue a zoning clearance allowing temporary construction headquarters serving a construction project, subject to the following:
  - 1. *Duration.* The headquarters shall be authorized on the site for a period beginning no earlier than thirty (30) days prior to the commencement of actual construction and ending no later than thirty (30) days after completion of the last building to be constructed in the project or thirty (30) days after active construction on the site is suspended or abandoned, whichever occurs first (hereinafter, the “ending date”). Construction shall be deemed to be suspended or abandoned if no substantive progress, characterized by approved building inspections or other evidence that substantial work has been performed in the prior thirty (30) day period. The zoning administrator may extend the ending date, upon the written request of the owner, if the suspension or abandonment of active construction is the result of inclement weather. The headquarters shall be removed from the site by the ending date.
  - 2. *Location.* The headquarters shall be located within the same site where the construction project is located.

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

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

**5.1.19 WAYSIDE STAND (Added 10-3-01; Repealed 5-5-10)**

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

- a. No storage in excess of six hundred (600) gallons or sale of petroleum products shall be established without Albemarle County fire official approval;
- b. In such review and approval the fire official may, in addition to other safety requirements, require separation between such use and adjoining uses as deemed necessary to protect the public health and safety.

**5.1.21 DWELLINGS IN COMMERCIAL AND INDUSTRIAL DISTRICTS**

- a. Dwellings in commercial and industrial districts are limited to owners or employees of establishments including night watchmen;
- b. Such dwelling may be located individually or in the same structure as the main use, subject to Albemarle County building official and fire official approvals;
- c. Not more than one (1) dwelling unit shall be permitted per establishment;
- d. No mobile home shall be permitted as a dwelling unit for a period in excess of six (6) months. (Added 3-17-82) (Amended 4-17-85)

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**5.1.22 FEED AND SEED STORE**

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

**5.1.23 (Repealed 9-9-92)**

**5.1.24 SUBORDINATE RETAIL SALES**

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

- a. Retail sales area, including but not limited to showroom and outdoor display area, shall not exceed fifteen (15) percent of the floor area of the main use except as provided for in section 27.2.2.13; (Amended 2-20-91)
- b. Retail sales shall not precede establishment of the main use. Retail sales shall be permitted only after or simultaneously with the establishment of the main use and shall not continue after discontinuance of the main use; (Adopted 12-2-81)
- c. In approval of any retail sales area the board and/or the commission may limit the areas for retail sales in both size and location; (Added 2-20-91)
- d. Retail sales area exceeding fifteen (15) percent of the floor area of the main use pursuant to section 27.2.2.13 is intended to allow for uses which by their nature are bulky and require nonintensive use of the land. The board and/or the commission in approval of such increased sales area shall be mindful of the intent of this section to provide for only subordinate retail sales and avoid incompatible land uses. (Added 2-20-91)

**5.1.25 FARM WINERY**

Each farm winery shall be subject to the following:

- a. *Uses permitted.* The following uses, events and activities (hereinafter, collectively, “uses”) are permitted at a farm winery:
  - 1. The production and harvesting of fruit and other agricultural products and the manufacturing of wine including, but not limited to, activities related to the production of the agricultural products used in wine, including but not limited to, growing, planting and harvesting the agricultural products and the use of equipment for those activities.
  - 2. The sale, tasting, including barrel tastings, or consumption of wine within the normal course of business of the farm winery.
  - 3. The direct sale and shipment of wine by common carrier to consumers in accordance with Title 4.1 of the Virginia Code and the regulations of the Alcoholic Beverage Control Board.
  - 4. The sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.
  - 5. The storage, warehousing, and wholesaling of wine in accordance with Title 4.1 of the Virginia Code, regulations of the Alcoholic Beverage Control Board, and federal law.

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6. Private personal gatherings of a farm winery owner who resides at the farm winery or on property adjacent thereto that is owned or controlled by the owner, provided that wine is not sold or marketed and for which no consideration is received by the farm winery or its agents.
- b. *Agritourism uses or wine sales related uses.* The following uses are permitted at a farm winery, provided they are related to agritourism or wine sales:
1. Exhibits, museums, and historical segments related to wine or to the farm winery.
  2. Farm winery events at which not more than two hundred (200) persons are in attendance at any time.
  3. Guest winemakers and trade accommodations of invited guests at a farm winery owner's private residence at the farm winery.
  4. Hayrides.
  5. Kitchen and catering activities related to a use at the farm winery.
  6. Picnics, either self-provided or available to be purchased at the farm winery.
  7. Providing finger foods, soups and appetizers for visitors.
  8. Sale of wine-related items that are incidental to the sale of wine including, but not limited to the sale of incidental gifts such as cork screws, wine glasses, and t-shirts.
  9. Tours of the farm winery, including the vineyard.
  10. Weddings and wedding receptions at which not more than two hundred (200) persons are in attendance at any time.
  11. Other uses not expressly authorized that are agritourism uses or are wine sales related uses, which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth, which do not create a substantial impact on the health, safety or welfare of the public, and at which not more than two hundred (200) persons are in attendance at any time.
- c. *Agritourism uses or wine sales related uses; more than 200 person at any time; special use permit.* The following uses, at which more than two hundred (200) persons will be allowed to attend at any time, are permitted at a farm winery with a special use permit, provided they are related to agritourism or wine sales:
1. Farm winery events.
  2. Weddings and wedding receptions.
  3. Other uses not expressly authorized that are agritourism uses or wine sales related uses which are determined by the zoning administrator to be usual and customary uses at farm wineries throughout the Commonwealth.
- d. *Information and sketch plan to be submitted with application for a special use permit.* In addition to any information required to be submitted with an application for a special use permit under section 31.6.2, each application for one or more uses authorized under section 5.1.25(c) shall include the following:

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1. *Information.* Information pertaining to the following: (i) the proposed uses; (ii) the maximum number of persons who will attend each use at any given time; (iii) the frequency and duration of the uses; (iv) the provision of on-site parking; (v) the location, height and lumens of outdoor lighting for each use; and (vi) the location of any stage, structure or other place where music will be performed.
2. *Sketch plan.* A sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the director of planning depicting: (i) all structures that would be used for the uses; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter; and (iii) how potential adverse impacts to adjoining property will be mitigated so they are not substantial.
- e. *Sound from outdoor amplified music.* Sound generated by outdoor amplified music shall not be audible: (i) from a distance of one hundred (100) feet or more from the property line of the farm winery on which the device is located; or (ii) from inside a dwelling unit.
- f. *Yards.* Notwithstanding any other provision of this chapter, the minimum front, side and rear yard requirements in section 10.4 shall apply to all primary and accessory structures established after [insert date] and to all tents, off-street parking areas and portable toilets used in whole or in part to serve any use permitted at a farm winery, provided that the zoning administrator may reduce the minimum required yard upon finding that: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
- g. *Uses prohibited.* The following uses are prohibited:
  1. Restaurants.
  2. Helicopter rides.

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

### 5.1.26 HYDROELECTRIC POWER GENERATION

- a. These provisions are intended to encourage the use of water power as a natural and replenishable resource for the generation of electrical power. While serving energy conservation and natural resource goals, these provisions are also intended to limit such use so as: not to be objectionable in the area in which it is located; not to unreasonably interfere with the passage of boats, canoes, fish and other aquatic life; not to unreasonably degrade the riverine and aquatic habitat or water quality, in general;
- b. The applicant shall submit with his application for special use permit, plans, profiles, studies and other supporting information addressing the issues in (a) above. No such application shall be approved until comment and recommendation has been received from the State Water Control Board, the Commission of Game and Inland Fisheries, and other appropriate federal, state and local agencies;
- c. Whether or not a site development plan is required, the applicant shall submit to the county engineer a certified engineer's report as described in section 4.14.8. In review of such report, the county engineer shall be particularly mindful of the requirements of section 4.14.1, noise, and section 4.14.7, electrical interference;
- d. Except as specifically permitted in a particular case, no auxiliary or accessory method of power generation shall be permitted nor shall any pump storage or rechannelization be permitted. (Added 4-28-82)

**5.1.27 TEMPORARY EVENTS SPONSORED BY LOCAL NONPROFIT ORGANIZATIONS**

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

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

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

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

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

- a. A preliminary plan showing access, parking, vehicular and pedestrian circulation, and method of separation of the same shall be approved by the director of planning;
- b. Such organization shall have made adequate arrangements with the county sheriff, fire and rescue squads, and the local office of the Virginia Department of Health for the conduct of such event;
- c. Adequate arrangements have been made for the removal of trash and debris, reseeding and general restoration of the site following the event. The board of supervisors may establish and require the posting of a bond in an amount deemed by the zoning administrator to be sufficient for such purpose. (Added 7-7-82)

**Sec. 5.1.28 Borrow, fill or waste areas**

- a. Each borrow, fill or waste area shall be subject to the following:
  1. Each active borrow, fill or waste area shall be shaped and sloped so that no undrained pockets or stagnant pools of water are created to the maximum extent reasonably practicable as determined by the program authority. All undrained pockets and stagnant pools of water resulting from drainage shall be treated as required by the Virginia Department of Health to eliminate breeding places for mosquitoes and other insects. (Amended 10-3-01; 7-3-02)
  2. No fill or waste area shall be located either within the flood hazard overlay district, except as authorized by section 30.3 of this chapter, or in any stream buffer area as defined by Chapter 17 of the Code of Albemarle. (Amended 10-3-01; 7-3-02)
  3. Each fill or waste area shall be only for the disposal of soil or inert materials. The disposal of any other materials in a fill or waste area is prohibited. (Amended 10-3-01; 7-3-02)

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4. Each borrow, fill or waste area shall be reclaimed within seven (7) days of completion of the borrow, fill or waste activity, or such later time authorized by the program authority for reclamation activities of a seasonal nature. Reclamation shall include, but not be limited to, restoring the area so that it approximates natural contours; shaping and sloping the area to satisfy the requirements of subsection (a)(1); covering the area with clean fill to a minimum depth of two (2) feet in order to allow for permanent stabilization and reclamation; and establishing a permanent vegetative ground cover; provided that the program authority may reduce the minimum depth of clean fill to one (1) foot if the area is unlikely to be redeveloped. (Amended 7-3-02)
5. The zoning administrator, or the program authority for those borrow, fill or waste areas subject to subsection (b), may require the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the county attorney, to ensure that measures could be taken by the county or the program authority at the owner's expense should he fail, after notice is given to perform required reclamation work specified in the notice. The amount of the bond or other surety shall be based on unit pricing for new public or private sector construction in Albemarle County, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five (25) percent of the estimated cost to initiate and complete the reclamation of the borrow, fill or waste area, and to comply with all other terms and conditions of the plan or narrative required by subsection (b). If reclamation work is required to be taken by the county or the program authority upon the failure of the owner to do so, the county or the program authority may collect the reasonable cost of the work directly from the owner, to the extent that the cost exceeds the unexpended or unobligated amount of the surety. Within sixty (60) days after the reclamation work is completed and inspected and approved by the county engineer, the bond or other surety, or any unexpended or unobligated portion thereof, shall be refunded to the owner. (Added 7-6-83; Amended 7-3-02)
- b. If the aggregate area of a borrow, fill or waste activity will be greater than ten thousand (10,000) square feet, then, as part of any permit issued pursuant to section 17-207 of the Code of Albemarle, the program authority shall first approve a plan or a narrative for such activity that satisfies the requirements of subsection (a) and the following: (Amended 7-3-02)
  1. All inert materials shall be transported in compliance with section 13-301 of the Code of Albemarle. Before a transporting vehicle leaves the parcel or parcels on which the borrow, fill or waste area is located, it shall be cleaned so that no inert materials outside of the vehicle's load-bed can be deposited on a public street. (Amended 7-3-02)
  2. The borrow, fill or waste area and the access roads thereto shall be treated or maintained to prevent dust or debris from blowing or spreading onto adjacent properties or public streets. Depending on the anticipated intensity and duration of the activity and the character of the development of adjoining properties, the program authority may require setback, fencing and landscaping requirements as deemed appropriate, but which shall not exceed the requirements of sections 30.4.6, 30.4.7 and 30.4.9 of this chapter. (Amended 7-3-02)
  3. Borrow, fill or waste activity involving industrial-type power equipment shall be limited to the hours of 7:00 a.m. to 9:00 p.m., except in cases of a public emergency declared pursuant to section 2-1003 of the Code of Albemarle. (Amended 7-3-02)
  4. Borrow, fill or waste activity shall be conducted in a safe manner that maintains lateral support, in order to minimize any hazard to persons, physical damage to adjacent land and improvements, and damage to any public street because of slides, sinking, or collapse. (Amended 7-3-02)

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5. The placement of fill or waste shall be completed within one (1) year of its commencement, except for reclamation activities and any other activities associated with the final stabilization of the area. The program authority may extend the date of completion upon the written request of the applicant, demonstrating that factors beyond the control of the applicant prevented the completion within the one-year period. The program authority may then extend the permit for a period of time that, in its sole discretion, is determined adequate to complete the work. (Added 7-3-02)
6. In lieu of a plan or narrative, the program authority may accept a contractual agreement between the Virginia Department of Transportation and its contractor for a public road project; provided that the program authority determines that the agreement satisfies at least to an equivalent extent the requirements and intent of this section. (Amended 10-3-01; 7-3-02)

(§ 5.1.28, 12-10-80, 7-6-83; Ord. 01-18(6), 10-3-01; Ord. 02-18(5), 7-3-02)

### **5.1.29 CONVENT, MONASTERY**

- a. The ownership of the convent/monastery shall conform in all respects to the provisions of Chapter 2 of Title 57 of the Code of Virginia, as the same may be amended from time to time, or any successor statute;
- b. This provision is intended to accommodate the long term residency of nuns, monks or friars in a communal setting as opposed to transient occupancy as may be experienced in other religious retreats; provided that nothing contained herein shall be deemed to preclude temporary lodging of guests as an accessory use to the convent or monastery. (Added 1-1-87)

### **5.1.30 AGRICULTURAL MUSEUM**

- a. Items for display in such museum shall be directly related to past or present agricultural/forestral uses in Albemarle County;
- b. Activities may include: passive display; active demonstration including tours of processing areas; and public participation in such agricultural activity;
- c. Sale of display items and accessory items may be permitted only upon expressed approval by the board of supervisors. (Added 12-2- 87)

### **5.1.31 BODY SHOP**

- a. There shall be no storage of parts, materials or equipment except within an enclosed building.
- b. No vehicle awaiting repair shall be located on any portion of such property so as to be visible from any public road or any residential property, and shall be limited to locations designed on the approved site plan.
- c. Nothing herein shall be construed to limit the authority of the governing body in the review of any special use permit, including, but not limited to, the regulation of hours of operation, location of door and/or windows and the like. (Added 12-7-88)

### **5.1.32 TOWING AND TEMPORARY STORAGE OF MOTOR VEHICLES**

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



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

**5.1.33 SPRING WATER EXTRACTION AND/OR BOTTLING**

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

**5.1.34 ACCESSORY APARTMENT**

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

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- i. The provisions of section 4.1.6 notwithstanding, for lots not served by a central sewer system, no accessory apartment shall be established without written approval from the local office of the Virginia Department of Health of the location and area for both original and future replacement fields adequate to serve the main dwelling and accessory apartment.
- j. Accessory apartment shall be deemed to be a dwelling unit for the purposes of section 14-232 Private Roads of Chapter 14, Subdivision of Land of the Code of Albemarle. (Added 8-10-94)

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

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

**5.1.37 OUTDOOR AMPHITHEATER**

(Amended 6-14-00)

Each outdoor ampitheater shall be subject to the following:

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

**5.1.38 OFFSITE PARKING FOR HISTORIC STRUCTURES OR SITES**

(Added 12-10-97)

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

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

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

### **5.1.39 OFF-SITE EMPLOYEE PARKING FOR INDUSTRIAL USE**

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

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

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

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stormwater management improvements; the location and visibility of the site; and other physical features of the property.

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

**Sec. 5.1.40 PERSONAL WIRELESS SERVICE FACILITIES**

(Amended 10-13-04)

The purpose of this section 5.1.40 is to implement the personal wireless service facilities policy, adopted as part of the comprehensive plan. Each personal wireless service facility (hereinafter “facility”) shall be subject to following, as applicable:

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- a. *Application for approval:* Each request for approval of a facility shall include the following information:
1. A completed application form, signed by the parcel owner, the parcel owner's agent or the contract purchaser, and the proposed facility's owner. If the owner's agent signs the application, he shall also submit written evidence of the existence and scope of the agency. If the contract purchaser signs the application, he shall also submit the owner's written consent to the application.
  2. A recorded plat or recorded boundary survey of the parcel on which the facility will be located; provided, if neither a recorded plat nor boundary survey exists, a copy of the legal description of the parcel and the Albemarle County Circuit Court deed book and page number.
  3. The identity of the owner of the parcel and, if the owner is other than a real person, the complete legal name of the entity, a description of the type of entity, and written documentation that the person signing on behalf of the entity is authorized to do so.
  4. Except where the facility will be located entirely within an existing structure, a scaled plan and a scaled elevation view and other supporting drawings, calculations, and other documentation required by the agent, signed and sealed by an appropriate licensed professional. The plans and supporting drawings, calculations and documentation shall show:
    - (a) The location and dimensions of all existing and proposed improvements on the parcel including access roads and structures, the location and dimensions of significant natural features, and the maximum height above ground of the facility (also identified in height above sea level).
    - (b) The benchmarks and datum used for elevations. The datum shall coincide with the Virginia State Plane Coordinate System, South Zone, North American Datum of 1983 (NAD83), United States Survey Feet North American Vertical Datum of 1988 (NAVD88), and the benchmarks shall be acceptable to the county engineer.
    - (c) The design of the facility, including the specific type of support structure and the design, type, location, size, height and configuration of all existing and proposed antennas and other equipment.
    - (d) Identification of each paint color on the facility, by manufacturer color name and color number. A paint chip or sample shall be provided for each color.
    - (e) Except where the facility would be attached to an existing structure, the topography within two thousand (2,000) feet of the proposed facility, in contour intervals not to exceed ten (10) feet for all lands within Albemarle County and, in contour intervals shown on United States Geological Survey topographic survey maps or the best topographic data available, for lands not within Albemarle County.
    - (f) The height, caliper and species of all trees where the dripline is located within fifty (50) feet of the facility that are relied upon to establish the proposed height and/or screening of the monopole. All trees that will be adversely impacted or removed during installation or maintenance of the facility shall be noted, regardless of their distances to the facility.
    - (g) All existing and proposed setbacks, parking, fencing and landscaping.
    - (h) The location of all existing accessways and the location and design of all proposed

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accessways.

- (i) Except where the facility would be attached to an existing structure, residential and commercial structures; and residential and rural areas zoning district boundaries.
  - (j) If the proposed tower will be taller than one hundred fifty (150) feet, the proximity of the facility to commercial and private airports.
5. Photographs, where possible, or perspective drawings of the facility site and all existing facilities within two hundred (200) feet of the site, if any, and the area surrounding the site.
6. For any proposed monopole or tower, photographs taken of a balloon test, which shall be conducted as follows:
- (a) The applicant shall contact the agent within ten (10) days after the date the application was submitted to schedule a date and time when the balloon test will be conducted. The test shall be conducted within forty (40) days after the date the application was submitted, and the applicant shall provide the agent with at least seven (7) days prior notice; provided that this deadline may be extended due to inclement weather or by the agreement of the applicant and the agent.
  - (b) Prior to the balloon test, the locations of the access road, the lease area, the tower site, the reference tree and the tallest tree within twenty five (25) feet of the proposed monopole shall be surveyed and staked or flagged in the field.
  - (c) The test shall consist of raising one or more balloons from the site to a height equal to the proposed facility.
  - (d) The balloons shall be of a color or material that provides maximum visibility.
  - (e) The photographs of the balloon test shall be taken from the nearest residence and from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and other properties and locations as deemed appropriate by the agent. The applicant shall identify the camera type, film size, and focal length of the lens for each photograph.
7. If antennas are proposed to be added to an existing structure, all existing antennas and other equipment on the structure, as well as all ground equipment, shall be identified by owner, type and size. The method(s) by which the antennas will be attached to the mounting structure shall be depicted.
8. If the proposed facility would be located on lands subject to a conservation easement or an open space easement, a copy of the recorded deed of easement and the express written consent of all easement holders to the proposed facility.
- b. *Exemption from regulations otherwise applicable:* Except as otherwise exempted in this paragraph, each facility shall be subject to all applicable regulations in this chapter.
- 1. Notwithstanding section 4.2.3.1 of this chapter, a facility may be located in an area on a lot or parcel other than a building site.
  - 2. Notwithstanding section 4.10.3.1(b) of this chapter, the agent may authorize a facility to be located closer in distance than the height of the tower or other mounting structure to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners, acceptable to the county attorney addressing development on the part of the abutting parcel sharing the common lot line that is within

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the facility's fall zone (e.g., the setback of an eighty (80) foot-tall facility could be reduced to thirty (30) feet if an easement is established prohibiting development on the abutting lot within a fifty (50) foot fall zone). If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.

3. The area and bulk regulations or minimum yard requirements of the zoning district in which the facility will be located shall not apply.
  4. Notwithstanding section 4.11 of this chapter, a facility may be located in a required yard.
  5. Notwithstanding section 32.2 of this chapter, a site plan shall not be required for a facility, but the facility shall be subject to the requirements of section 32 and the applicant shall submit all schematics, plans, calculations, drawings and other information required by the agent to determine whether the facility complies with section 32. In making this determination, the agent may impose reasonable conditions authorized by section 32 in order to assure compliance.
- c. *Tier I facilities.* Each Tier I facility may be established upon approval of an application satisfying the requirements of subsection 5.1.40(a) by the agent, demonstrating that the facility will be installed and operated in compliance with all applicable provisions of this chapter, satisfying all conditions of the architectural review board, and meeting the following conditions:
1. The facility shall comply with subsection 5.1.40(b).
  2. The facility shall be designed, constructed and maintained as follows: (i) guy wires shall not be permitted; (ii) outdoor lighting for the facility shall be permitted only during maintenance periods; regardless of the lumens emitted, each outdoor luminaire shall be fully shielded as required by section 4.17 of this chapter; (iii) any equipment cabinet not located within the existing structure shall be screened from all lot lines either by terrain, existing structures, existing vegetation, or by added vegetation approved by the county's landscape planner; (iv) a whip antenna less than six (6) inches in diameter may exceed the height of the existing structure; (v) a grounding rod, whose height shall not exceed two (2) feet and whose width shall not exceed one (1) inch in diameter at the base and tapering to a point, may be installed at the top of facility or the structure; and (vi) within one month after the completion of the installation of the facility, the applicant shall provide a statement to the agent certifying that the height of all components of the facility complies with this regulation.
  3. Equipment shall be attached to the exterior of a structure only as follows: (i) the total number of arrays of antennas attached to the existing structure shall not exceed three (3), and each antenna proposed to be attached under the pending application shall not exceed the size shown on the application, which size shall not exceed one thousand one hundred fifty two (1152) square inches; (ii) no antenna shall project from the structure beyond the minimum required by the mounting equipment, and in no case shall any point on the face of an antenna project more than twelve (12) inches from the existing structure; and (iii) each antenna and associated equipment shall be a color that matches the existing structure. For purposes of this section, all types of antennas and dishes regardless of their use shall be counted toward the limit of three arrays.
  4. Prior to issuance of a building permit, the applicant shall submit a tree conservation plan prepared by a certified arborist. The plan shall be submitted to the agent for review and approval to assure that all applicable requirements have been satisfied. The plan shall specify tree protection methods and procedures, and identify all existing trees to be removed on the parcel for the installation, operation and maintenance of the facility.

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Except for the tree removal expressly authorized by the agent, the applicant shall not remove existing trees within the lease area or within one hundred (100) feet in all directions surrounding the lease area of any part of the facility. In addition, the agent may identify additional trees or lands up to two hundred (200) feet from the lease area to be included in the plan.

5. The installation, operation and maintenance of the facility shall be conducted in accordance with the tree conservation plan. Dead and dying trees identified by the arborist's report may be removed if so noted on the tree conservation plan. If tree removal is later requested that was not approved by the agent when the tree conservation plan was approved, the applicant shall submit an amended plan. The agent may approve the amended plan if the proposed tree removal will not adversely affect the visibility of the facility from any location off of the parcel. The agent may impose reasonable conditions to assure that the purposes of this paragraph are achieved.
  6. The facility shall be disassembled and removed from the site within ninety (90) days of the date its use for personal wireless service purposes is discontinued. If the agent determines at any time that surety is required to guarantee that the facility will be removed as required, the agent may require that the parcel owner or the owner of the facility submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the facility. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney. In determining whether surety should be required, the agent shall consider the following: (i) the annual report states that the tower or pole is no longer being used for personal wireless service facilities; (ii) the annual report was not filed; (iii) there is a change in technology that makes it likely that tower or pole will be unnecessary in the near future; (iv) the permittee fails to comply with applicable regulations or conditions; (v) the permittee fails to timely remove another tower or pole within the county; and (vi) whenever otherwise deemed necessary by the agent.
  7. The owner of the facility shall submit a report to the agent by no earlier than May or and no later than July 1 of each year. The report shall identify each user of the existing structure, and include a drawing, photograph or other illustration identifying which equipment is owned and/or operated by each personal wireless service provider. Multiple users on a single tower or other mounting structure may submit a single report, provided that the report includes a statement signed by a representative from each user acquiescing in the report.
  8. No slopes associated with the installation of the facility and accessory uses shall be created that are steeper than 2:1 unless retaining walls, revetments, or other stabilization measures acceptable to the county engineer are employed.
  9. Any equipment cabinet not located within an existing building shall be fenced only with the approval of the agent upon finding that the fence: (i) would protect the facility from trespass in areas of high volumes of vehicular or pedestrian traffic or, in the rural areas, to protect the facility from livestock or wildlife; (ii) would not be detrimental to the character of the area; and (iii) would not be detrimental to the public health, safety or general welfare.
- d. *Tier II facilities.* Each Tier II facility may be established upon commission approval of an application satisfying the requirements of subsection 5.1.40(a) and demonstrating that the facility will be installed and operated in compliance with all applicable provisions of this chapter, criteria (1) through (8) below, and satisfying all conditions of the architectural review board. The commission shall act on each application within the time periods established in section 32.4.2.6. The commission shall approve each application, without conditions, once it determines that all of these requirements have been satisfied. If the commission denies an



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application, it shall identify which requirements were not satisfied and inform the applicant what needs to be done to satisfy each requirement.

1. The facility shall comply with subsection 5.1.40(b) and subsection 5.1.40(c)(2) through (9).
2. The site shall provide adequate opportunities for screening and the facility shall be sited to minimize its visibility from adjacent parcels and streets, regardless of their distance from the facility. If the facility would be visible from a state scenic river or a national park or national forest, regardless of whether the site is adjacent thereto, the facility also shall be sited to minimize its visibility from such river, park or forest. If the facility would be located on lands subject to a conservation easement or an open space easement, or adjacent to a conservation easement or open space easement, the facility shall be sited so that it is not visible from any resources specifically identified for protection in the deed of easement.
3. The facility shall not adversely impact resources identified in the county's open space plan.
4. The facility shall not be located so that it and three (3) or more existing or approved personal wireless service facilities would be within an area comprised of a circle centered anywhere on the ground having a radius of two hundred (200) feet.
5. The maximum base diameter of the monopole shall be thirty (30) inches and the maximum diameter at the top of the monopole shall be eighteen (18) inches.
6. The top of the monopole, measured in elevation above mean sea level, shall not exceed the height approved by the commission. The approved height shall not be more than seven (7) feet taller than the tallest tree within twenty-five (25) feet of the monopole, and shall include any base, foundation or grading that raises the pole above the pre-existing natural ground elevation; provided that the height approved by the commission may be up to ten (10) feet taller than the tallest tree if the owner of the facility demonstrates to the satisfaction of the commission that there is not a material difference in the visibility of the monopole at the proposed height, rather than at a height seven (7) feet taller than the tallest tree; and there is not a material difference in adverse impacts to resources identified in the county's open space plan caused by the monopole at the proposed height, rather than at a height seven (7) feet taller than the tallest tree. The applicant may appeal the commissioner's denial of a modification to the board of supervisors as provided in subsection 5.1.40(d)(12).
7. Each wood monopole shall be a dark brown natural wood color; each metal or concrete monopole shall be painted a brown wood color to blend into the surrounding trees. The antennas, supporting brackets, and all other equipment attached to the monopole shall be a color that closely matches that of the monopole. The ground equipment, the ground equipment cabinet, and the concrete pad shall also be a color that closely matches that of the monopole, provided that the ground equipment and the concrete pad need not be of such a color if they are enclosed within or behind an approved structure, façade or fencing that: (i) is a color that closely matches that of the monopole; (ii) is consistent with the character of the area; and (iii) makes the ground equipment and concrete pad invisible at any time of year from any other parcel or a public or private street.
8. Each wood monopole shall be constructed so that all cables, wiring and similar attachments that run vertically from the ground equipment to the antennas are placed on the pole to face the interior of the property and away from public view, as determined by the agent. Metal monopoles shall be constructed so that vertical cables, wiring and similar attachments are contained within the monopole's structure.

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9. The following shall be submitted with the building permit application: (i) certification by a registered surveyor stating the height of the reference tree that is used to determine the permissible height of the monopole; and (ii) a final revised set of plans for the construction of the facility. The agent shall review the surveyor's certificate and the plans to assure that all applicable requirements have been satisfied.
  10. The following shall be submitted to the agent after installation of the monopole is completed and prior to issuance of a certificate of occupancy: (i) certification by a registered surveyor stating the height of the monopole, measured both in feet above ground level and in elevation above mean sea level, using the benchmarks or reference datum identified in the application; and (ii) certification stating that the lightning rod's height does not exceed two (2) feet above the top of the monopole and width does not exceed a diameter of one (1) inch.
  11. Notice of the commission's consideration of an application for a Tier II facility shall be sent by the agent to the owner of each lot abutting the lot on which the proposed facility will be located. The notice shall describe the nature of the facility, its proposed location on the lot, its proposed height, the appropriate county office where the complete Tier II facility application may be viewed, and the date, time and location where the commission will consider the application. The notice shall be mailed by first class mail or hand delivered at least ten (10) days prior to the commission meeting. Mailed notice shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an owner to receive the notice as provided herein shall not affect the validity of an approved Tier II facility and shall not be the basis for an appeal.
  12. The board of supervisors may consider an application for a Tier II facility only upon an appeal of the denial of the application by the commission. An appeal shall be submitted in writing in the office of the agent within ten (10) calendar days after the date of the denial by the commission. In considering an appeal, the board may affirm, reverse, or modify in whole or in part, the decision of the commission, and its decision shall be based upon the requirements delineated in this subsection (d).
  13. Upon the written request of the applicant, the agent may authorize the height of an existing Tier II facility's monopole to be increased above its originally approved height upon finding that the reference tree has grown to a height that is relative to the requested increase in height of the monopole. The application shall include a certified survey of the reference tree's new height, as well as the heights of other trees to be considered by the agent. The agent shall not grant such a request if the increase in height would cause the facility to be skylighted or would increase the extent to which it is skylighted.
- e. *Tier III facilities.* Each Tier III facility may be established upon approval of a special use permit issued pursuant to section 31.2.4 of this chapter, initiated upon an application satisfying the requirements of subsection 5.1.40(a) and section 31.2.4, and it shall be installed and operated in compliance with all applicable provisions of this chapter and the following:
1. The facility shall comply with subsection 5.1.40(b), subsection 5.1.40(c)(2) through (9), and subsection 5.1.40(d)(2), (3), (6) and (7), unless modified by the board of supervisors during special use permit review.
  2. The facility shall comply with all conditions of approval of the special use permit.

(§ 5.1.40, Ord. 01-18(9), 10-17-01; Ord. 04-18(2), 10-13-04)

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**5.1.41 PARKING LOTS AND PARKING STRUCTURES**

(Added 2-5-03)

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

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

**5.1.42 HISTORICAL CENTERS**

(Added 6-8-05)

Each historical center shall be subject to the following:

- a. *New historical center structures.* Newly constructed structures for historical centers shall be limited to one thousand five hundred (1,500) square feet in size, aggregate, including interpretative space and accessory uses within such structures.
- b. *Rehabilitation or construction on historic structures or sites to be used for historical center structure.* The rehabilitation of historic structures and sites to be used for historical centers shall be completed to the satisfaction of the Virginia Department of Historic Resources (DHR) as demonstrated by a letter to the county. The design and siting of any proposed accessory uses and visitor amenities at a historic structure or site shall also be approved by DHR.
- c. *Minimum side and rear yards.* Notwithstanding any other provision of this chapter, the minimum side yard and rear yard shall be fifty (50) feet; provided that there shall be no minimum side yard or rear yard if the side or rear lot lines are shared with another lot that is part of the historical center; and further provided that greater side yards or rear yards may be required by the site plan agent if deemed necessary because of site-specific conditions, and that lesser side yards and rear yards may be allowed to facilitate the rehabilitation or reuse of a historic structure or site.
- d. *Site plan.* A site plan is required for a historical center. In addition to any requirement of section 32: (i) the site plan agent may impose additional reasonable standards of development as conditions of final site plan approval; (ii) the owner shall submit photographic documentation of existing site conditions with the preliminary site plan; and (iii) the site plan agent may require the applicant to submit a Phase 1 archaeological survey of the areas of the site proposed for the historical center use prior to final site plan approval.
- e. *Items for display.* Items for display shall be related to the significance of the historic resource to be interpreted and shall relate to past or present people, places, things, or events in the county.
- f. *Primary uses.* The educational and interpretative activities that are permitted primary uses include, but are not limited to, passive display, active demonstration including tours, public participation in activities, educational classes, and research.
- g. *Accessory uses.* Not more than ten percent (10%) of the total floor area of a historical center structure may be devoted to uses other than the educational and interpretive activities provided in subsection (f). A floor plan shall be submitted with the special use permit application to ensure that this requirement is met. Accessory uses may include, but are not limited to, administrative offices and shops and facilities such as gift shops, book stores, and accessory food sales such as luncheonettes, snack bars, or refreshment stands.

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- h. *Operations.* The operation of each historical center shall be subject to the following: (i) daily tours of a historical center shall be permitted; (ii) the normal hours that the historical center is open to the public shall be limited to daylight hours only, dawn until dusk; and (iii) an outdoor amplified sound system shall be prohibited at all times.
  
- i. *Special events.* Special events are authorized by special use permit only, either as part of the special use permit authorizing the historical center or by a separate special use permit.
  - 1. For purposes of this section, a *special event* is an event conducted at a historical center on a single day for which attendance is allowed only by invitation or reservation and whose participants do not exceed one hundred fifty (150) persons; *special events* are limited to events conducted for the purpose of promoting the mission of the historical center.
  - 2. In addition to all other special use permit application requirements in section 31.2.4, the application shall describe the nature of the special events.
  - 3. The special use permit: (i) shall identify the number of approved special events per year, which number shall not exceed twelve (12); (ii) may authorize specific special events, classes of special events, or a combination thereof; and (iii) may include reasonable conditions relative to the special events as authorized under section 31.2.4.3.
  
- j. *Festivals.* Festivals are authorized by special use permit only, either as part of the special use permit authorizing the historical center or by a separate special use permit.
  - 1. For the purposes of this section, a *festival* is an event conducted at an historical center for up to three (3) consecutive days which is open to the general public and conducted for the purpose of promoting the mission of the historical center.
  - 2. In addition to any other special use permit application requirements in section 31.2.4, the application shall describe the nature of the festivals.
  - 3. The special use permit: (i) shall identify the number of approved festivals per year, which number shall not exceed four (4); (ii) may authorize specific festivals, classes of festivals, or a combination thereof; and (iii) may include reasonable conditions relative to the festivals as authorized under section 31.2.4.3.
  - 4. The owner shall obtain a zoning compliance clearance prior to conducting a festival at which more than one hundred fifty (150) persons will be allowed to attend. A single zoning compliance clearance may be obtained for one (1) or more such festivals as provided herein:
    - a. The owner shall apply for a zoning compliance clearance at least thirty (30) days prior to the date of the first festival to be authorized by the zoning compliance clearance. The application shall be submitted to the zoning administrator, who shall forward copies of the application to the county police department, the county department of fire and rescue, and the local office of the Virginia Department of Health;
    - b. The application shall describe the nature of each festival to be authorized by the zoning compliance clearance, the date or dates and hours of operation of each such festival, the facilities, buildings and structures to be used, and the number of participants allowed to attend each festival;

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- c. Upon a determination that all requirements of the zoning ordinance are satisfied, and imposing all conditions of such approval required by the offices identified in subsection 5.1.42(j)(4)(a), the zoning administrator shall issue a zoning compliance clearance for one or more festivals. The zoning compliance clearance shall be conditional upon the owner's compliance with all requirements of the zoning ordinance, all conditions of the approved special use permit, the approved site plan, and all conditions imposed by the zoning compliance clearance; and
- d. The zoning administrator may issue a single zoning compliance clearance for two (2) or more festivals if: (i) the application submitted by the owner includes the required information for each festival to be covered by the zoning compliance clearance; (ii) the zoning administrator determines that each such festival is substantially similar in nature and size; and (iii) the zoning administrator determines that a single set of conditions that would apply to each such festival may be imposed with the zoning compliance clearance.

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

**5.1.43 SPECIAL EVENTS**

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

- a. *Eligibility and applicability.* Special events may be authorized on those parcels in the Rural Areas (RA) zoning district on which there is an existing and ongoing by-right (section 10.2.1) primary use. A special event special use permit issued under section 10.2.2(50) and this section shall not be required for special events associated with farm wineries or historical centers, or for events determined by the zoning administrator to be accessory to a primary use of the parcel.
- b. *Information to be submitted with application for special use permit.* In addition to any information otherwise required to be submitted for a special use permit, each application for a special use permit shall include the following:
  - 1. *Concept plan.* A preliminary schematic plan (the "concept plan") satisfying section 32.4.1. The concept plan shall identify the structure(s) to be used for the special event, include the area of the structure(s) in which the proposed special events will be conducted, the parking area, and the entrance to the site from the street. The concept plan shall address, in particular, provisions for safe and convenient access to and from the street, the location of the parking area, the location of portable toilets if they may be required, proposed screening as required by this section for parking areas and portable toilets, and information regarding the exterior appearance of the proposed site. Based on the concept plan and other information submitted, the board of supervisors may then waive the requirement for a site plan in a particular case, upon a finding that the requirement of a site plan would not forward the purposes of this chapter or otherwise serve the public interest.
  - 2. *Information from the Virginia Department of Health.* The applicant shall submit written comments from the Virginia Department of Health regarding the private water supply and the septic disposal system that will serve the proposed special event site, the ability of the water supply and the septic disposal system to handle the proposed events, and the need to improve the supply or the system in order to handle the proposed events.

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3. *Building and fire safety.* The building official and the county department of fire and rescue shall review and comment on the application, identifying all Virginia Uniform Statewide Building Code and Virginia Statewide Fire Prevention Code issues and requirements.
- c. *Zoning compliance clearance.* The applicant shall obtain a zoning compliance clearance prior to conducting a special event. A single zoning clearance may be obtained for one (1) or more such special events in a calendar year as follows:
1. The zoning administrator may issue a single zoning compliance clearance for more than one (1) special event if: (i) the application submitted by the applicant includes the required information in subsection 5.1.43(c)(3) for each special event to be covered by the zoning compliance clearance; (ii) the zoning administrator determines that each special event is substantially similar in nature and size; and (iii) the zoning administrator determines that a single set of conditions that would apply to each such special event may be imposed with the zoning compliance clearance.
  2. The applicant shall apply for a zoning compliance clearance at least thirty (30) days prior to the date of the first special event to be authorized by the zoning compliance clearance. The application shall be submitted to the zoning administrator, who shall forward copies of the application to the county police department, the county building official, the county department of fire and rescue, and the local office of the Virginia Department of Health. As part of his review, the building official shall determine whether the structure(s) proposed to be used for the special events satisfies the requirements of the Virginia Uniform Statewide Building Code for that use.
  3. The application shall describe the nature of each special event to be authorized by the zoning compliance clearance, the date or dates and hours of operation of each such special event, the facilities, structures to be used, and the number of participants and support staff expect to attend each special event.
  4. Upon a determination that all requirements of the zoning ordinance and all conditions of the special use permit are satisfied, and imposing all conditions of such approval required by the offices identified in subsection 5.1.43(c)(2), the zoning administrator shall issue a zoning compliance clearance for one or more special events. The validity of the zoning compliance clearance shall be conditional upon the applicant's compliance with all requirements of the zoning ordinance, all conditions of the approved special use permit, the approved concept plan or site plan, and all conditions imposed by the zoning compliance clearance.
- d. *Special events sites and structures.* In addition to all other applicable requirements of this chapter, special events sites and structures shall be subject to the following:
1. *Structures used for special events.* Each structure used for a special event shall satisfy the following: (i) the structure shall have been in existence on the date of adoption of this section 5.1.43, provided that this requirement shall not apply to accessory structures less than one hundred fifty (150) square feet in size; (ii) the structure shall be a lawful conforming structure and shall support or have supported a lawful use of the property; and (iii) modifications to farm buildings or farm structures as those terms are defined in Virginia Code § 36-97 shall allow the structure to revert to an agricultural use, as determined by the building official.

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2. *Minimum yards.* Notwithstanding any other provision of this chapter, the minimum front yard shall be seventy-five (75) feet. The minimum side yard shall be twenty-five feet (25) feet. The minimum rear yard shall be thirty-five (35) feet. All yards shall be measured from structures and off-street parking areas. These minimum yard requirements shall apply to all accessory structures established after the effective date of this section 5.1.43 and all tents, parking areas and portable toilets used in whole or in part to serve special events.
  3. *Parking.* The number of off-street parking spaces for a special event shall be as required in section 4.12.6. Notwithstanding section 4.12.15(a) through (g), the additional parking area(s) for special events shall consist of or be constructed of pervious materials including, but not limited to stabilized turf, approved by the county engineer. Asphalt and impervious materials are prohibited. If the parking area is on grass or in a field, the applicant shall reseed and restore the parking area site as required by the zoning administrator. In addition to the requirements of section 4.12.5, the parking area shall be onsite and screened from abutting parcels by topography, structures or new or existing landscaping. Notwithstanding section 4.12.16(d) and (e), the delineation of parking spaces and the provision of bumper blocks shall not be required.
  4. *Water and sewer.* The private water supply and septic disposal system serving a special event shall be approved by the Virginia Department of Health.
  5. *Streets and access.* Streets serving the site shall be adequate for anticipated traffic volume for a special event. Access from the street onto the site shall be adequate to provide safe and convenient access to the site, and applicant shall install all required improvements and provide adequate sight distance in order to provide safe and convenient access.
- e. *Special events operations.* In addition to all other applicable requirements of this chapter, special events operations shall be subject to the following:
1. *Number of participants.* The number of participants at a special event at any one time shall not exceed one hundred fifty (150) persons
  2. *Number of special events per year.* The special use permit shall identify the number of approved special events per calendar year, which number shall not exceed twenty-four (24).
  3. *Signs.* Permanent and temporary signs advertising a special event shall be permitted as provided in sections 4.15.4 and 4.15.8.
  4. *Food service.* No kitchen facility permitted by the Virginia Department of Health as a commercial kitchen shall be allowed on the site. A kitchen may be used by licensed caterers for the handling, warming and distribution of food, but not for cooking food, to be served at a special event.
  5. *Portable toilets.* If required, portable toilets are permitted on the site, provided that they comply with the yard requirements in section 5.1.43(d)(2) and shall be screened from that parcel and any street by topography, structures or new or existing landscaping.
- f. *Prohibition of development to a more intensive use.* A parcel subject to a special events special use permit shall not be subdivided so as to create one or more parcels, including the parent parcel, of less than twenty-one acres in size without first amending the special use permit to expressly authorize the subdivision. If a parcel is so subdivided without

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first amending the special use permit, special events shall thereafter be prohibited on the resulting parcels unless a new special use permit is obtained.

(Ord. 05-18(8), 7-13-05)

**5.1.44 FARM WORKER HOUSING**

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

- a. *Concept plan to be submitted with application for farm worker housing.* Before applying for the first building permit for a farm worker housing, Class A, facility, or in addition to any other information required to be submitted for a farm worker housing, Class B, special use permit, the applicant shall submit a concept plan meeting the requirements of section 5.1.44(b).
- b. *Contents of concept plan.* The concept plan shall show the following: (i) the boundary lines of the farm (may be shown on an inset map if necessary); (ii) the location and general layout of the proposed structures at a scale of not more than one (1) inch equals forty (40) feet; (iii) vehicular access, travelways and parking for the facility; (iv) topography (with a contour interval of no greater than ten (10) feet); (v) critical slopes; (vi) streams, stream buffers and floodplains; (vii) source(s) of water for fire suppression; (viii) building setback lines as provided in subsection 5.1.44(g) below; and (ix) outdoor lighting. The concept plan also shall include a written description of each structure's construction and materials used, and the number of persons to be housed in the farm worker housing facility.
- c. *Notice of receipt of concept plan to abutting owners.* The zoning administrator shall send notice of the receipt of a concept plan as follows:
  1. *Farm worker housing, Class A, facility:* For each concept plan received for a farm worker housing, Class A, facility, the zoning administrator shall send notice to the owner of each lot abutting the parcel for which a concept plan has been received within ten (10) days after submittal of the concept plan deemed by the zoning administrator to be complete. The notice shall include a copy of the concept plan and shall advise each recipient of the right to submit written comments within ten (10) days of the date of the notice and the right to request planning commission review as provided in section 5.1.44(d). Notice mailed to the abutting owner shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed compliance with this requirement. The failure of an abutting owner to receive the notice required by this section shall not affect the validity of an approved concept plan or zoning compliance clearance.
  2. *Farm worker housing, Class B, facility:* For each concept plan received for a farm worker housing, Class B, facility, notice to the owner of each lot abutting the parcel for which a concept plan has been received shall be provided in conjunction with the notice required for the special use permit.
- d. *Request for planning commission review and action on farm worker housing, Class A, facility concept plan.* An abutting owner to whom notice for a farm worker housing, Class A, facility concept plan under section 5.1.44(c)(1) and who submitted timely written comments about the concept plan as provided therein may request that the planning commission review and act on the concept plan. The request shall be in writing, state the reasons why the commission should review the concept plan, and be filed with the director of planning within ten (10) days after the date of the notice from the zoning administrator.
- e. *Review and action on concept plan.* A concept plan shall be reviewed and acted upon as follows:



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1. *Farm worker housing, Class A, facility.* For a farm worker housing, Class A, facility, the concept plan shall be approved by the zoning administrator or the planning commission, as the case may be, before any building permit is issued for the facility. The concept plan shall be approved by the zoning administrator or the commission if it satisfies all applicable requirements of the zoning ordinance and the design is determined to not be a substantial detriment to abutting parcels. In approving the concept plan, the zoning administrator or the commission may impose reasonable conditions to mitigate impacts on abutting parcels arising from facility. The commission shall give due consideration to the recommendations of the zoning administrator, the director of planning and other officials. In addition, the commission may consider such other evidence as it deems necessary for a proper review of the application.
  2. *Farm worker housing, Class B, facility.* For a farm worker housing, Class B, facility, the concept plan shall be reviewed and acted upon in conjunction with the special use permit.
- f. *Farm worker housing facilities; permissible structures.* Farm worker housing facilities shall not use motor vehicles or major recreational equipment, as that term is defined in section 4.12.3(b)(1) of this chapter, to provide for sleeping, eating, food preparation, or sanitation (bathing and/or toilets).
- g. *Minimum yards.* Notwithstanding any other provision of this chapter, the minimum front yard shall be seventy-five (75) feet. The minimum side and rear yards shall be fifty (50) feet. All yards shall be measured from the farm worker housing structures.
- h. *Zoning compliance clearance.* The owner shall obtain a zoning compliance clearance from the zoning administrator as provided in section 31.2.3.2 of this chapter before a farm worker housing facility is occupied, subject to the following additional requirements:
1. The applicant shall apply for a zoning compliance clearance at least thirty (30) days prior to the first expected occupation of the farm worker housing facility. The application shall be submitted to the zoning administrator.
  2. The zoning compliance clearance application shall include all of the following information:
    - a. Written approval of the farm worker housing facility as a migrant labor camp under 12 VAC 5-501-10 *et seq.*, the food preparation area, the private water supply, and the septic disposal system by the Virginia Department of Health.
    - b. Approval of the access to the site from a public street by the Virginia Department of Transportation; provided that nothing herein shall be deemed to require that a commercial entrance be constructed unless such an entrance is required by the Virginia Department of Transportation.
    - c. Written approval of the adequacy of the access to the site for emergency vehicles by the fire marshal.
    - d. Written approval of the adequacy of the structures intended for human habitation by the building official.
  3. Upon the zoning administrator's determination that all requirements of the zoning ordinance are satisfied, that all conditions of the special use permit authorizing a farm worker housing, Class B, facility, are satisfied, and upon receipt of the approvals and documents required in section 5.1.44(h)(2), the zoning administrator shall issue a zoning compliance clearance for the facility.

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- i. *Use of farm worker housing facility by workers and their families only.* A farm worker housing facility shall be occupied only by persons employed to work on the farm on which the structures are located for seasonal agriculture work and their immediate families as provided herein.
- j. *Use of farm worker housing facility when not occupied.* When not occupied by seasonal farm workers, farm worker housing facilities may be used for any use accessory to a primary agriculture use.

(Ord. 06-18(2), 12-13-06)

### 5.1.45 COUNTRY STORES

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

- a. *Country store, Class A.* Each country store, Class A, shall be subject to the following:
  1. *Primary use.* At least fifty-one percent (51%) of the gross floor area of a historic country store building shall be used as a country store, including accessory food sales and interior seating for accessory food sales as provided in section 5.1.45(a)(2)(a).
  2. *Accessory uses.* The following uses are permitted as accessory uses:
    - a. *Accessory food sales.* Accessory food sales, which may include, but are not limited to, luncheonettes, snack bars, refreshment stands and other restaurant uses. Interior seating for luncheonettes, snack bars, refreshment stands and other restaurant uses shall not exceed twenty percent (20%) of the total gross floor area of the country store use. An additional twenty percent (20%) of the total gross floor area of the country store use shall be allowed as exterior seating.
    - b. *Single family dwelling and offices.* Up to forty-nine percent (49%) of the gross floor area of an historic country store building may be used for one single family dwelling and/or one or more offices.
  3. *Exemptions.* Country stores, Class A shall be exempt from sections 4.1.2, 4.1.3, 4.12.6, 4.12.13, 4.12.14, 4.12.15, 4.12.16(a) and (b), 4.12.17, 4.12.18, 4.12.19, 6.3 (B), (F) and (G), 6.4(D), 32.7.2.7, 32.7.2.8, and 32.7.9.
  4. *Building size.* An historic country store building shall not exceed the gross floor area of the building as it existed on November 12, 2008 or four thousand (4,000) square feet gross floor area, whichever is greater.
  5. *Front yard setback.* The following minimum front yard setback shall apply:
    - a. *Building satisfies minimum front yard setback.* If, on November 12, 2008, a historic country store building satisfies the minimum front yard setback set forth in section 10.4, then that setback shall apply.
    - b. *Building does not satisfy minimum front yard setback.* If, on November 12, 2008, a historic country store building does not satisfy the minimum front yard setback set forth in section 10.4, the minimum front yard setback shall be the distance between the building and the street, road or access easement on November 12, 2008 and that distance shall not be thereafter reduced. An enlargement or extension of the building shall: (i) be no closer to a right-of-way than the existing structure or footprint; (ii) be set back from the street, road or access easement the minimum distance required by the Virginia Department of

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Transportation to provide sight distance; and (iii) comply with the rear and side yard setback requirements, unless they can be reduced pursuant to section 4.11 of this chapter.

6. *Entrances.* No existing entrance for a new use shall be used until the Virginia Department of Transportation approves the entrance to the site. Except for those changes to the entrance required to meet applicable design standards, provide adequate sight distance and safe and convenient access as determined by the county engineer, each existing entrance shall retain its existing site character as determined by the director of planning.

7. *Sewage disposal systems.* Notwithstanding any other provision of this chapter, if an on-site conventional sewage disposal system cannot be approved:

a. *Off-site conventional sewage disposal system.* The zoning administrator may approve a conventional sewage disposal system to serve a country store and its accessory uses that is located on an abutting lot, provided that the owner obtains from the owner of the abutting lot an easement and the deed of easement is in a form acceptable to the county attorney that provides perpetual access to the sewage disposal system to allow its installation and maintenance.

b. *On-site nonconventional sewage disposal.* The zoning administrator may authorize an on-site nonconventional sewage disposal system if the applicant demonstrates to the satisfaction of the zoning administrator that: (i) a conventional sewage disposal system cannot be provided on-site for the country store use only; (ii) the lot on which the country store use is located cannot be enlarged by boundary line adjustment or subdivision; (iii) a conventional sewage disposal system cannot be located on any abutting lot owned by the applicant because of a physical condition or limitation of that lot including, but not limited to, topography, soil conditions, or existing improvements on the abutting lot (hereinafter, a “physical condition or limitation”; (iv) a conventional sewage disposal system cannot be located on any abutting lot that is under different ownership than the lot on which the country store is located because of either a physical condition or limitation or the owner’s refusal to grant an easement; and (v) the Virginia Department of Health approves the nonconventional sewage disposal system. In authorizing a nonconventional sewage disposal system, the zoning administrator shall require that the applicant maintain the system as recommended by the Virginia Department of Health or as required by law.

c. *Systems defined.* For the purposes of this subsection, a “conventional sewage disposal system” means a sewage disposal system regulated and authorized by the Virginia Department of Health that uses a subsurface soil absorption system; a “nonconventional sewage disposal system” means a sewage disposal system regulated and authorized by the Virginia Department of Health that does not use a subsurface soil absorption system including, but not limited to, a Type III system regulated under 12 VAC 5-610-250(C).

b. *Country store, Class B.* Each country store, Class B, shall be subject to the following:

1. *Primary use.* At least fifty-one percent (51%) of the gross floor area of a non-historic country store building shall be used as a country store, including accessory food sales and interior seating for accessory food sales as provided in section 5.1.45(b)(2)(a).

2. *Accessory uses.* The following uses are permitted as accessory uses:

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

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

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

**5.1.46 SMALL WIND TURBINES**

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

- a. *Application for approval.* In conjunction with the submittal of a building permit application for a small wind turbine, the applicant shall submit the following information:
  1. A plat of the parcel showing the lot lines, the location of the proposed small wind turbine and the setbacks to the lot lines.
  2. Plans that show the total height of the proposed structure, including rotors or turbine blades and that show compliance with the building code.
- b. *Requirements.* Each small wind turbine shall be subject to the following:
  1. *Primary purpose.* The primary purpose of the small wind turbine shall be to support and provide power for one or more authorized uses of the property; provided that nothing herein shall prohibit the owner from connecting the small wind turbine to a public utility and selling surplus power to the utility.
  2. *Location.* Notwithstanding section 4.2.3.1 of this chapter, the small wind turbine may be located in an area on a lot other than a building site. A small wind turbine shall not be located within a historic district or within a ridge area.

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3. *Setbacks.* The small wind turbine shall not be located closer in distance to any lot line than one hundred and fifty (150) feet. The agent may authorize a small wind turbine to be located closer to any lot line if the applicant obtains an easement or other recordable document showing agreement between the lot owners that is acceptable to the county attorney and, where applicable, that prohibits development on the portion of the abutting parcel sharing the common lot line that is within the small wind turbine's fall zone. If the right-of-way for a public street is within the fall zone, the Virginia Department of Transportation shall be included in the staff review, in lieu of recording an easement or other document.
  4. *Height.* The small wind turbine shall not exceed the maximum height permitted for structures within the applicable zoning district.
  5. *Lighting.* The small wind turbine shall have no lighting.
  6. *Collocation.* The small wind turbine shall not have personal wireless service facilities collocated upon it.
  7. *Removal.* The small wind turbine shall be disassembled and removed from the property within ninety (90) days after the date the use(s) to which it provides power is discontinued or its use to generate power is discontinued. If the agent determines at any time that surety is required to guarantee that the small wind turbine will be removed as required, the agent may require that the owner submit a certified check, a bond with surety, or a letter of credit, in an amount sufficient for, and conditioned upon, the removal of the small wind turbine. The type and form of the surety guarantee shall be to the satisfaction of the agent and the county attorney.
- c. *Approval.* The agent is authorized to review and approve small wind turbines. The agent shall act on the application before the building permit application or site plan for the small wind turbine is approved. Notwithstanding subsection 5.1, no requirement of subsection 5.1.46(b) may be waived or modified for a small wind turbine.
- d. *Denial.* If the agent denies an application, it shall identify which requirements were not satisfied and inform the applicant of what needs to be done to satisfy each requirement.

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

### 5.1.47 FARM STANDS, FARM SALES AND FARMERS MARKETS

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

- a. *Zoning clearance.* Notwithstanding any other provision of this chapter, each farm stand, farm sales use, and farmers' market shall obtain approval of a zoning clearance issued by the zoning administrator as provided by section 31.5 before the use is established as provided herein:
  1. *Application.* Each application for a zoning clearance shall include a letter or other evidence from the Virginia Department of Transportation establishing that it has approved the entrance from the public street to the proposed use and:
    - (a) *Farm stands and farm sales uses.* For farm stands and farm sales uses, a sketch plan, which shall be a schematic drawing of the site with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the use; (ii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this section and this chapter; and (iii) how potential adverse impacts to adjoining property will be mitigated.

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- (b) *Farmers' markets.* For farmers' markets, an approved site plan waiver as provided in section 32.2(b).
  - 2. *Notice.* The zoning administrator shall provide written notice that an application for a zoning clearance for a farm stand, farm sales use, or by right farmers' market has been submitted to the Virginia Department of Health and to the owner of each abutting lot under different ownership than the lot on which the proposed use would be located. The notice shall identify the proposed use and its size and location and invite the recipient to submit any comments before the zoning clearance is acted upon. The notice shall be mailed at least five (5) days prior to the action on the zoning clearance as provided in section 32.4.2.5. The review by the Virginia Department of Health shall be independent of the zoning administrator's review of the application for a zoning clearance and the approval of the zoning clearance shall not be dependent on any approval by the Virginia Department of Health. The notice requirements shall not apply to a zoning clearance required for a farmers' market that has been approved by special use permit.
- b. *Structure size.* Structures used in conjunction with a farm stand, farm sales use, and farmers' market shall comply with the following:
- 1. *Farm stands.* Any permanent structure established on and after May 5, 2010 (hereinafter, "new permanent structure") used for a farm stand shall not exceed one thousand five hundred (1500) square feet gross floor area. Any permanent structure, regardless of its size, established prior to May 5, 2010 (hereinafter, "existing permanent structure") may be used for a farm stand provided that if the structure does not exceed one thousand five hundred (1500) square feet gross floor area, its area may be enlarged or expanded so that its total area does not exceed one thousand five hundred (1500) square feet gross floor area, and further provided that if the existing structure exceeds one thousand five hundred (1500) square feet gross floor area, it may not be enlarged or expanded while it is used as a farm stand.
  - 2. *Farm sales.* Any new permanent structure used for farm sales shall not exceed four thousand (4000) square feet gross floor area. Any existing permanent structure, regardless of its size, may be used for farm sales provided that if the structure does not exceed four thousand (4000) square feet gross floor area, its area may be enlarged or expanded so that its total area does not exceed four thousand (4000) square feet gross floor area, and further provided that if the existing structure exceeds four thousand (4000) square feet gross floor area, it may not be enlarged or expanded while it is used as a farm stand.
  - 3. *Farmers' markets.* Any new or existing permanent structure may be used for a farmers' market without limitation to its size.
- c. *Yards.* Notwithstanding any other provision of this chapter, the following minimum front, side and rear yard requirements shall apply to a farm stand, farm sales use, and farmers' market:
- 1. *New permanent structures and temporary structures.* The minimum front, side and rear yards required for any new permanent structure or temporary structure shall be as provided in the bulk and area regulations established for the applicable zoning district, provided that the minimum front yard on an existing public road in the rural areas (RA) zoning district shall be thirty-five (35) feet. The zoning administrator may reduce the minimum required yard upon finding that: (i) there is no detriment to the abutting lot; (ii) there is no harm to the public health, safety or welfare; and (iii) written consent has been provided by the owner of the abutting lot consenting to the reduction.
  - 2. *Existing permanent structures.* If an existing permanent structure does not satisfy any minimum yard requirement under subsection 5.1.47(c)(1), the minimum yard required

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shall be the distance between the existing permanent structure and the street, road, access easement or lot line on May 5, 2010 and that distance shall not be thereafter reduced. An enlargement or expansion of the structure shall be no closer to a street, road, access easement or lot line than the existing structure.

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

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

**5.2 HOME OCCUPATIONS**

**5.2.1 CLEARANCE OF ZONING ADMINISTRATOR REQUIRED**

Except as herein provided, no home occupation shall be established without approval of the zoning administrator. Upon receipt of a request to establish a home occupation, Class B, the zoning administrator shall refer the same to the Virginia Department of Highways and Transportation for approval of entrance facilities and the zoning administrator shall determine the adequacy of existing parking for such use. No such clearance shall be issued for any home occupation, Class B, except after compliance with section 5.2.3 hereof. (Amended 3-18-81)

**5.2.2 REGULATIONS GOVERNING HOME OCCUPATIONS**

5.2.2.1 The following regulations shall apply to any home occupation:

- a. Such occupation may be conducted either within the dwelling or an accessory structure, or both, provided that not more than twenty- five (25) percent of the floor area of the dwelling shall be used in the conduct of the home occupation and in no event shall the total floor area of the dwelling, accessory structure, or both, devoted to such occupation, exceed one thousand five hundred (1,500) square feet; provided that the use of accessory structures shall be permitted only in connection with home occupation, Class B;
- b. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation provided that a home occupation, Class B, may erect one home occupation Class B sign as authorized by section 4.15 of this chapter. Accessory structures shall be similar in facade to a single-family dwelling, private garage, shed, barn or other structure normally expected in a rural or residential area and shall be specifically compatible in design and scale with other development in the area in which located. Any accessory structure which does not conform to the setback and yard regulations



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for main structures in the district in which it is located shall not be used for any home occupation;

- c. There shall be no sales on the premises, other than items hand crafted on the premises, in connection with such home occupation; this does not exclude beauty shops or one-chair barber shops;
- d. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street;
- e. All home occupations shall comply with performance standards set forth in section 4.14;
- f. Tourist lodging, nursing homes, nursery schools, day care centers and private schools shall not be deemed home occupations.

5.2.2.2 Prior to issuance of clearance for any home occupation, the zoning administrator shall require the applicant to sign an affidavit stating his clear understanding of and intent to abide by the foregoing regulations.

(§ 20-5.2.2, 12-10-80; § 18-5.2.2, Ord. 98-A(1), 8-5-98; Ord. 01-18(3), 5-9-01)

**5.2.3 CERTAIN PERMITS REQUIRED**

No home occupation, Class B, shall be established until a permit shall have been issued therefor. The provisions of section 5.2.1 of this ordinance shall apply hereto, mutatis mutandis.

**5.2.4 REVOCATION**

The zoning administrator may revoke any clearance or permit issued pursuant to this section, after hearing, for noncompliance with this ordinance or any condition imposed under the authority of this section.

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

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

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

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

**5.3.1 MINIMUM SIZE MOBILE HOME PARKS**

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

**5.3.2 MAXIMUM DENSITY**

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

**5.3.3 MINIMUM LOT SIZES**

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

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

**5.3.4 LOCATION OF MOBILE HOMES**

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

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### **5.3.5 SETBACKS AND YARDS**

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

### **5.3.6 APPLICATION PLAN REQUIRED**

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

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

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**5.3.7 IMPROVEMENTS REQUIRED--MOBILE HOME LOTS**

**5.3.7.1 UTILITIES**

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

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

**5.3.7.2 MARKERS FOR MOBILE HOME LOTS**

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

**5.3.7.3 OUTDOOR LIVING AND STORAGE AREAS**

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

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

**5.3.7.4 ADDITIONS TO MOBILE HOMES**

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

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

**5.3.7.5 INSTALLATION OF MOBILE HOMES**

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

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

**5.3.8 IMPROVEMENTS REQUIRED--MOBILE HOME PARK**

**5.3.8.1 OFF-STREET PARKING**

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

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

**5.3.8.2 INTERNAL STREETS**

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

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

**MOBILE HOME PARK STREET STANDARDS**

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

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

**5.3.8.3 RECREATIONAL REQUIREMENTS**

See section 4.16 for recreation requirements.

**5.3.8.4 PEDESTRIAN ACCESS**

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

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

**5.3.8.5 SERVICE AREAS AND ACCESSORY USES**

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

**5.3.8.6 LIGHTING**

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

**5.3.8.7 LANDSCAPING AND SCREENING**

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

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

**5.4 (Repealed 3-5-86)**

**5.4.1 (Repealed 3-5-86)**

**5.4.2 (Repealed 3-5-86)**

**5.4.3 (Repealed 3-5-86)**

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**5.4.4 (Repealed 3-5-86)**

**5.4.5 (Repealed 3-5-86)**

**5.5 MOBILE HOME SUBDIVISIONS**

**5.5.1 PURPOSE**

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

**5.5.2 APPLICATION**

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

**5.5.3 SPECIAL USE PERMIT REQUIRED**

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

**5.5.4 MINIMUM SIZE OF MOBILE HOME SUBDIVISION**

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

**5.5.5 SUBDIVISION CONTROL**

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

**5.5.6 APPLICATION PLAN REQUIRED**

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

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

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

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

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

### **5.7 TEMPORARY MOBILE HOME PERMIT**

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

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

#### **5.7.1 EXPIRATION, RENEWAL**

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

### **5.8 TEMPORARY NONRESIDENTIAL MOBILE HOMES**

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

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



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

**5.8.1 EXPIRATION, RENEWAL**

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