

FLUVANNA COUNTY BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
Circuit Courtroom, Fluvanna Courts Building
72 Main Street, Palmyra, VA 22963
August 19, 2026
Regular Meeting 6:00pm

- MEMBERS PRESENT:** Tony O’Brien, Rivanna District, Chair *(entered the meeting at 6:16pm)*
Timothy M. Hodge, Palmyra District, Vice Chair *(exited the meeting at 11:00pm)*
Chris Fairchild, Cunningham District
Mike Goad, Fork Union District
John M. (Mike) Sheridan, Columbia District
- ABSENT:** None.
- ALSO PRESENT:** Eric M. Dahl, County Administrator
Kelly Harris, Assistant County Administrator
Dan Whitten, County Attorney
Caitlin Solis, Clerk for the Board of Supervisors

1 - CALL TO ORDER, PLEDGE OF ALLEGIANCE, & MOMENT OF SILENCE
At 6:02pm, Vice Chair Hodge called to order the Regular Meeting of August 19, 2026. After the recitation of the Pledge of Allegiance, a moment of silence was observed.

- 3 - ADOPTION OF AGENDA**
- Mr. Dahl requested that Resolution Recognizing Emma Monfalcone - Eagle Scout be moved after adoption of the agenda, and that Zoning Text Amendment (ZTA) 26:21 – Teen Center be moved before SUP 26:10 Teen Center.

MOTION:	Accept the Agenda, for the August 19, 2026, Regular Meeting of the Board of Supervisors, as amended.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second			Motion
VOTE:	Yes	Yes	Yes	Absent	Yes
RESULT:	4-0				

Resolution Recognizing Emma Monfalcone - Eagle Scout – Eric Dahl, County Administrator
Emma Monfalcone has completed all requirements and has been examined by an Eagle Scout Board of Review and deemed worthy of the Eagle Scout Award. The Board presented Ms. Monfalcone with a resolution honoring her accomplishment.

MOTION:	adopt the resolution entitled “Recognizing Emma Monfalcone for Award of Eagle Scout Status.”				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second			Motion
VOTE:	Yes	Yes	Yes	Absent	Yes
RESULT:	4-0				

- 4 - COUNTY ADMINISTRATOR’S REPORT**
Mr. Dahl reported on the following topics:
Announcements and Updates
Social Services had their back-to-school program again this year.
- 145 backpacks filled with school supplies were donated by Bybee's Road Baptist Church.
 - A big thank you goes out to Bybee's Road Baptist Church and to Jane Wilson, who coordinated the project and did a phenomenal job as always!
- 2026 Robert W. Baker Achievement Award from the Virginia Association of Planning District Commissions
- Keith Smith, past Chair and member of the Thomas Jefferson Planning District Commission (TJPDC), was presented with the 2026 Robert W. Baker Achievement Award from the Virginia Association of Planning District Commissions at the August 6 meeting of the TJPDC.
 - The Baker Award recognizes persons who have been involved directly in planning district commission activities and who have contributed significantly to promoting regional planning and development in Virginia.
 - Smith recently left the Commission after 15 years of service.

- He served many years as Treasurer, and at various times as a member of the Executive Committee, the Finance/Executive Committee, and the Building Committee. He also was instrumental in the establishment of the Central Virginia Regional Housing Partnership (CVRHP).

NEXT BOS MEETINGS

Day	Date	Time	Purpose	Location
Wed	Sep 2	5:00 PM	Regular Meeting	Circuit Court
Wed	Sep 16	6:00 PM	Regular Meeting	Circuit Court
Wed	Oct 7	5:00 PM	Regular Meeting	Circuit Court
Wed	Oct 21	6:00 PM	Regular Meeting	Circuit Court

5 - PUBLIC COMMENTS #1

At 6:10pm, Vice Chair Hodge opened the first round of Public Comments. At 6:16, Mr. Hodge passed the gavel to Mr. O’Brien.

- Lee Litvinas, 548 Turner Rd, commented on data centers.
- Jack Beuth, 121 Middleton Mills Ln, Commented on Tenaska.
- Dani Doughty, 37 Acorn Ct, commented on an accessibility and inclusion position for the Parks and Recreation Board.
- Jennifer Kingrea Ruffner, Rivanna, commented on data centers.
- Ron Barche, Panorama Ct, commented on the resolution of opposition to data centers.
- Michelle Dubert-Bellrichard, Troy, commented on data centers.
- Abram Booth, Troy, commented on data centers.
- Stephane Cimelo, Columbia, commented on data centers.
- Tracey Smith, Palmyra, commented on water usage and Tenaska.
- Carter Harris, Lake Monticello, commented on Tenaska.

With no one else wishing to speak, Chair O’Brien closed the first round of Public Comments at 6:42pm.

6 – BOARDS AND COMMISSIONS

None.

7 – PRESENTATIONS

Regional Solid Waste Management Plan Update – Isabella O’Brien, TJPDC Planner II

Ms. O’Brien gave the Board of Supervisors an overview of the Regional Solid Waste Management Plan including, regulatory requirements, recycling rate estimation & reporting, recycling rate calculation, per capita waste and recycling by jurisdiction, plan development process, public survey results, regional goals, key changes from the 2021 plan; and steps to plan submission.

8 - ACTION MATTERS

Waiver of Road Naming Policy to Approve a Road Name – Dan Whitten, County Attorney

- The Road Naming Policy was adopted by the Board of Supervisors in 2006.
- Section 3-6.4.1. states that a road will receive a name once the road provides access to 3 or more residences.
- Mark and Joi McGhee own two lots off an unnamed access road.
- They plan to build houses on both lots and do a family subdivision for one of the lots.
- They have requested a waiver of policy to allow the road name before the 3 residences are constructed.
- They have pointed out safety concerns for emergencies and have noted there are other named roads that only serve two houses.
- The access road has already been constructed and will be maintained by the McGhee’s
- The McGhee’s own 2 of the 3 lots that have access to the easement and have suggested the name McGhee Lane.
- The owners of the 3rd lot have not agreed to the name of McGhee Lane and have suggested that the Board approve a random name for the access road.

MOTION:	Deny a waiver to section 3-6.4.1. of the road naming policy.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Second		Motion		
VOTE:	Yes	Yes	Yes	No	No
RESULT:	3-2				

- Action Matters are continued after the Public Hearings.

9 - PUBLIC HEARING

SUP 26:09 Lenherr – Jason Overstreet, Senior Planner

The applicant is requesting this Special Use Permit (SUP) in order to allow a small home industry for the fabrication of precision metal parts. An existing metal fabrication business will be relocated to this location if approved.

At 7:27pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 7:27pm.

MOTION:	Approve SUP 26:09, a request in the A-1, Agricultural, General district for a small home industry on a 4.5-acre parcel located at 1266 Gold Mine Road Palmyra, Virginia and identified as Tax Map 40-4-8.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Motion	Second		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Zoning Text Amendment (ZTA) 26:21 – Teen Center – Dan Whitten, County Attorney; Todd Fortune, Director of Planning

This change has been requested by the applicant to allow for the placement of a teen center on the parcel identified as Tax Map 18B-5-4. The parcel is zoned B-C, Business, Convenience. The County Code currently does not define the proposed use or allow it in any of the County’s zoning districts. This proposed change would define the use and allow for the applicant to open a teen center on the subject parcel with an approved SUP. At its regular meeting on July 7, 2026, the Planning Commission considered this proposed ZTA and recommended approval by a vote of 5-0.

At 7:30pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 7:30pm.

MOTION:	Finding that the proposed zoning ordinance amendments are appropriate for the public necessity, convenience and general welfare and are good zoning practice, I move that the board of supervisors approve ZTA 26:21 – an ordinance to amend and reordain “the code of the county of Fluvanna, Virginia” by amending §§ 22-10-4 and 22-22-1 to add teen centers as a use allowed by sup only in properties zoned b-c, business, convenience and to add a definition for teen centers				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second	Motion		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

SUP 26:10 Teen Center – Jason Overstreet, Senior Planner

The applicant is requesting a Special Use Permit (SUP) to allow the operation of a teen center in the existing two-story building located on the property.

At 7:37pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 7:37pm.

MOTION:	Approve SUP 26:10, a request in the B-C, Business, Convenience District to operate a teen center on a 1.6-acre parcel identified as Tax Map 18B-5-4.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second	Motion		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Addendum to Fluvanna County Comprehensive Plan – Dan Whitten, County Attorney; Todd Fortune, Director of Planning

At its meeting on April 1, 2026, the Board of Supervisors passed a resolution opposing the proposed Valley Link transmission line. Subsequently, staff drafted an addendum to the current Comprehensive Plan to address transmission infrastructure. Staff worked with the Planning Commission to finalize this addendum and advertise it for public hearings.

Among other things, the addendum seeks to:

- Establish guidance for the siting of electric transmission infrastructure;
- Minimize impacts to residential areas, agricultural operations, natural resources, and historic and cultural resources;

- Provide a consistent framework for evaluating proposed transmission projects;
- Ensure alignment with the County's broader growth management and land preservation strategies;
- Protect entrance corridors such as Routes 6, 15, 53, and 250; and
- Protect presumed vulnerable populations.

After some discussion, the Board agreed to remove part of the language in section VII regarding the Undergrounding Policy.

VII. UNDERGROUNDING POLICY

Fluvanna County prioritizes the underground placement of transmission infrastructure rather than overhead lines ~~where it is technically feasible and results in a reduction of impacts to the community and environment.~~
~~This policy is intended as guidance and shall not be interpreted as a requirement where such placement is not practicable.~~

At 7:58pm, Chair O’Brien opened the Public Hearing.

- Judy Lewis, Hells Bend, spoke in support of the addendum.
- Jack Beuth, Fork Union, spoke in support of the addendum.
- Ron Barche, Columbia, spoke in support of the addendum.

With no one else wishing to speak, Chair O’Brien closed the Public Hearing at 8:05pm.

MOTION:	Approve the addendum to the 2015 Fluvanna County comprehensive plan-2024 update, eliminating the stricken language as discussed.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Motion		Second		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Public Hearing to Amend the Fluvanna County Code Regarding the Noise Control Ordinance – Dan Whitten, County Attorney

- The ordinance amendments do the following:
 - Clarifies the regulations that can be enforced by the Sheriff’s Office, Planning and Zoning Department, Public Works Department or citizens.
 - Adds new definitions related to noise enforcement.
 - Adds maximum permissible sound levels in the Business and Industrial zones. For businesses and industrial uses located in other zoning districts, special use permit conditions will apply.
 - Amends the time limits for construction noise.
 - Clarifies official events of the Lake Monticello Owner’s Association are exempt.
 - Adds regulations for measuring noise on property zoned business or industrial.
 - Includes civil or criminal penalties.
 - Removes regulations regarding animal noise.
 - Changes the regulation regarding collection of refuse to 6:00 am.
 - Adding the available option of an injunction for enforcement.

At 8:10pm, Chair O’Brien opened the Public Hearing.

- Jack Buthe, Fork Union, spoke in support of the noise ordinance.
- Tracey Smith, Palmyra, commented that dog noises have been removed.

With no one else wishing to speak, Chair O’Brien closed the Public Hearing at 8:15pm.

MOTION:	Amend and reordain “the Code of the County of Fluvanna, Virginia” by amending §§ 15.2-1 through 15.2-10				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Motion				Second
VOTE:	Yes	Yes	Absent	Yes	Yes
RESULT:	4-0				

Public Hearing to Amend the Fluvanna County Code Regarding Erosion and Sedimentation Control – Dan Whitten, County Attorney

- County Code Chapter 6 - Erosion and Sedimentation Control was repealed and reenacted on November 20, 2024.
- This amendment is intended to align County Code stabilization requirements with the Virginia Code.
- The amendment will replace the term “permanent stabilization” with the term “adequate stabilization.”

At 8:16pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 8:16pm.

MOTION:	Amend and reordain “the Code of the County of Fluvanna, Virginia” by amending §§ 6-1-2 and 6-1-8				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Second				Motion
VOTE:	Yes	Yes	Absent	Yes	Yes
RESULT:	4-0				

Zoning Text Amendment (ZTA) 26:15 - Powers and Proceedings of the Board of Zoning Appeals – Dan Whitten, County Attorney; Todd Fortune, Director of Planning

- This recommended change is being presented pursuant to House Bill 198, which was passed by the Virginia General Assembly, approved on April 22, 2026 and became effective on July 1, 2026.
- The proposed amendment makes various changes and clarifications to the procedures following the filing of a petition in a circuit court by a party aggrieved by a decision of the Board of Zoning Appeals. The bill clarifies that the petition shall be served upon the secretary or chair of the Board of Zoning Appeals within 30 days after the petition is filed with the Clerk of the Circuit Court and that, within 21 days of being served with the petition, the secretary of the Board of Zoning Appeals shall file the record of the proceedings at issue in the petition. The bill also updates other procedures, such as the time requirements for the filing of responsive pleadings, to be consistent with the various changes and clarifications throughout the bill.

At 8:20pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 8:20pm.

MOTION:	Finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and is good zoning practice, I move that the board of supervisors approve ZTA 26:15 – an ordinance to amend and reordain “the code of the county of Fluvanna, Virginia” by amending § 22-18-1 through § 22-18-7 and repealing § 22-18-7.1 to reflect changes in the Virginia code regarding the powers and proceedings of the board of zoning appeals.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Motion	Second			
VOTE:	Yes	Yes	Absent	Yes	Yes
RESULT:	4-0				

Zoning Text Amendment (ZTA) 26:16 - Regarding Required Off-Street Parking – Dan Whitten, County Attorney; Todd Fortune, Director of Planning

- This recommended change is being presented pursuant to House Bill 888, which was passed by the Virginia General Assembly, approved on April 22, 2026, and became effective on July 1, 2026.
- The proposed amendments provide for an administrative reduction of minimum off-street parking requirements of not less than 20 percent for residential, multifamily, or mixed-use development proposed on parcels not located within a designated area. A “Designated area” means any parcel located within one-half mile of the entrance to a mass transit or public transportation station or facility. For purposes of this definition, "mass transit or public transportation station or facility" means a building or enhanced structure where members of the general public board or disembark mass transit or public transportation.

At 8:23pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 8:23pm.

MOTION:	Finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and is good zoning practice, I move that the board of supervisors approve ZTA 26:16 – an ordinance to amend and reordain “the code of the county of Fluvanna, Virginia” by amending § 22-26-8 to authorize the zoning administrator to reduce the number of required off-street parking spaces by 20% for residential, multifamily and mixed-use development in accordance with assigned criteria.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Zoning Text Amendment (ZTA) 26:17 - Regarding Manufactured Homes – Dan Whitten, County Attorney; Todd Fortune, Director of Planning

- This recommended change is being presented pursuant to House Bill 655, approved on March 31, 2026, and House Bill 1463, approved on April 8, 2026, which were passed by the Virginia General Assembly and became effective on July 1, 2026.

- The proposed amendments expand existing provisions that permit manufactured homes in areas zoned for agriculture by expanding such requirement to all zoning districts where site-built housing is allowed, with certain conditions. The amendments provide that the County shall not treat manufactured homes differently or more restrictively than a single-family site-built dwelling allowed in the same zoning district. The amendments also remove the authority of the County to designate the areas within the locality in which manufactured homes may be located.

At 8:31pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 8:31pm.

MOTION:	Finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and is good zoning practice, I move that the board of supervisors approve ZTA 26:17 – an ordinance to amend and reordain “the code of the county of Fluvanna, Virginia” by amending §§ 22-4-2.1, 22-4-2.3, 22-5-2.1, 22-6-2.1, 22-7-9.1, 22-8-2.1, 22-16-8 and 22-17-15 to allow a manufactured home to be placed upon any open lot in a nonconforming manufactured home park, to allow a nonconforming manufactured home not located in a manufactured home park to be replaced with a newer manufactured home, and to allow a manufactured home on an individual lot in any zoning district where site-built housing is allowed.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Motion		Second		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Zoning Text Amendment (ZTA) 26:18 - Regarding Solar Regulations and Battery Storage – Dan Whitten, County Attorney; Todd Fortune, Director of Planning
This recommended change is being presented pursuant to House Bill 891/Senate Bill 443 and HB 711/SB347, which were passed by the Virginia General Assembly, approved on April 22, 2026 and became effective on July 1, 2026. The proposed amendments affect how battery energy storage can be regulated, and how ground-mounted solar energy generation facilities can be regulated. These changes are a result of changes to the Code of Virginia which took effect on July 1, 2026.

At 8:50pm, Chair O’Brien opened the Public Hearing.

- Abram Booth, Troy, spoke in support of ZTA 26:18.
- Ron Barche, Palmyra, spoke in support of ZTA 26:18.

With no one else wishing to speak, Chair O’Brien closed the Public Hearing at 8:55pm.

MOTION:	Finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and is good zoning practice, I move that the board of supervisors approve ZTA 26:18 – an ordinance to amend and reordain “the code of the county of Fluvanna, Virginia” by repealing §§ 22-3-1 through 22-3-5.4 and 22-28-1 through 22-28-25, amending §§ 22-4-2.2, 22-9-2.2, 22-10-4, 22-11-2.2, 22-12-2.2, and 22-22-1, and enacting §§ 22-28-1 through 22-28-23 to conform to the code of Virginia updates regarding solar regulations and battery storage.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Zoning Text Amendment (ZTA) 26:22 – Residential Planned Community District Requirements – Dan Whitten, County Attorney; Todd Fortune, Director of Planning
This recommended change is being presented pursuant to recent discussions regarding the need to define additional regulations for the R-3 zoning district. These additional regulations will allow provisions for considering variance requests. Currently, lot dimensional and setbacks requirements are not enumerated in the zoning ordinance and are determined through the master plan. This change, if approved, would allow provisions for considering variance requests in the R-3 zoning district.

At 9:04pm, Chair O’Brien opened the Public Hearing. With no one wishing to speak, Chair O’Brien closed the Public Hearing at 9:04pm.

MOTION:	Finding that the proposed zoning ordinance amendments are appropriate for the public necessity, convenience and general welfare and are good zoning practice, I move that the board of supervisors approve ZTA 26:22 – an ordinance to amend the code of the county of Fluvanna, Virginia by amending §§ 22-7-8, 22-7-11 and enacting §§ 22-7-13 through 22-7-19 to define and regulate residential planned community requirements.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:	Motion		Second		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

8 - ACTION MATTERS

Agenda Order Change

MOTION:	Approve the Motion to change the agenda order to Change the order of the agenda to D - Department of Social Services Office, G - Resolution to Remove Data Centers as an Allowed Use, E - FY26 Incentive Program for Fluvanna County Fire, EMS, & Water Rescue Supplemental Appropriation, then F - Speed Limit Study on Route 612 (Winnsville Drive).				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Department of Social Services Office Renovation – Eric Dahl, County Administrator, Dale Critzer, Director of Public Works, and Kim Mabe, Director of Social Services

In the FY27 budget, Social Services was approved for a new Asst. Director of Social Services position and will need office space to accommodate that position. The scope of work is to take the Directors current office and build a wall in the center to have two separate offices spaces and upgrade the HVAC, and lighting to provide conditioning for the space equally. The scope of work includes:

- Replace inoperable above ceiling Water Sourced Heat Pump HVAC unit
- Add new wall, move existing door, drywall /caulk and paint room
- Add lights, receptacles and relocate switches
- Contingency for unforeseen issues

A breakdown of costs is reflected below:

Replace inoperable above ceiling Water Sourced Heat Pump HVAC unit	\$19,424
Add new wall, move existing door, drywall /caulk and paint room	\$9,888
Add lights, receptacles and relocate switches	\$2,800
Contingency for unforeseen issues	\$3,200

This request was going to originally be proposed as a Capital Reserve Maintenance Fund request. After inquiring with the Director of Social Services, there is an opportunity to use federal pass thru funds at a 33% match, therefore only needing the County to cover 67% of the total actual costs, as long as the project is completed by 9/30/26. After 10/1/26, the federal match rate is reducing to 25% federal and 75% local.

MOTION:	Approve a supplemental appropriation in the amount of \$35,304 for the FY27 Social Services budget, with a supplemental appropriation from County Unassigned Fund Balance in the amount of \$23,654 and \$11,650 for federal funds.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Resolution to Remove Data Centers as an Allowed Use – Dan Whitten, County Attorney

- The Zoning Code may be amended by the adoption of a resolution by the Board of Supervisors, and the resolution shall be referred to the Planning Commission.
- The resolution states the intention to amend §§ 22-11-2.2, 22-12-2.2, 22-17-5, of the County Code to remove the definition of a data center, and to remove data centers as a use allowed by special use permit in the I-1 and I-2 zoning districts. *The Board agreed to strike reference to 22-22-1.*
- After the Planning Commission holds a public hearing, a recommendation will be forwarded to the Board of Supervisors.

- The resolution also states that any new applications for data centers will not be considered by the Board of Supervisors until November 30, 2026. *After some discussion, the Board agreed to change the date until December 31, 2026, and recommend for the Planning Commission to explore regulations for accessory data centers.*

MOTION:	Approve a resolution to propose amendments to the Zoning Code by amending §§ 22-11-2.2, 22-12-2.2, 22-17-5, and I move that the Board of Supervisors not consider any new applications for a special use permit for a data center until December 31, 2026, or at such earlier time as the Board of Supervisors may determine and the Planning Commission can consider supplemental regulations for accessory data centers.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:	Motion	Second			
VOTE:	Yes	Yes	Yes	No	Yes
RESULT:	4-1				

FY26 Incentive Program for Fluvanna County Fire, EMS, & Water Rescue Supplemental Appropriation – Eric Dahl, County Administrator

On May 7, 2025 the Board of Supervisors adopted the Incentive Program for Fluvanna County Fire, EMS, and Water Rescue Volunteers. The goal is to drive recruitment, retention and increased participation of Fluvanna County Volunteers by providing an incentive program for volunteers.

More specific guidelines and criteria can be found in the amended Incentive Program for Fluvanna County Fire, EMS and Water Rescue Volunteers enclosed.

\$37,500 has been budgeted for FY26 and also for previous years. The actual amount needed for the Incentive Program for FY26 is \$65,535.00. The breakdown of the incentives is as follows:

- Lake Monticello Vol. Rescue Squad - \$39,035
- Lake Monticello Vol. Fire Department - \$11,320
- Lake Monticello Vol. Water Rescue - \$4,465
- Fluvanna County Vol. Fire – Fork Union - \$4,645
- Fluvanna County Vol. Fire – Kents Store - \$3,800
- Fluvanna County Vol. Fire – Fork Union - \$2,270

MOTION:	Approve a supplemental appropriation of \$9,056.00 to the FY26 Fire & Rescue Association Operational Budget with funding to come from FY26 BOS Contingency.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:			Second		Motion
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Speed Limit Study on Route 612 (Winnsville Drive) – Eric Dahl, County Administrator

Due to residents’ concerns, the Board of Supervisors is requesting VDOT perform a speed limit study of Route 612 (Winnsville Drive) from the intersection of Route 6 (West River Road) traveling south to the intersection of Route 15 (James Madison Highway) in the Fork Union District.

MOTION:	Approve a resolution entitled, “A RESOLUTION REQUESTING A SPEED LIMIT STUDY ON ROUTE 612 (WINNSVILLE DRIVE) FROM ROUTE 6 (WEST RIVER ROAD) TO ROUTE 15 (JAMES MADISON HIGHWAY) IN THE FORK UNION DISTRICT.”				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:		Motion	Second		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

MOTION TO EXTEND

- *At 10:00pm, a motion was made to extend the Board of Supervisors meeting.*

MOTION:	Approve a motion to extend the August 19, 2026 Regular Board of Supervisors meeting to 12:00am.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

10 - CONSENT AGENDA

The following items were approved under the Consent Agenda for August 19, 2026:

- Minutes of August 5, 2026 – Caitlin Solis, Clerk to the Board
- Deputy Treasurer II to Deputy Treasurer III Effective Date Ratification – Ryan Lipscomb, Director of Human Resources
- Temporary Staff Stipend for Additional Duties – White – Dan Whitten, County Attorney
- Social Services Term End Date Correction - Sandra Patterson – Eric Dahl, County Administrator
- Virginia Starts with VA Cooperative Marketing Program Grant Reimbursement – Jennifer Schmack, Director of Economic Development and Tori Melton, Director of Finance
- CRMF - Replace One Hanwha 4 MP Bullet IP Camera – Debbie Rittenhouse, Treasurer and Lauren R. Sheridan, Commissioner of the Revenue
- CRMF - FCHS Seat Covers – Don Stribling, FCPS Executive Director
- Accept Deed of Sight Distance Easement from Zion South LLC – Dan Whitten, County Attorney
- Accept Dedication of Utility Easement from Amazon.com Services LLC – Dan Whitten, County Attorney
- Ambulance Purchase Agreement with FESCO Emergency Sales – Dan Whitten, County Attorney

MOTION:	Approve the consent agenda for the August 19, 2026, Board of Supervisors meeting.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

11 - UNFINISHED BUSINESS

None.

12 - NEW BUSINESS

Legislative Priorities – Mr. Dahl asked the Board to think about legislative priorities to relay to David Blount at the next BOS meeting.

13 - PUBLIC COMMENTS #2

At 10:05pm, Chair O’Brien opened the second round of Public Comments.

- Tracey Smith, Palmyra, commented on the Board’s votes on the data center agenda item.
- Maddox Quilling, Troy, commented on the Board’s discussion points and opinions during the data center agenda item.
- Jack Buthe, Fork Union, commented on data centers size and power consumption; and the connection to Valley Link.

With no one else wishing to speak, Chair O’Brien closed the second round of Public Comments at 10:11pm.

RECESS FOR DINNER AND CLOSED SESSION

14 - CLOSED MEETING

MOTION:	At 10:11pm, move the Fluvanna County Board of Supervisors enter into a closed meeting, pursuant to the provisions of Section 2.2-3711 A.1 & A.8 of the Code of Virginia, 1950, as amended, for the purpose of discussing Personnel – Employee of Human Resources, and Legal Matters – Legal advice concerning issues of Fluvanna County Volunteer Fire Department.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

- Mr. Hodge left the meeting at 11:00pm.

MOTION:	At 12:01am, move Closed Meeting be adjourned and the Fluvanna County Board of Supervisors convene again in open session and “BE IT RESOLVED, the Board of Supervisors does hereby certify to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under Section 2.2-3711-A of the Code of Virginia, 1950, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting.”				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second			Motion
VOTE:	Yes	Yes	Absent	Yes	Yes
RESULT:	4-0				

MOTION TO EXTEND

- At 12:02am, a motion was made to extend the Board of Supervisors meeting.

MOTION:	Approve a motion to extend the August 19, 2026, Regular Board of Supervisors meeting to 12:05am.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Motion			Second
VOTE:	Yes	Yes	Absent	Yes	Yes
RESULT:	4-0				

15 - ADJOURN

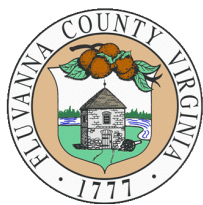
MOTION:	Adjourn the regular meeting of Wednesday, August 19, 2026, at 12:02pm.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second			Motion
VOTE:	Yes	Yes	Absent	Yes	Yes
RESULT:	4-0				

ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

Caitlin Solis
Clerk to the Board

Anthony O’Brien
Chair



BOARD OF SUPERVISORS
County of Fluvanna
Palmyra, Virginia
RESOLUTION No. 23-2026
A RESOLUTION RECOGNIZING
EMMA MONFALCONE
AWARD OF EAGLE SCOUT STATUS

The Fluvanna County Board of Supervisors adopted the following resolution on Wednesday, August 19, 2026:

WHEREAS, the Boy Scouts of America was incorporated by Mr. William D. Boyce on February 8, 1910 to promote citizenship, training, personal development and fitness of individuals; and

WHEREAS, Boy Scouts of America announced programs to allow females into single-gender Cub Scout dens and Boy Scout troops in October 2017; and

WHEREAS, in February 2025, the Boy Scouts of America announced it would officially rebrand as Scouting America; and

WHEREAS, Emma Monfalcone has completed all the requirements for becoming an Eagle Scout; and

WHEREAS, Emma has been examined by an Eagle Scout Board of Review and deemed worthy of the Eagle Scout award; and

WHEREAS, Scout Troop 1154 convened an Eagle Scout Court of Honor on August 9, 2026 at 2:00p.m. at Lake Christian Church, Palmyra, Virginia; and

WHEREAS, the Fluvanna County Board of Supervisors fully supports the programs of Scouting America and recognizes the important services they provide to the youth of our Country.

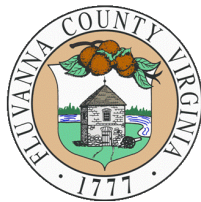
NOW, THEREFORE BE IT RESOLVED that the Fluvanna County Board of Supervisors joins Emma’s family and friends in congratulating her on her achievements, the award of Eagle Scout status and acknowledges the good fortune of the County to have such an outstanding young woman as one of its citizens.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Fluvanna County Board of Supervisors at a regular meeting of the Board held on the 19th of August 2026, by the following vote:

	AYE	NAY	ABSTAIN	ABSENT	MOTION	SECOND
Anthony P. O’Brien, Rivanna District				X		
Timothy Hodge, Palmyra District	X					
Chris Fairchild, Cunningham District	X					
Mike Goad, Fork Union District	X					X
John M. Sheridan, Columbia District	X				X	

Attest:

Timothy Hodge, Vice Chair
Fluvanna County Board of Supervisors



BOARD OF SUPERVISORS
County of Fluvanna
Palmyra, Virginia

RESOLUTION No. 24-2026

A RESOLUTION REQUESTING A SPEED LIMIT STUDY ON ROUTE 612 (WINNSVILLE DRIVE) FROM ROUTE 6 (WEST RIVER ROAD) TO ROUTE 15 (JAMES MADISON HIGHWAY) IN THE FORK UNION DISTRICT.”

At a Regular Meeting of the Fluvanna County Board of Supervisors held in the Fluvanna County Circuit Court Building at 6:00 PM on Wednesday, August 19, 2026, the following resolution was adopted by the Board of Supervisors, the vote being as shown below and recorded in the minutes of the meeting.

WHEREAS, it is the intention of the Fluvanna County Board of Supervisors to protect the health, safety, and welfare of all its citizens; and

WHEREAS, the Board of Supervisors feels there is a need for a Speed Limit Study on Route 612 (Winnsville Drive) from the intersection of Route 6 (West River Road) traveling south to the intersection of Route 15 (James Madison Highway); and

WHEREAS, the Board of Supervisors feels that the safety on this roadway can be significantly improved at a lower speed limit.

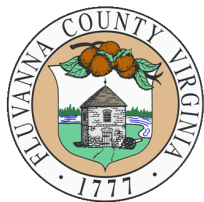
NOW, THEREFORE BE IT RESOLVED, on this 19th day of August 2026, that the Fluvanna County Board of Supervisors hereby requests that the Virginia Department of Transportation conduct a Speed Limit Study on Route 612 (Winnsville Drive) from the intersection of Route 6 (West River Road) traveling south to the intersection of Route 15 (James Madison Highway).

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Fluvanna County Board of Supervisors at the Regular Meeting of the Board held on the 19th day of August 2026;

	AYE	NAY	ABSTAIN	ABSENT	MOTION	SECOND
Anthony P. O’Brien, Rivanna District	X					
Timothy Hodge, Palmyra District	X					X
Chris Fairchild, Cunningham District	X					
Mike Goad, Fork Union District	X				X	
John M. Sheridan, Columbia District	X					

Attest:

Anthony P. O’Brien, Chair
Fluvanna County Board of Supervisors



BOARD OF SUPERVISORS
County of Fluvanna
Palmyra, Virginia

RESOLUTION No. 25-2026

A RESOLUTION OF THE FLUVANNA COUNTY BOARD OF SUPERVISORS TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY AMENDING §§ 22-11-2.2, 22-12-2.2, AND 22-17-5 TO REMOVE DATA CENTERS AS A USE ALLOWED BY SPECIAL USE PERMIT IN THE INDUSTRIAL, I-1 AND INDUSTRIAL, I-2 ZONING DISTRICTS, TO CLARIFY THAT USES WHICH ARE NOT LISTED AS A USE WITHIN THE ZONING CODE ARE NOT PERMITTED, AND TO DELAY CONSIDERATION OF NEW APPLICATIONS FOR DATA CENTERS

WHEREAS, the Fluvanna County Code (“County Code”) may from time to time be amended, supplemented, changed, modified, or repealed by the Fluvanna County Board of Supervisors (“Board of Supervisors”) pursuant to § 15.2-2285 of the Code of Virginia; and

WHEREAS, in accordance with § 22-20-1 of the Zoning Code, the Board of Supervisors can adopt a resolution of intention to amend the Zoning Code, which resolution, upon adoption, shall be referred to the Planning Commission; and

WHEREAS, the Board of Supervisors desires to propose an amendment to the Zoning Code by amending §§ 22-11-2.2, 22-12-2.2, and 22-17-5 to remove data centers as a use allowed by special use permit in the Industrial, I-1 and Industrial, I-2 Zoning Districts, and to clarify that uses which are not listed as a use within the Zoning Code are not permitted within Fluvanna County; and

WHEREAS, the Planning Commission shall hold a public hearing on such proposed amendments after notice as required by §15.2-2204 of the Code of Virginia, and may make appropriate changes to the proposed amendment as a result of such hearing; and

WHEREAS, § 15.2-2286 of the Code of Virginia allows the Board of Supervisors up to twelve (12) months to act upon any application for a special use permit; and

WHEREAS, the Board of Supervisors desires to delay its consideration of any new special use permit application for a data center until December 31, 2026, to allow time for such proposed amendment of the Zoning Code to be considered.

NOW, THEREFORE, BE IT RESOLVED by the Fluvanna County Board of Supervisors as follows:

- 1. That the Board of Supervisors proposes an amendment to the Zoning Code by amending §§ 22-11-2.2, 22-12-2.2, and 22-17-5 to remove data centers as a use allowed by special use permit in the Industrial, I-1 and Industrial, I-2 Zoning Districts, and to clarify that uses which are not listed as uses within the Zoning Code are not allowed within Fluvanna County.
- 2. That the Board of Supervisors does hereby state its intention to not consider any new applications for a special use permit for a data center until December 31, 2026, or at such earlier time as the Board of Supervisors may determine.

Adopted this 19th day of August 2026 by the following recorded vote:

	AYE	NAY	ABSTAIN	ABSENT	MOTION	SECOND
Christopher Fairchild, Cunningham District	X				X	
D. Mike Goad, Fork Union District	X					X
Timothy M. Hodge, Palmyra District	X					
Anthony P. O’Brien, Rivanna District		X				
John M. Sheridan, Columbia District	X					

Attest:

Anthony P. O’Brien, Chair
Fluvanna County Board of Supervisors

ORDINANCE TO AMEND “THE CODE OF THE COUNTY OF
FLUVANNA, VIRGINIA”, BY AMENDING §§ 15.2-1 THROUGH 15.2-10 TO ADD NEW
DEFINITIONS, REGULATIONS, AND PENALTIES IN THE NOISE CONTROL
ORDINANCE

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

(1) That The Code of the County of Fluvanna, Virginia is amended by amending §§ 15.2-1 through 15.2-10, as follows:

CHAPTER 15.2 NOISE CONTROL

Sec. 15.2-1. Purpose and intent.

The Board of Supervisors hereby finds and declares that excessive, unwanted, and inadequately controlled sound is a serious hazard to the public health, safety, welfare, and quality of life, and that the inhabitants of the County have a right to and should be free from such sound. Some dangers of inadequate sound control include hearing impairment, sleep disturbances, cardiovascular distress, and negative mental health impacts. These effects can lead to a physical and mental problems, including hearing disabilities, increased blood pressure, fatigue, depression, anxiety, and emotional instability. Therefore, it is the policy of the County and the purpose and intent of this chapter to prohibit such excessive, unwanted, and inadequately controlled sound as provided herein.

Sec. 15.2-2. Administration and enforcement.

This chapter is enforceable by any law enforcement officer or other agent of the Board of Supervisors, including employees of the Department of Planning and Zoning, employees of the Department of Public works, and other officers and employees of the County. Additionally, any citizen may appear as complainant before a magistrate and request a summons to be issued for a violation of this chapter.

Sec. 15.2-3. Applicability.

This chapter shall apply to sound generated within the County, regardless of whether the complainant or the receiving property is within or without the County. This chapter shall be in addition to any sound or noise regulations set forth in the zoning ordinance.

Sec. 15.2-4. Definitions.

The following definitions shall apply to this chapter.

A-weighted decibel. The term A-weighted decibel means the sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as defined by the American National Standards Institute Inc. The level shall be indicated as an amount of dBA.

Daytime. The term daytime means between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays, Sundays, and legal holidays observed by the County.

dBA. The term dBA means the sound level as measured using the "A" weighting network with a sound level meter. The unit of reporting is dB(A). This measurement approximates the auditory sensitivity of the human ear.

Decibel. The term decibel means a unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is 20 times the logarithm to the base ten of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; which is abbreviated dB.

Emergency operation. The term emergency operation means any emergency service provided by any police, sheriff, fire or fire and rescue department, any ambulance service or any other emergency service requiring a prompt response, and any emergency repair of public facilities or public utilities.

Impulse sound. The term impulse sound means a single or multiple sound event that is characterized by a rapid rise to a maximum sound pressure of high intensity, followed by a decrease in sound pressure. The duration of an impulse sound event is no more than one second.

Lmax. The term Lmax means the maximum sound level reported by a sound level meter and either observed and recorded manually or electronically logged with the fast time constant.

Motorcycle. The term motorcycle means any motorized vehicle, whether registered as a motor vehicle or not, designed to travel on not more than three wheels in contact with the ground and any four-wheeled vehicle weighing less than 500 pounds, excepting riding mowers, farm and lawn tractors.

Motor vehicle. The term motor vehicle means any self-propelled device or device designed for self-propulsion, upon or by which any person or property is or may be drawn or transported upon a road, except devices moved by human power or used exclusively upon stationary wheels or tracks.

Nighttime. The term nighttime means between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and between the hours of 6:00 p.m. and 9:00 a.m. on Saturdays, Sundays, and legal holidays observed by the County.

Noise. The term noise means any sound which is excessive, but does not include any sound which is exempt pursuant to Section 15.2-7 of this chapter.

Person. The term person means any natural person, association, partnership, corporation or other legal entity.

Road. The term road means a public or private thoroughfare which affords access to abutting property.

Sound. The term sound means a series of vibrations that may be perceived by the human sense of hearing.

Sec. 15.2-5. -Maximum permissible sound levels in Business and Industrial zones.

Except as otherwise provided, any sound which emanates from any source and exceeds the maximum permissible sound levels established in this section is hereby prohibited on any property zoned Business or Industrial. Sound levels shall be measured at the property boundary of the sound source or at any point within any other property affected by the sound. When the sound from a source can be identified and its noise measured in more than one zoning district classification, the limits of the most restrictive classification shall apply.

Zoning District Classification	Maximum dBA Daytime	Maximum dBA Nighttime
Business (B-1, B-C)	70 dBA	60 dBA
Industrial (I-1, I-2)	75 dBA	65 dBA

For any impulse sound, the maximum dBA standards set forth in the above table shall be reduced by five (5) dBA.

The above-listed limits may not be exceeded during any three (3) or more sampling intervals, the duration of which shall be no less than thirty (30) seconds, within any one-hour period.

Sec. 15.2-6. Specifically prohibited acts in Agricultural and Residential zones.

Except as otherwise provided in this section, the sounds generated by the following, among others, are declared to be plainly audible noise in violation of this chapter, and are specifically prohibited on properties zoned Agricultural or Residential:

- (1) The collection of refuse, waste or recycling within 100 yards of a residence between the hours between the hours of 9:00 p.m. and 6:00 a.m.
- (2) The operation of power lawn or landscaping equipment between the hours of 9:00 p.m. and 7:00 a.m.
- (3) The operation of powered model vehicles outdoors between the hours of 9:00 p.m. and 7:00 a.m.
- (4) The spinning of tires, racing of engines or other noise, or other similar acts, in a motor vehicle or motorcycle, as well as the emission of noise created by the absence of a muffler and/or exhaust system conforming to the provisions of Code of Va., §§ 46.2-1047 and 46.2-1049 on a motor vehicle or motorcycle.

- (5) The use or permitting the use of any instrument, machine or device for the producing or reproducing of sound in such a manner where the sound is plainly audible within the dwelling of another person when the door is closed; provided, however, that the provisions of this subsection shall not apply to any event sponsored by the County, Commonwealth or federal government.
- (6) The use of any horn or other signaling device/alarm on any motor vehicle, motorcycle, bicycle or other vehicle on any street or public place of the County continuously or intermittently for more than 20 consecutive seconds, except as a danger warning or as otherwise permitted by state law. If such signaling device/alarm continuously for 15 minutes after the arrival of a law enforcement officer, and the owner cannot be located, such officer may arrange for the vehicle to be towed.
- (7) Construction, demolition and/or maintenance activities which produce sound between the hours of 9:00 p.m. and 7:00 a.m. or between 6:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays.
- (8) The discharge of firearms-between the hours of 9:00 p.m. and 7:00 a.m. for any purpose that does not include lawful hunting, self-defense, or the dispatch of nuisance animals.

Sec. 15.2-7. Exempt sounds.

The sounds generated by the following shall not be prohibited by this chapter:

- (1) *Emergency operations.* The performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger.
- (2) *Silvicultural or agricultural activities.* Lawful bona fide silvicultural or agricultural activities including, but not limited to, logging activities and sounds caused by livestock.
- (3) *Construction, demolition and/or maintenance activities.* Construction, demolition and/or maintenance activities between 7:00 a.m. and 9:00 p.m. or between 9:00 a.m. and 6 p.m. on Saturdays, Sundays and legal holidays.
- (4) *Transient sounds from transportation.* Transient sounds generated by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit.
- (5) *School and other athletic contests or practices, and other school activities.* School and other athletic contests or practices, and other school activities, but only if conditions are imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.
- (6) *Parades, fireworks and similar officially sanctioned events.* Sounds generated from parades, fireworks or other similar events which are officially sanctioned, if required, including official events of the Lake Monticello Owners' Association. This exemption shall not apply to private fireworks displays.
- (7) *Yard maintenance activities.* Routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing, except as prohibited by the provisions of Sec. 15.2-6(2).
- (8) *Public facilities.* The operation of a public facility or public use.
- (9) *Warning devices.* A horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment, except as prohibited by Sec. 15.2-6(6).
- (10) *Church bells or chimes.* Bells, chimes or other similar instrument or devices, which are not electronically amplified, from a church or other place of worship.
- (11) *Firearms.* The lawful discharge of a firearm, except as prohibited by the provisions of Sec. 15.2-6(8).
- (12) *Animals.* Sounds generated from animals including, but not limited to, barking dogs.
- (13) *Protected expression.* Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression.

Sec. 15.2-8. Complaints of noise.

No person shall be charged with a violation of this chapter unless the complainant appears before a magistrate and requests a summons to be issued. However, when a violation is committed in the presence of the Sheriff, any of his deputies, or any other police officer, such law enforcement officer shall have the authority to initiate all necessary proceedings.

Sec. 15.2-9. Measurement procedures.

The measurement of the dBA level of sound or noise on property zoned Business or Industrial pursuant to section 15.2-5 shall be as follows:

- (A) The measurement of sound or noise shall be made with a type 1 or type 2 sound level meter capable of A-weighted measurements which meet American National Standards Institute Inc. standards. Measurement instruments shall be maintained in calibration and good working order.
- (B) Measurements shall be taken at the property boundary of the source of the sound or at any point within any other property affected by the sound.
- (C) Impulse sound shall be measured using peak dBA levels and the fast setting of a sound level meter. Measurements of any impulse sound may be instantaneous readings that are observed and manually recorded with logged Lmax.

Sec. 15.2-10. Violation and penalty.

- (A) Any person who violates any provision of this chapter shall be guilty of a Class 4 misdemeanor for the first offense and a Class 3 misdemeanor for any subsequent offense(s).
- (B) In lieu of the criminal penalties set out in Sec. 15.2-10(A) above, any person who violates any provision of this chapter may instead be punished by a civil penalty of up to \$250 for the first offense and up to \$500 for any subsequent offense(s). Pursuant to section 15.2-980 of the Code of Virginia, this civil penalty shall not apply to noise generated in connection with the business being performed on industrial property or railroads.
- (C) The County may enjoin the continuing violation of any provision of this chapter by proceedings for an injunction brought in Circuit Court in accordance with Virginia Code Sec. 15.2-1432.

(2) That the Ordinance shall be effective after adoption.

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY AMENDING §§ 6-1-2 AND 6-1-8 TO REFLECT VIRGINIA CODE TERMINOLOGY REGARDING ADEQUATE STABILIZATION

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by amending §§ 6-1-2 and 6-1-8 as follows:*

CHAPTER 6 – EROSION AND SEDIMENTATION CONTROL

Sec. 6-1-2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Agreement in lieu of a plan means a contract between the County of Fluvanna and the owner that specifies conservation measures that must be implemented to comply with the requirements of this chapter for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; this contract may be executed by the County of Fluvanna in lieu of formal site plan.

Applicant means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

Board means the State Water Control Board.

Building Official means both the person holding that position in Fluvanna County and his or her designees.

Certified inspector for ESC means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of project inspection or (ii) is enrolled in the Department's training program for project inspection and successfully completes such program within one year after enrollment.

Certified plan reviewer for ESC means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of plan review, (ii) is enrolled in the Department's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, as amended, or professional soil scientist as defined in § 54.1-2200.

Certified program administrator for ESC means an employee or agent of the VESCP authority who holds a certification from the Department in the classification of program administrator or (ii) is enrolled in the Department's training program for program administration and successfully completes such program within one year after enrollment.

Clearing means any activity which removes the vegetative ground cover including root mat removal or topsoil removal.

County means the County of Fluvanna.

Department means the Virginia Department of Environmental Quality.

District or Soil and Water Conservation District refers to the Thomas Jefferson Soil and Water Conservation District.

Erosion and sediment control plan or plan mean a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes.

Farm building or structure means the same as that term is defined in § 36-97 of the Code of Virginia, as amended, and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

Excavating means any digging, scooping or other methods of removing earth materials.

Filling means any depositing or stockpiling of earth materials.

Grading means any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled conditions.

Land disturbance or land-disturbing activity means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

Land-disturbing permit or approval means a permit or an approval allowing a land-disturbing activity to commence issued by Fluvanna County after the requirements of § 62.1-44.15:55 of the Code of Virginia, as amended, have been met.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

Owner means the same as provided in § 62.1-44.3 of the Code of Virginia, as amended. For a land-disturbing activity that is regulated under Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia as amended and this chapter, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

Peak flow rate means the maximum instantaneous flow from a prescribed design storm at a particular location.

Percent impervious means the impervious area within the site divided by the area of the site multiplied by 100.

Permittee means the person to whom the permit is issued.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

Responsible Land Disturber or RLD means an individual holding a certificate issued by the Department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan or permit as defined in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) as a prerequisite for engaging in land disturbance. The RLD must be designated on the erosion and sediment control plan or permit as defined in this chapter as a prerequisite for engaging in land disturbance.

Runoff volume means the volume of water that runs off the land development project from a prescribed storm event.

Single-family detached residential structure means a noncommercial dwelling that is occupied exclusively by one family.

State waters means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Transporting means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Virginia Erosion and Sediment Control Program or VESCP means a program approved by the Department that is established by a VESCP authority for the effective control of soil erosion,

sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of the Erosion and Sediment Control Law (ESCL).

Virginia Erosion and Sediment Control Program authority or VESCP authority, for purposes of this chapter means the County of Fluvanna, which has been approved by the Department to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1, the State Water Control Law, of Title 62.1 of the Code of Virginia, as amended.

VESCP plan-approving authority means the Fluvanna County Building Official or his or her designee, who is responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

VPDES Permit means a General VPDES (Virginia Pollutant Discharge Elimination System) Permit for Discharges of Stormwater from Construction Activities, 9VAC25-880, issued by the Department pursuant to § 62.1-44.15 of the Code of Virginia, as amended, for stormwater discharges from a land-disturbing activity.

Sec. 6-1-8. Permits; fees; security for performance.

- (A) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his or her application an approved erosion and sediment control plan, certification that the plan will be followed, and evidence of VPDES permit coverage where it is required.
- (B) No person may engage in any land-disturbing activity until he or she has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this chapter), has paid the fees and has posted the required bond.
- (C) The following fees for the land-disturbing permits and related reviews pursuant to this chapter shall be paid. The purpose of these fees is to defray the cost of program administration, including costs associated with the issuance of grading or land disturbing permits, plan review, and periodic inspections for compliance with erosion and sediment control plans. The fee schedule set forth in this section shall supersede any fee schedule previously adopted with respect to such permits and related reviews.

Single Family	\$125.00 per lot
All other	\$750.00 plus \$125.00/acre \$1,000.00 plan review fee

The foregoing notwithstanding, except as otherwise expressly provided by law, none of the fees listed herein shall apply to any property owned by the County and used for County purposes.

- (D) No land-disturbing permit shall be issued until the applicant submits with his or her application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.
- (E) All applicants for permits shall provide to the County a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the Building Official, to ensure that measures could be taken by the County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him or her by the approved plan as a result of his or her land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed 25 percent of the cost of the conservation action. Should it be necessary for the County to take such conservation action, the County may collect from the applicant any costs in excess of the amount of the surety held. Within 60 days of adequate stabilization, as determined by the Building Official in any project or section of a project, such bond, cash escrow or letter

of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(2) That the Ordinance shall be effective upon adoption.

ZTA 26:15

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF
FLUVANNA, VIRGINIA” BY AMENDING §§ 22-18-1 THROUGH 22-18-7 AND
REPEALING § 22-18-7.1 TO REFLECT CHANGES IN THE VIRGINIA CODE
REGARDING THE POWERS AND PROCEEDINGS OF THE BOARD OF ZONING
APPEALS

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by amending §§ 22-18-1 through 22-18-7 and repealing § 22-18-7.1 as follows:*

CHAPTER 22- ZONING

ARTICLE 18. BOARD OF ZONING APPEALS

Sec. 22-18-1. Board of Zoning Appeals.

- (A) A Board of Zoning Appeals consisting of five members shall be appointed by the Circuit Court of Fluvanna County. Members of the Board of Zoning Appeals shall be residents of Fluvanna County. Members of the Board of Zoning Appeals may receive such compensation as may be authorized by the Board of Supervisors. Members shall be removable for cause by the appointing court after a hearing is held after at least 15 days' notice. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- (B) The term of office shall be for five years, except that of the first five members appointed, one shall serve for five years, one for four years, one for three years, one for two years and one for one year. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies. Members of the Board of Zoning Appeals shall hold no other public office in the County, except that one of the five appointed members may be an active member of the Planning Commission, any member may be appointed to serve as an officer of election as defined in Code of Va., § 24.2-101, and any member may serve as an elected official of the Town of Scottsville.
- (C) Any member of the Board of Zoning Appeals shall be disqualified to act upon a matter before the Board of Zoning Appeals with respect to property in which the member has a legal interest.
- (D) The Board of Zoning Appeals shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman. The Board of Zoning Appeals may elect as its secretary either one of its members or a qualified individual who is not a member of the Board of Zoning Appeals. A secretary who is not a member of the Board of Zoning Appeals shall not be entitled to vote on matters before the Board of Zoning Appeals.

Sec. 22-18-1.1. Ex parte communications and proceedings.

- (A) The non-legal staff of the Board of Supervisors may have ex parte communications with a member of the Board of Zoning Appeals prior to the hearing but may not discuss the facts or law relative to a particular case. The applicant, landowner or his agent or attorney may have ex parte communications with a member of the Board of Zoning Appeals prior to the hearing but may not discuss the facts or law relative to a particular case. If any ex parte discussion of facts or law does occur, the party engaging in such communication shall inform the other party as soon as practicable and advise the other party of the substance of such communication and the identity of the individuals involved in the communication. For the purposes of this section, regardless of whether all parties participate, ex parte communication shall not include (i) discussions as part of a public meeting or (ii) discussions prior to a public meeting to which staff of the Board of Supervisors, the applicant, landowner or his agent or attorney are all invited.
- (B) Any materials relating to a particular case, including a staff recommendation or report furnished to a member of the Board of Zoning Appeals, shall be made available without cost to such applicant, appellant or other person aggrieved under section 15.2-2314 of the Code of Virginia, as soon as practicable thereafter, but no more than three (3) business days after providing such materials to a member of the Board of Zoning Appeals. If the applicant,

appellant or other person aggrieved under section 15.2-2314 of the Code of Virginia requests additional documents or materials be provided by the County other than those materials provided to the Board of Zoning Appeals, such request shall be made in accordance with the FOIA requirements in section 2.2-3704 of the Code of Virginia. Any such materials furnished to a member of the Board of Zoning Appeals shall also be made available for public inspection as required by section 2.2-3707(G) of the Code of Virginia.

- (C) For the purposes of this section, "non-legal staff of the Board of Supervisors" means any staff who is not in the office of the County Attorney, or for the Board of Zoning Appeals, or who is appointed by special law. Nothing in this section shall preclude the Board of Zoning Appeals from having ex parte communications with any attorney or staff or any attorney where such communication is protected by attorney-client privilege or other similar privilege or the protection of confidentiality.
- (D) This section shall not apply to cases where an application for a special exception has been filed pursuant to this chapter.

Sec. 22-18-2. Powers of the Board of Zoning Appeals.

The Board of Zoning Appeals shall have the following powers and duties:

- (A) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.
 - (1) The decision on such appeal shall be based on the Board of Zoning Appeals' judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct.
 - (2) At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden to rebut such presumption of correctness by a preponderance of the evidence.
 - (3) Altering the order of evidence is a reversible error only if the appellant lodges an objection citing this section and the Board of Zoning Appeals subsequently refuses to reorder the hearing.
 - (4) The Board of Zoning Appeals shall consider any applicable ordinances, laws, and regulations in making its decision. For the purposes of this section, determination means any order, requirement, decision or determination made by an administrative officer.
 - (5) Any appeal of a determination to the Board of Zoning Appeals shall be in compliance with this section, notwithstanding any other provision of law, general or special.
- (B) Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined by Code of Va., § 15.2-2201. The burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in the Code of Va., § 15.2-2201 and the criteria set out in this section, as follows:
 - (1) Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability; and
 - (a) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
 - (b) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
 - (c) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

- (d) The granting of such variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
 - (e) The relief or remedy sought by the variance application is not available through a special exception process or the process for modification of a zoning ordinance at the time of the filing of the variance application.
- (2) Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to the County and is appropriate under the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such request shall be granted by the County unless a variance from the Board of Zoning Appeals under this section is required in order for such request to be granted.
 - (3) No such variance shall be considered except after notice and hearing as required by Code of Va., § 15.2-2204, as amended; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Code of Va., § 1.2-2309.
 - (4) In granting a variance the Board of Zoning Appeals may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (C) To hear and decide appeals from the decision of the Zoning Administrator. No such appeal shall be heard except after notice and hearing as provided by Code of Va., § 15.2-2204; however, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Code of Va., § 15.2-2309.
 - (D) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question, and after public hearing with notice as required by Code of Va., § 15.2-2204, the Board of Zoning Appeals may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or district in question. However, notice of such hearing may be given via first-class mail rather than registered or certified mail pursuant to Code of Va., § 15.2-2309. The Board of Zoning Appeals shall not have the power to change substantially the locations of district boundaries as established by ordinance.
 - (E) No provision of this section shall be construed as granting any board the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the Board of Supervisors.

Sec. 22-18-3. Rules and regulations.

- (A) The Board of Zoning Appeals may adopt, alter and rescind such rules and regulations for its procedures, consistent with the ordinances of the County and the general laws of the Commonwealth, as it may consider necessary.
- (B) Meetings of the Board of Zoning Appeals shall be held at the call of its chairman or at such times a quorum of the Board of Zoning Appeals may determine.
- (C) The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
- (D) The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Zoning Appeals and shall be a public record.
- (E) All meetings of the Board of Zoning Appeals shall be open to the public.
- (F) A quorum shall be at least three members.

- (G) The concurring vote of a majority of the membership of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board of Zoning Appeals is required to pass or to effect any variance from the ordinance.

Sec. 22-18-4. Applications for variances, appeals to the Board of Zoning Appeals.

- (A) Applications for variances may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the Zoning Administrator in accordance with rules adopted by the Board of Zoning Appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the Board of Zoning Appeals, who shall place the matter on the docket to be acted upon by the Board of Zoning Appeals. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the Board of Zoning Appeals or appear as a party at the hearing. Substantially the same application will not be considered by the Board of Zoning Appeals within one year after the decision of the Board of Zoning Appeals.
- (B) An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the Zoning Administrator or from any order, requirement, decisions or determination made by any other administrative officer in the administration and enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to this chapter.
- (1) Any written notice of a zoning violation or a written order of the Zoning Administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty (30) days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty (30) days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given and the Zoning Administrator's written order is sent by registered or certified mail with proof of delivery to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission.
 - (2) Such appeal shall be taken within thirty (30) days after the decision appealed ~~from~~ by filing with the Zoning Administrator, and with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.
 - (3) Upon the filing of the appeal, the Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed was taken.
 - (4) A decision by the Board of Zoning Appeals on appeal shall be binding upon the owner of the property that is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the Zoning Administrator. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the Board of Zoning Appeals' decision due to failure of the owner to receive the notice of zoning violation or written order.
 - (5) An appeal shall stay all proceedings in furtherance of the action appealed ~~from~~ unless the Zoning Administrator certifies to the Board of Zoning Appeals that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board of Zoning Appeals or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.
 - (6) In no event shall a written order, requirement, decision or determination made by the Zoning Administrator or other administrative officer be subject to change, modification or reversal by any Zoning Administrator or other administrative officer after sixty (60)

days have elapsed from the date of the written order, requirement, decision or determination, where the person aggrieved has materially changed his position in good faith reliance on the action of the Zoning Administrator or other administrative officer, unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the Zoning Administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the Board of Supervisors, modification is required to correct clerical errors.

- (C) In any appeal taken pursuant to this section, if the Board of Zoning Appeals' attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

Sec. 22-18-5. Appeal procedure.

- (A) Applications for variance and appeals shall be filed with the Board of Zoning Appeals in care of the Zoning Administrator.
- (B) Appeals and applications for variance requiring an advertised public hearing shall be accompanied by a filing fee as determined by a fee schedule adopted by resolution of the Board of Supervisors. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs, as provided in section 15.2-2311(A) of the Code of Virginia.
- (C) All other procedural requirements of section 15.2-2312 of the Code of Virginia shall be observed by the Board of Zoning Appeals.
- (D) For the conduct of any hearing, a quorum shall not be less than three members of the Board of Zoning Appeals and the Board of Zoning Appeals shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved, and the staff of the Board of Supervisors, pursuant to section 15.2-2308 of the Code of Virginia.

Sec. 22-18-6. Public hearing.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within ninety (90) days. In exercising its powers, the Board of Zoning Appeals may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination of an administrative officer or decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.

Sec. 22-18-7. Certiorari to review decisions of Board of Zoning Appeals.

- (A) Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any aggrieved taxpayer or ~~any~~ officer, department, board or bureau of the County, may, within thirty (30) days after the final decision of the Board of Zoning Appeals, file with the Clerk of the Circuit Court for the County a petition that shall be styled "[*Petitioner v. Respondent*] In Re: date Decision of the Board of Zoning Appeals of Fluvanna County" specifying the grounds on which aggrieved. Such 30-day filing requirement shall be mandatory and jurisdictional.
- (B) The Board of Supervisors, the applicant before the Board of Zoning Appeals, and the landowner of record, if such landowner of record is a different party from the applicant, shall be the necessary parties to the proceedings in the circuit court. All necessary parties shall be listed as either petitioner or respondent as appropriate. The circuit court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals. The petition shall be served upon all necessary parties and the secretary of the Board of Zoning Appeals or, if no secretary exists, the chair of the Board of Zoning Appeals, within thirty (30) days after the petition is filed with the Clerk of the Circuit Court. Service of process upon a respondent more than thirty (30) days after the petition is filed shall be timely upon a finding by the court that the petitioner exercised due diligence to have timely service made upon the respondent. Failure to timely file and serve the petition shall result in a dismissal of the matter.
- (C) Any review of a decision of the Board of Zoning Appeals shall not be considered an action against the Board of Zoning Appeals and the Board of Zoning Appeals shall not be a

necessary party to the proceedings; however, the Board of Zoning Appeals shall participate in the proceedings to the extent required by this section or to the extent required by the circuit court.

- (D) The timely filing and service of a petition shall not stay the proceedings of an appeal of a decision by the Board of Zoning appeals but the circuit court may, upon motion by a petitioner with notice to the Board of Zoning Appeals and all necessary parties, grant a temporary restraining order or preliminary injunction pursuant to Rule 3:26 of the Rules of the Supreme Court of Virginia.
- (E) The filing of the record of the proceedings by the secretary of the Board of Zoning Appeals and the filing of a response by any respondent shall be in accordance with the provisions of this subsection. The secretary of the Board of Zoning Appeals shall, within twenty-one (21) days of being served with the petition, file the record of the proceedings at issue in the petition, unless such time to file is extended by the circuit court for good cause shown. The filing of the record of the proceedings shall not require the Board of Zoning Appeals to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof.
- (F) Any respondent may file a response to the petition within twenty-one (21) days of (i) the filing of the record of the proceedings or (ii) service of the petition upon such respondent, whichever is later, unless such time to file a response is extended by the circuit court for good cause shown. No petitioner shall file a reply unless granted leave by the circuit court to do so for good cause shown.
- (G) The circuit court shall conduct a hearing as promptly as possible to make a ruling on the petition and any response made to the petition. Any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia; however, the methods and procedures of discovery pursuant to Part 4 of the Rules of the Supreme Court of Virginia shall not apply to the proceedings described in this section. The circuit court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- (H) The following cases brought before the circuit court shall be conducted as follows:
 - (1) In the case of an appeal from the Board of Zoning Appeals to the circuit court of an order, requirement, decision or determination of a Zoning Administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements, the findings and conclusions of the Board of Zoning Appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the Board of Zoning Appeals, that the Board of Zoning Appeals erred in its decision. The circuit court shall hear any arguments on questions of law de novo.
 - (2) In the case of an appeal by a person of any decision of the Board of Zoning Appeals that denied or granted an application for a variance, the decision of the Board of Zoning Appeals shall be presumed to be correct. The petitioner may rebut the presumption by proving by a preponderance of the evidence, including the record before the Board of Zoning Appeals, that the Board of Zoning Appeals erred in its decision.
 - (3) In the case of an appeal by a person of any decision of the Board of Zoning Appeals that denied or granted application for a special exception, the decision of the Board of Zoning Appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the circuit court that Board of Zoning Appeals applied erroneous principles of law, or where the discretion of the Board of Zoning Appeals is involved, the decision of the Board of Zoning Appeals (i) was plainly wrong, (ii) was in violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.
- (I) Costs shall not be allowed against the County or the Board of Supervisors, unless it shall appear to the circuit court that it acted in bad faith or with malice. In the event the decision of the Board of Zoning Appeals is affirmed and the court finds that the appeal was frivolous, the circuit court may order the person or persons who filed the petition to pay the costs incurred in filing the record of the proceedings before the Board of Zoning Appeals. If the petition is withdrawn subsequent to the filing of the record of the proceedings, the

County or the Board of Supervisors may request that the circuit court hear the matter on the question of whether the appeal was frivolous.

(2) That the Ordinance shall be effective upon adoption.

ZTA 26:16

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY AMENDING § 22-26-8 TO AUTHORIZE THE ZONING ADMINISTRATOR TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES BY 20% FOR RESIDENTIAL, MULTIFAMILY AND MIXED-USE DEVELOPMENT IN ACCORDANCE WITH ASSIGNED CRITERIA

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by amending § 22-26-8 as follows:*

CHAPTER 22- ZONING**ARTICLE 26. - OFF-STREET PARKING AND LOADING SPACES****Sec. 22-26-8. Off-street parking requirements.**

- (A) The off-street parking requirements for various uses are stated on Table 2.
- (B) The off-street parking requirements for a use not specifically listed in Table 2 shall be determined by the Zoning Administrator based on the characteristics of the proposed uses, the number of residents or visitors, the minimum requirements for similar uses, and any other relevant characteristics. In making the determination, the Zoning Administrator may consider the recommendations of relevant parking studies as well as traffic generation figures, including information provided by the Institute of Traffic Engineers, peak parking demands, and other information.
- (C) The number of parking spaces in a parking area may not exceed the number of spaces required by this section by more than forty percent (40%) unless approved by the Zoning Administrator. To mitigate the environmental and visual impacts of additional impervious cover on the surrounding community, at least one (1) of the following features shall be incorporated into the design upon approval of the excess parking:
- (1) Additional spaces approved by the Zoning Administrator will be surfaced using pervious paving material, including, but not limited to, porous asphalt, porous concrete, or block pavers; or
 - (2) For every two (2) additional spaces approved by the Zoning Administrator, one (1) tree and three (3) shrubs will be planted on-site, in addition to the requirements specified in Article 24, Landscaping and Tree Protection of this ordinance.
- (D) A reduction in the number of required parking spaces may, at the written request of the applicant, be granted with the approval of the Zoning Administrator as follows:
- (1) A reduction in the number of required parking spaces may be granted in any one (1) of the following instances:
 - (a) For projects that include fifty (50) or more parking spaces on-site and are located within a designated growth area, the minimum number of parking spaces may be reduced by up to five percent (5%) if the project is located within three-hundred feet (300') of a transit stop and is connected to the transit stop by a sidewalk.
 - (b) For projects that include fifty (50) or more parking spaces on-site and are located within a designated growth area, the minimum number of required parking spaces may be reduced by one parking space for every one (1) bicycle space provided on a permanently-constructed bicycle rack, provided that the minimum parking required is not reduced by more than five percent (5%).
 - (c) The minimum number of required parking spaces may be reduced by up to ten percent (10%), provided that one (1) tree and three (3) shrubs are planted for every two (2) spaces reduced, in addition to the requirements set forth in Article 24, Landscaping and Tree Protection, of this ordinance.
 - (d) The Zoning Administrator may allow the number of required spaces to be reduced up to ten percent (10%) for projects within a designated growth area that meet new urban/neo-traditional planning principles and further the goals set forth in the

- Comprehensive Plan. Factors that may be considered when allowing a reduction include the density of the surrounding community; the range of land uses located within convenient walking distance; accessibility to mass transit; and the provision of facilities for bicyclists.
- (e) The Zoning Administrator may allow the number of required spaces to be reduced up to twenty-five percent (25%), provided that a professionally-prepared parking study or similar documentation indicates that a reduction in the minimum parking requirements for a specific building or use would provide adequate parking facilities on-site.
 - (f) The Zoning Administrator may allow the number of required off-street spaces to be reduced by twenty percent (20%) for residential, multifamily, or mixed-use development proposed on parcels not located within a “designated area” as defined by Code of Va., § 15.2-2209.4. Criteria to determine eligibility include: the density of the surrounding community; the range of land uses located within convenient walking distance; accessibility to mass transit; and the provision of facilities for bicyclists.
- (2) A site may not receive credit for more than one (1) strategy listed above. The possible reductions in the number of required parking spaces are not cumulative.
 - (3) When a reduction in the number of required parking spaces is permitted, the Zoning Administrator may, at his discretion, require the applicant to reserve space on-site that would accommodate the construction of additional parking in the future. The parking reserve area shall be designated on the site plan, and may not be converted to any other use without amendment of the site plan and the approval of the Zoning Administrator. The parking reserve area shall be sited to allow adequate pedestrian, bicycle, and automobile access, and shall be sized to accommodate a number of parking spaces equal to the amount of the parking reduction awarded. The intent of the parking reserve is to allow expansion of the parking area should the use or parking needs change.
- (E) The provisions of this article for the application of individual parking standards for Planned Unit Developments located within the Zion Crossroads Urban Development Area may be modified at the discretion of the Zoning Administrator, provided that the Applicant submits a parking impact study that fully justifies the modification of the standards based on the mix of uses, the phasing of development, and other factors, including relationship of parking location to individual land uses within the project.

Table 2. Off Street Parking Requirements	
Use	Parking Requirements
COMMERCIAL	
Animal Hospital, Veterinary Clinic, Animal Shelter	1 per 300 square feet
Automobile Repair Service Establishments	3 spaces plus 2 spaces for each service bay
Beauty and Barber Shops	2 spaces plus 2 spaces for every barber or beautician chair
Financial Institutions	1 per 250 square feet
Funeral Homes, Churches, other public assembly areas	1 per 4 fixed seats or 75 square feet of assembly area, whichever is greater
Furniture, Carpet, or Appliance Store	1 space per 500 square feet of retail sales area
Gas Stations	1.5 spaces per pump plus 2 spaces for each service bay
Greenhouse; nursery	1 per 250 square feet within retail sales area up to 15,000 gross square feet; 1 per 400 square feet thereafter

	Plus one per 1,000 gross square feet located in open storage/growing areas
Laundry	1 per 2 washing machines
Restaurant	1 per 100 gross square feet, minimum of 10
Retail Stores	1 per 250 square feet of up to 15,000 gross square feet; 1 per 400 square feet thereafter plus any required stacking lanes
Sale of Motor Vehicles, Mobile Homes, Travel Trailers	1 per 2,000 square feet of display area
Shopping Center Gross Leasable Square Feet	
1 to 15,000	4 spaces per 1,000 feet
15,000 to 50,000	3.5 spaces per 1,000 feet
Greater than 50,000	3 spaces per 1,000 feet
LODGING	
Country Inns, Boarding & Touring House, Bed & Breakfast	1 per unit
Hotels, Motels	1 per unit plus compliance with the requirements for each particular additional use located on premise.
RECREATION	
Assembly Hall, Dance Hall, Skating Rink	1 per 100 square feet
Indoor Recreation Facilities, Arcades	1 per 200 square feet
Campground	1 per campsite
Golf Course, Driving Range, Miniature Golf	2 per hole
Unspecified Recreational Use	1 per 125 square feet of usable recreation area
Stadiums, Arenas, Theaters	1 per 4 seats
RESIDENTIAL	
Dwellings, single family, two family, mobile homes	2 per unit
Dwellings, multi-family, efficiency/studio	1 per unit
Dwellings, multi-family, one bedroom	1.25 per unit
Dwellings, multi-family, two bedroom	1.5 per unit
Dwellings, multi-family, three or more bedrooms	2 per unit

Assisted Living Facility, Nursing Home	1 space per 3 residents plus 1 space per employee on largest shift
Group Home	0.5 spaces per bed at licensed capacity
OFFICE	
Office	1 space per 300 square feet of up to 15,000 square feet, 5 minimum; 1 space per 350 sq. ft. thereafter
INDUSTRIAL	
Manufacturing	1 per 2 employees on largest shift plus 1 space per company vehicle
Unspecified Industrial Uses	1 per 2 employees on largest shift plus 1 per 250 square feet open to the public
INSTITUTIONAL	
Day Care, Nursery School, Elementary School	1 per 9 pupils
Middle School	1 per 8 pupils
High School	1 per 3 pupils
Library, Museum, Art Gallery, Community Center	1 per 300 square feet
Professional School	1 space per 2 students at maximum capacity plus 1 space per classroom
Post Office	1 per 250 square feet, minimum of 5
UNSPECIFIED	Sufficient parking for average number of employees and visitors

(2) That the Ordinance shall be effective upon adoption.

ZTA 26:17

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY ENACTING §§ 22-13-8 AND 22-16-9, AMENDING §§ 22-4-2.3, 22-5-2.1, 22-6-2.1, 22-7-9.1, 22-8-2.1, 22-16-8 AND 22-17-15 TO ALLOW A MANUFACTURED HOME TO BE PLACED UPON ANY OPEN LOT IN A NONCONFORMING MANUFACTURED HOME PARK, TO ALLOW A NONCONFORMING MANUFACTURED HOME NOT LOCATED IN A MANUFACTURED HOME PARK TO BE REPLACED WITH A NEWER MANUFACTURED HOME, AND TO ALLOW A MANUFACTURED HOME ON AN INDIVIDUAL LOT IN ANY ZONING DISTRICT WHERE SITE-BUILT HOUSING IS ALLOWED

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by enacting §§ 22-13-8 and 22-16-9, amending §§ 22-4-2.3, 22-5-2.1, 22-6-2.1, 22-7-9.1, 22-8-2.1, 22-16-8 and 22-17-15 as follows:*

CHAPTER 22- ZONING

ARTICLE 4. - AGRICULTURAL, GENERAL, DISTRICT A-1

Sec. 22-4-2.3. Temporary Use of Mobile homes or Manufactured Homes.

One (1) mobile home or manufactured home per parcel shall be permitted, with issuance, by the Planning Director, of a zoning permit, in the following instances:

- (A) Mobile home or manufactured home to be occupied by a bona fide farm tenant with the permit to be revalidated by the governing body every two (2) years so long as the conditions are met;
- (B) Mobile home or manufactured home to be occupied because of an emergency medical or moral obligation with the permit to be revalidated by the governing body every two (2) years so long as the conditions exist. For purposes of this section, the term "an emergency medical or moral obligation" shall be deemed to mean a set of circumstances in which a landowner must provide shelter and/or care to one or more persons through the occupancy of the mobile home in order to alleviate a clearly demonstrable danger of serious impairment to the health and/or welfare of any person or persons which is occasioned by a medical disorder or condition or other compelling cause beyond the control of such person or persons and which cannot be remedied in any other reasonable manner;
- (C) Mobile home or manufactured home to be occupied by the owner of the property while constructing a permanent single-family dwelling on the same property or reconstructing a single-family dwelling destroyed by natural disaster. This permit shall be for a period of one (1) year only but may be renewed each year by the governing body for a period of not more than five (5) continuous years. In addition, the governing body may grant an additional extension of time for the occupancy of any such mobile home or manufactured home, not to exceed twenty-four (24) months from the expiration of the last renewal period of the original permit, upon a finding that the owner of the property has attempted in good faith to complete such single-family dwelling within the time permitted by law, but has been unable to do so as a result of adverse weather conditions, act of God, bona fide inability to timely obtain satisfactory building materials, or other circumstances or condition beyond the control of such owner.

ARTICLE 5. – RESIDENTIAL, LIMITED, DISTRICT R-1

Sec. 22-5-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

Agriculture*

Civic Uses

Public parks and recreational areas

Public uses

Commercial Uses

Home occupations

Miscellaneous Uses

Accessory uses

Cluster developments

Greenhouses, non-commercial

Kennels, private

Mobile food unit

Small scale solar generation facility

Utilities, minor

Residential Uses

Dwellings, accessory

Dwellings, single-family detached

Dwellings, two-family

Group homes

Manufactured homes

Short-term rental of a residential dwelling

* Only permitted in open space of cluster developments.

ARTICLE 6. – RESIDENTIAL, GENERAL, DISTRICT R-2

Sec. 22-6-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

Agriculture*

Civic Uses

Public parks and recreational areas

Public uses

Commercial Uses

Home occupations

Miscellaneous Uses

Accessory uses

Cluster developments

Greenhouses, non-commercial

Kennels, private

Mobile food unit

Small scale solar generation facility

Utilities, minor

Residential Uses

Dwellings, accessory

Dwellings, multi-family

Dwellings, single-family attached

Dwellings, single-family detached

Dwellings, townhouse

Dwellings, two-family

Group homes

Manufactured homes

Short-term rental of a residential dwelling

* Only permitted in open space of cluster developments.

ARTICLE 7. – RESIDENTIAL, PLANNED COMMUNITY, DISTRICT R-3

Sec. 22-7-9.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

Conservation areas

Civic Uses

Public parks and recreational areas

Public uses

Commercial Uses

Bakeries

Brewpub

Butcher shops

Financial institutions

Home occupations

Medical clinics

Offices

Personal improvement services

Personal service establishments

Pharmacies

Restaurants, general

Restaurants, small

Retail stores, general

Retail stores, neighborhood convenience

Retail stores, specialty

Studios, fine arts

Miscellaneous Uses

Accessory uses

Greenhouses, non-commercial

Kennels, private

Marinas, private non-commercial

Mobile food unit

Small scale solar generation facility

Utilities, minor

Residential Uses

Dwellings, accessory

Dwellings, multi-family

- Dwellings, single-family attached
- Dwellings, single-family detached
- Dwellings, townhouse
- Dwellings, two-family
- Group homes
- Manufactured homes
- Short-term rental of a residential dwelling
- Small scale solar generation facility

ARTICLE 8. – RESIDENTIAL, LIMITED, DISTRICT R-4

Sec. 22-8-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

- Conservation areas

Civic Uses

- Public parks and recreational areas
- Public uses

Commercial Uses

- Home occupations

Miscellaneous Uses

- Accessory uses
- Cluster developments
- Greenhouses, non-commercial
- Kennels, private
- Marinas, private non-commercial
- Mobile food unit
- Small scale solar generation facility
- Utilities, minor

Residential Uses

- Dwellings, accessory
- Dwellings, multi-family
- Dwellings, single-family attached
- Dwellings, single-family detached
- Dwellings, townhouse
- Dwellings, two-family
- Group homes
- Manufactured homes
- Short-term rental of a residential dwelling

ARTICLE 13. - MANUFACTURED HOME PARK, DISTRICT MHP

Sec. 22-13-8. Placement of manufactured homes.

A land owner or home owner may place a manufactured home that meets the current U.S. Department of Housing and Urban Development manufactured housing code upon any open lot

in a valid nonconforming manufactured home park regardless of whether a valid nonconforming manufactured home is currently located on such lot. A single-section home may replace a single-section home and a multi-section home may replace a multi-section home.

ARTICLE 16. - NONCONFORMING USES

Sec. 22-16-8. Repair and restoration after damage.

- (A) Where in any zone, a conforming structure devoted to a non-conforming activity or a nonconforming structure is destroyed or damaged in any manner, whether wholly or partially, either may be repaired or restored provided such repair or restoration is started within twelve (12) months from the date of damage or partial destruction. Such restoration shall not exceed two hundred percent (200%) of its size in square footage when destroyed. Any such expansion exceeding one hundred percent (100%) of the original structure shall conform with the yard requirements of this ordinance. Any such repair or restoration must be carried out in compliance with the Uniform Statewide Building Code and Fluvanna County flood regulations, as required by section 15.2-2307 of the Code of Virginia.
- (B) If a nonconforming structure is in an area under a federal disaster declaration and the structure has been damaged or destroyed as a direct result of the conditions that gave rise to the federal disaster declaration, then it may be repaired or restored for an additional two (2) years after the time permitted in subsection (A) above.

Sec. 22-16-9. Replacement of manufactured homes.

- (A) The owner of a valid nonconforming manufactured home not located in a manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current U.S. Department of Housing and Urban Development manufactured housing code.
- (B) For the purposes of determining whether a use has been continuous, an existing manufactured home shall be considered a valid nonconforming manufactured home regardless of whether it has been occupied during the preceding two-year period. Any such replacement home shall retain the valid nonconforming status of the prior home.

ARTICLE 17. - GENERAL PROVISIONS

Sec. 22-17-15. -Manufactured home requirements.

- (A) All manufactured homes shall be (i) converted to real property in accordance with Virginia Code § 46.2-653.1, (ii) constructed so that the certificate of occupancy is issued within five (5) years following the date of manufacture listed on the home's data plate, and (iii) placed on individual lots.
- (B) All manufactured homes shall be built in compliance with the Virginia Manufactured Housing Construction and Safety Standards Law (Virginia Code § 36-85.2 *et seq.*).

(2) That the Ordinance shall be effective upon adoption.

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY REPEALING §§ 22-3-1 THROUGH 22-3-5.4 AND 22-28-1 THROUGH 22-28-25 AND AMENDING §§ 22-4-2.2, 22-9-2.2, 22-10-4, 22-11-2.2, 22-12-2.2, 22-22-1, AND ENACTING §§ 22-28-1 THROUGH 22-28-23 TO CONFORM TO THE CODE OF VIRGINIA UPDATES REGARDING SOLAR REGULATIONS AND BATTERY STORAGE AS REQUIRED BY HB891/SB443 AND HB711/SB347

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by repealing §§ 22-3-1 through 22-3-5.4 and 22-28-1 through 22-28-25 and amending §§ 22-4-2.2, 22-9-2.2, 22-10-4, 22-11-2.2, 22-12-2.2, 22-22-1, and enacting §§ 22-28-1 through 22-28-23 as follows:*

CHAPTER 22 – ZONING

ARTICLE 4 - AGRICULTURAL, GENERAL, DISTRICT A-1

Sec. 22-4-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Agricultural Uses

- Agricultural enterprise
- Agricultural sales, wholesale
- Livestock feed lots, commercial
- Livestock sales yards, commercial

Civic Uses

- Amusements, public
- Correctional facilities
- Cultural services
- Educational facilities
- Public assembly
- Public recreation assembly
- Religious assembly
- Sheltered care facilities

Commercial Uses

- Adult retirement communities
- Amusements, commercial
- Assisted living facilities
- Automobile repair service establishments
- Bed and breakfasts
- Boarding houses
- Butcher shops
- Campgrounds
- Camps
- Car washes
- Cemeteries, commercial
- Child day centers
- Communications service
- Dance halls

Daycare centers
Event facilities
Flea markets
Funeral homes
Garden center
Gas stations
Greenhouses, commercial
Hotels
Kennels, commercial
Landscaping materials supply
Lodges
Machinery sales and service
Medical clinics
Microbreweries
Outdoor entertainment
Outdoor recreation facilities
Restaurants, small
Retail stores, neighborhood convenience
Retail stores, specialty
Shooting ranges, indoor
Shooting ranges, outdoor
Small home industries
Studios, fine arts
Taxidermists
Veterinary offices

Industrial Uses

Railroad facilities
Resource extraction
Solid waste collection facilities

Miscellaneous Uses

Aviation facilities
Outdoor gatherings
Solar photovoltaic projects
Telecommunication facilities
Utilities, major

Residential Uses

Dormitories

ARTICLE 9 - BUSINESS, GENERAL, DISTRICT B-1

Sec. 22-9-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Civic Uses

Educational facilities

Public assembly

Commercial Uses

Amusements, commercial

Dance halls

Entertainment establishments, adult

Halfway houses

Kennels, commercial

Landscaping materials supply

Laundromats

Lodges

Manufactured home sales

Outdoor entertainment

Outdoor recreation facilities

Retail stores, adult

Transportation terminals

Vehicle impound facilities

Industrial Uses

Contractor's storage yards

Lumberyards

Machine shops

Railroad facilities

Research laboratories

Miscellaneous Uses

Outdoor gatherings

Solar photovoltaic projects

Telecommunication facilities

Utilities, major

Residential Uses

Dormitories

ARTICLE 10 - BUSINESS, CONVENIENCE, DISTRICT B-C

Sec. 22-10-4. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Civic Uses

Educational facilities

Religious assembly

Sheltered care facilities

Commercial Uses

Amusements, commercial

Auction houses

Automobile repair service establishments

Car washes

Communications service

- Dance halls
- Guidance services
- Hotels
- Kennels, commercial
- Landscaping materials supply
- Laundromats
- Laundries
- Lodges
- Microbreweries
- Personal improvement services
- Professional schools
- Self-storage facilities
- Veterinary offices

Miscellaneous Uses

- Outdoor gatherings
- Solar photovoltaic projects
- Telecommunication facilities
- Utilities, major

Residential Uses

- Dormitories

ARTICLE 11 - INDUSTRIAL, LIMITED, DISTRICT I-1

Sec. 22-11-2.2. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Commercial Uses

- Amusements, commercial
- Auction houses
- Manufactured home sales
- Outdoor entertainment
- Outdoor recreation facilities
- Restaurants, fast food
- Shooting ranges, outdoor

Industrial Uses

- Data centers
- Manufacturing, medium
- Sanitary landfills
- Sawmills, permanent
- Solid waste material recovery facilities
- Truck terminals

Miscellaneous Uses

- Aviation facilities
- Outdoor gatherings
- Solar photovoltaic projects

Telecommunication facilities

Utilities, major

INDUSTRIAL, LIMITED, DISTRICT I-2

Sec. 22-12-2.2. Uses permitted by special use permit.

The following uses shall be permitted by special use permit only:

Commercial Uses

Manufactured home sales

Medical clinics

Offices

Shooting ranges, indoor

Shooting ranges, outdoor

Industrial Uses

Data centers

Manufacturing, heavy

Petroleum distribution facilities

Resource extraction

Salvage and scrap yards

Sanitary landfills

Slaughterhouses

Solid waste material recovery facilities

Miscellaneous Uses

Aviation facilities

Solar photovoltaic projects

Telecommunication facilities

ARTICLE 22 - DEFINITIONS

Sec. 22-22-1. Rules of construction; definitions.

Agrivoltaics: The intentional co-location of agricultural production and solar energy generation on the same land that (i) is designed to prioritize and sustain agricultural productivity while simultaneously integrating renewable energy generation, (ii) allows the ongoing production and sale of marketable agricultural products throughout the solar array's life, (iii) is a part of a farm business that is consistent with commercial agricultural production, (iv) has provisions for decommissioning to protect the land's agricultural resources and productivity, (v) does not significantly displace farming activity, and (vi) ensures flexibility for farmers to adapt to market conditions and support operational needs.

Battery Energy Storage Project includes energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

Solar generation facility, small scale: An on-site solar energy conversion system producing less than one (1) MW of electricity. On-site may include adjacent parcels under common use, ownership and control. Small scale solar generation facilities include rooftop solar facilities that supply electricity to the property upon which such facilities are located and ground-mounted solar facilities that (i) serve only the electricity needs on the property on which they are located or (ii) have a generating capacity of less than (1) MW and serve the electricity or thermal needs of any other property other than the property where such facility is located.

Solar photovoltaic project: A ground-mounted solar facility with a generating capacity of one (1) MW or more that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facility is located.

ARTICLE 28. REGULATION OF SOLAR FACILITIES AND BATTERY STORAGE FACILITIES

Sec. 22-28-1. Statement of intent.

- (A) The purpose of this article is to establish general guidelines for the regulation of solar facilities within the County.
- (B) The purpose and intent of this article is to promote the health, safety, and general welfare of the public, including, but not limited to, such instances as:
 - (1) Potential injury to people around solar facilities;
 - (2) Potential damage to property;
 - (3) Potential negative economic impacts on the heritage and scenic tourist industry.
- (C) The goals of this article are to:
 - (1) Minimize the impacts of solar facilities on surrounding land uses by establishing standards for location, structural integrity, and compatibility;
 - (2) Avoid potential injury to persons and properties from solar facility failure through structural standards and setback requirements;
 - (3) Preserve the scenic and visual character of the geographic area by encouraging the location, design and architectural treatment of solar facilities to avoid the disruption of the natural and built environment, and to ensure harmony and compatibility with surrounding land use patterns;
 - (4) Provide a uniform and comprehensive framework for evaluating proposals for solar facilities;
 - (5) Encourage developers of solar facilities to locate solar facilities, to the extent possible, in areas where the visual impact on the community is minimal;
 - (6) Encourage the location of new solar facilities near existing solar facilities thereby minimizing new visual, aesthetic, public safety impacts, and effects upon the natural environment and wildlife;
 - (7) Establish predictable and balanced codes governing the construction and location of solar facilities, within the confines of permissible local regulations;
 - (8) Establish review procedures to ensure that applications for solar facilities are reviewed and acted upon within a reasonable period of time;
 - (9) Consideration of and compatibility with the goals and objectives of the County's Comprehensive Plan.

Sec. 22-28-2. Existing solar facilities.

Solar facilities existing or permitted prior to the adoption of this article shall be subject to the provisions of Article 16, Nonconforming Uses of this chapter.

Sec. 22-28-3. Rooftop solar facilities.

- (A) An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any County historic, architectural preservation, or corridor protection district adopted pursuant to Virginia Code § 15.2-2306 where such property is located.
- (B) An owner of real property zoned agricultural may install a solar facility on the roof of a residential dwelling on such property, or on the roof of another building or structure on such property, to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback

requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any County historic, architectural preservation, or corridor protection district adopted pursuant to Virginia Code § 15.2-2306 where such property is located.

- (C) An owner of real property zoned commercial, industrial, or institutional may install a solar facility on the roof of one or more buildings located on such property to serve the electricity or thermal needs of that property upon which such facilities are located, provided that such installation is (i) in compliance with any height and setback requirements in the zoning district where such property is located and (ii) in compliance with any provisions pertaining to any County historic, architectural preservation, or corridor protection district adopted pursuant to Virginia Code § 15.2-2306 where such property is located.

Sec. 22-28-4. Ground-mounted solar facilities.

- (A) A ground-mounted solar energy generation facility to be located on property zoned agricultural and to be operated under Virginia Code §§ 56-594 or 56-594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to Virginia Code § 15.2-2306 where such property is located.
- (B) A ground-mounted solar energy generation facility to be located on property zoned commercial or industrial shall be permitted, provided that such installation is (a) in compliance with any height and setback requirements in the zoning district where such property is located and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or corridor protection district adopted pursuant to Virginia Code § 15.2-2306 where such property is located.
- (C) Any ground-mounted solar energy generation facility that is a Solar Photovoltaic Project that is designed to serve, or serves, the electricity or thermal needs of any property other than the property where such facilities are located shall be subject to the special use permit requirements contained in this article.

Sec. 22-28-5. Minimum Setbacks for Solar Photovoltaic Projects

- (A) Setback distances shall be measured from the nearest edge of the equipment as follows:
 - (1) 200 feet from the nearest point on the outer wall of existing occupied community buildings and dwellings on nonparticipating properties;
 - (2) 100 feet from the outside edge of the roadbed of any road abutting the property;
 - (3) For projects not greater than twenty-five (25) megawatts, fifty (50) feet from the edge, and for projects greater than twenty-five (25) megawatts, 100 feet from the edge, of tidal wetlands or nontidal wetlands, as defined in 9VAC25-830, or from the top of bank of perennial streams, as defined in Virginia Code § 62.1-44.122; and
 - (4) Seventy-five (75) feet measured from the nearest shared property line for nonparticipating properties.
- (B) Nothing in this section shall preclude the owner of a nonparticipating property from waiving the foregoing setback requirements by written agreement.
- (C) Setbacks shall not be required for internal boundaries between adjacent participating parcels.
- (D) For purposes of clause (A)(iii), “equipment” is limited to solar panels, racking equipment, and inverters.

Sec. 22-28-6. Minimum Vegetative Screening for Solar Photovoltaic Projects

- (A) Vegetative screening from adjacent properties and public roads shall be fifty (50) feet wide and shall be located around the entire perimeter of the property.
- (B) Existing screening: The Solar Photovoltaic Project may use existing forested buffer to satisfy the screening requirement. The existing forested buffer must be undisturbed and permanently protected as the designated buffer. If existing trees and vegetation are removed when dead or diseased, the vegetative buffer must be replaced in accordance with this section.
- (C) Vegetative screening: In the event existing screening is inadequate, screening must be provided which consists of a combination of evergreen and deciduous trees that are three

feet in height at time of planting. A triple staggered row of trees must be placed ten (10) feet apart and on average at fifteen (15) feet on center. For the remainder of the vegetative screening, a combination of non-invasive species, pollinator species, and native plants, shrubs, trees, grasses, forbs and wildflowers shall be utilized.

- (D) A performance bond reflecting the estimated costs of anticipated landscaping maintenance shall be posted prior to construction to ensure the vegetative screening is adequately maintained for the life of the project. Once the landscaping has been successfully established, the surety amount may be reduced to the amount needed for maintenance. The surety will be fully released only after decommissioning is complete.

Sec. 22-28-7. Height for Solar Photovoltaic Projects.

The height of solar panels shall not exceed twenty-five (25) feet above ground when the arrays are at full tilt, except in cases where a height variance is obtained to allow for Agrivoltaics activity below or in proximity to the panels.

Sec. 22-28-8. Fencing for Solar Photovoltaic Projects.

Fencing for the facility shall comply with Virginia Code § 55.1-2804, the latest version of the National Electrical Safety Code or any applicable successor standard regarding requirements for limiting access to facilities, and the Uniform Statewide Building Code (Virginia Code § 36-97 *et seq.*). Vegetative visual screening requirements shall not be required to exceed three (3) feet at planting, shall be between twenty-five (25) and fifty (50) feet wide, and shall allow for consideration of preexisting natural or manmade visual barriers.

Sec. 22-28-9. Lighting for Solar Photovoltaic Projects.

Solar Photovoltaic Projects shall implement light intensity dimming solution technology that provides a means of tailoring the intensity level of lights according to surrounding visibility.

Sec. 22-28-10. Wildlife Access for Solar Photovoltaic Projects

Solar Photovoltaic Projects shall provide for wildlife passage where needed by limiting fencing to the areas in reasonable proximity to arrays and interconnection equipment to the extent practicable and consistent with safety and security requirements. Solar Photovoltaic Projects shall prioritize open wildlife access to riparian areas, wetlands, streams, and other areas not in proximity to panels.

Sec. 22-28-11. Land disturbance.

- (A) Land disturbance, including site grading, construction, and landscaping, shall be conducted in compliance with a stormwater pollution prevention plan.
- (B) Topsoil shall not be removed from the project site. Topsoil shall be returned to disturbed areas from stockpiles as quickly as site conditions allow, unless returning soil would cause adverse impacts to topsoil integrity or is otherwise not practicable for construction activities.
- (C) Site stabilization shall occur as the site is developed, following appropriate stabilization timelines as identified in the General VPDES Permit for Discharges of Stormwater from Construction Activities, and shall not be delayed until site construction is completed. The facility shall decompact soil as necessary and feasible for re-vegetation after construction has concluded.

Sec. 22-28-12. Post-land disturbance vegetation.

- (A) When all land-disturbing activities at the construction site have been completed, the facility shall initiate permanent stabilization to provide vegetative ground cover that provides a minimum level of coverage over the project site of seventy-five (75) percent vegetative cover with no significant bare areas that is mature enough to survive and will inhibit erosion.
- (B) The use of native and naturalized plants shall be encouraged and invasive plants as established pursuant to Virginia Code § 10.1-104.6:2 shall be prohibited.
- (C) For projects or portions of projects not used for animal grazing, co-located crop production, native and naturalized pollinator plant species, or native and naturalized meadow species

shall be planted, except for in the area directly beneath panels, and maintained throughout the solar project's life. The seed mix shall include a diversity of species with varied bloom times.

- (D) Mowing shall be limited and performed on a schedule that promotes the establishment of the native plantings, controls invasive species, and minimizes impacts to wildlife.
- (E) All trees and shrubs at the time of planting shall accommodate adequate screening or buffering at the end of five years of planting. Vegetation used to establish a visual screen shall not be trimmed to stunt upward and outward growth or to otherwise limit the effectiveness of the visual screen.

Sec. 22-28-13. Stormwater regulations for Solar Photovoltaic Projects.

Solar Photovoltaic Projects shall comply with all Virginia Department of Environmental Quality stormwater regulations as established in 9VAC25-880.

Sec. 22-28-14. Impervious surface regulation.

Solar Photovoltaic Projects shall minimize new impervious surface on the site and under its solar panels.

Sec. 22-28-15. Visual impacts of Solar Photovoltaic Projects.

- (A) Visual impacts of Solar Photovoltaic Projects on public parks, scenic rivers and byways, and historic structures or sites listed on or eligible for the National Register of Historic Places shall be minimized.
- (B) A viewshed analysis is required as part of the special use permit application to assure that visual impacts are minimized through solar panel placement, height, landscaping, and screening. Such analysis shall account for existing vegetation and planned visual buffers. Such screening may be accomplished on any property with the consent of the property owner.

Sec. 22-28-16. Labor and employment.

The facility shall comply with all applicable state and federal labor and employment laws, including apprenticeships and labor standards necessary to achieve any available tax credit bonuses found in 26 U.S.C. §§ 45Y and 48E.

Sec. 22-28-17. Dedication of Real property and cash payments for Solar Photovoltaic Projects.

- (A) For Solar Photovoltaic Projects, the County may grant a condition that includes (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a special use permit, so long as such conditions are reasonably related to the project.
- (B) Once a condition is granted pursuant to subsection (A), such condition shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Sec. 22-28-18. Solar panel disposal.

- (A) Any property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (Virginia Code § 36-97 *et seq.*) who removes solar panels shall dispose of such panels in a certified recycling center for solar panels.
- (B) Damaged or unusable panels or arrays shall be removed from the site within sixty (60) days of removal from service.
- (C) In no event shall any damaged or unusable panels or arrays be disposed of in a certified recycling center in the County.

Sec. 22-28-19. Decommissioning of Solar Photovoltaic Projects.

- (A) An owner, lessee, or developer of real property subject to this section shall enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions:
- (1) If the party that enters into such written agreement with the County defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the County has the right to enter the real property of the record title owner of such property without further consent of such owner and to engage in decommissioning.
- (B) *Decommissioning plan.* A draft decommissioning and reclamation plan shall be submitted and approved before issuance of the zoning permit, and the plan must be certified by an independent engineer with a Virginia professional engineering license selected by the County but paid for by the applicant, and such plan shall contain the following information:
- (1) Contact information for the party identified as primarily responsible for decommissioning;
 - (2) Anticipated life of project;
 - (3) Estimated decommissioning cost in current dollars;
 - (4) How the cost is determined;
 - (5) Method of ensuring funds will be available for decommissioning and restoration;
 - (6) Estimation method to keep decommissioning cost current;
 - (7) Manner in which facility will be decommissioned and the site restored; and
 - (8) Plan should include statement of disposal or recycling destination for solar panels.
- (C) *Decommissioning and reclamation.*
- (1) Solar facilities that have reached the end of their useful life or have not been in active and continuous service for a period of six months must be removed at the owner's or operator's expense in accordance with this section and all other applicable local, state and federal laws and regulations. However, the County may extend this period upon a showing that a longer repair period is needed or where evidence is provided that the failure to utilize the facility is beyond the reasonable control of the owner or operator.
 - (2) The owner or operator must notify the Planning Director by certified mail of the proposed date of discontinued operations and plans for removal.
 - (3) The decommissioning must be performed in compliance with the approved decommissioning plan. The Planning Director must approve any amendments to the decommissioning plan.
 - (4) The decommissioning shall be completed within twelve (12) months of the date the owner or operator sends notice to the Planning Director.
 - (5) Decommissioning must include removal of all electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and any associated facilities.
 - (6) Components of the facility removed from the site shall be handled and disposed of in compliance with applicable local, state, and federal law and regulations.
 - (7) In no event shall any hardware, parts, structures, components or other portions of the facility be disposed of in a convenience center or transfer station in the County.
 - (8) All solar panels shall be disposed of in a certified recycling center for solar panels.
 - (9) After removal of all facilities, the ground upon which the facilities were located must be tillable and suitable for agricultural uses. Trenches, boring and excavations shall be filled and compacted. The soil shall be stabilized to a depth of three feet, and the site must be graded and reseeded.
 - (10) Any exception to site restoration must be approved by the Planning Director.
 - (11) Hazardous material must be disposed of in accordance with federal and state law.
- (D) *Decommissioning surety.*

- (1) Such owner, lessee, or developer shall provide financial assurance of such performance to the County in the form of certified funds, cash escrow, bond, letter of credit, or parent guarantee, based upon an estimate of a professional engineer licensed in the Commonwealth, who is engaged by the applicant, with experience in preparing decommissioning estimates and approved by the County; such estimate shall not exceed the total of the projected cost of decommissioning, which may include the net salvage value of such equipment, facilities, or devices, plus a reasonable allowance for estimated administrative costs related to a default of the owner, lessee, or developer, and an annual inflation factor.
 - (2) A surety agreement and attendant financial or bond instrument and guarantee for decommissioning, in a form acceptable to the County Attorney, shall be submitted before a building permit or land disturbing permit is issued for the Solar Photovoltaic Project. Any such surety shall include an automatic adjustment for inflation or as necessary based upon a decommissioning plan update.
 - (3) The surety agreement must prohibit the release of the surety without the written consent of the County. The County will consent to the release of the surety upon the owner's or operator's compliance with the approved decommission plan.
 - (4) If the owner or operator fails to remove the installation in accordance with the requirements or within the permitted time, the County may collect the surety and the County or its agent may enter the property to perform any work necessary to complete the decommissioning.
 - (5) If the decommissioning surety and salvage recompense is insufficient, the County shall have the right to recover such costs from the owner or operator to include legal fees and expenses.
- (E) The owner, lessee, or operator shall hire a professional engineer licensed in the Commonwealth to update the decommissioning plan cost estimate and corresponding approved financial instrument every five (5) years after the approval of the first decommissioning plan to adjust for inflation, account for advancements in technologies and processes for decommissioning, salvaging, or re-powering of renewable energy facilities, and make any other necessary changes. The decommissioning plan shall provide for the removal of the facility's equipment from the landowner's property and return of the property to a useful condition similar to the preconstruction condition unless otherwise agreed to by the landowner. After the decommissioning process is complete, the facility shall comply with all stormwater provisions in state law. The project shall provide an up-to-date decommissioning plan to the County any time there is project ownership outside of the current developer. Notice shall be provided to the County within thirty (30) days of the sale or transfer of the lease or property, and a new financial guarantee shall be provided by the new leaseholder or property owner.

Sec. 22-28-20. Review of Solar Photovoltaic Projects.

- (A) The County may engage independent third-party consultants and experts to review special use permit applications and associated documents for completeness and compliance with applicable County, state and federal laws.
- (B) In the issuance of a special use permit, a variance from these ordinance criteria may be implemented only with a written agreement of the County, the property owner or their agent, and the applicant.
- (C) Solar Photovoltaic Projects are subject to comprehensive plan review under Virginia Code Section 15.2-2232.

Sec. 22-28-21. Reporting to State Corporation Commission.

The County shall furnish the State Corporation Commission a record of Solar Photovoltaic Project special use permit decisions reached pursuant to this section not more than sixty (60) days after such decision is made. The record shall include (i) the reason for any adverse decision, (ii) any finding of nonconformity with the local comprehensive plan, and (iii) the date of the last revision to the comprehensive plan.

Sec. 22-28-22. Private agreements.

Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Virginia Condominium Act (Virginia Code § 55.1-1900 et seq.), the declaration of a common interest community as defined in Virginia Code § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (Virginia Code § 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (Virginia Code § 55.1-1800 et seq.).

Sec. 22-28-23. Battery energy storage projects.

- (A) A battery energy storage project shall be deemed as a permitted accessory use in all zoning districts on any parcel of land that is subject to an approved special use permit for a solar facility if the battery energy storage project is located within the boundaries of the parcel covered by the existing special use permit and has a rated storage capacity that does not exceed 100 percent of the nameplate generating capacity of the associated solar facility.
- (B) Such battery energy storage project shall not require a special use permit or any other County land use approval. The addition of the battery energy storage project pursuant to this section shall not alter, reduce, or otherwise affect any (i) payment obligations, financial commitments, or other terms contained in the existing special use permit associated with the siting agreement for the approved solar facility or (ii) state and local tax exemption from which the approved solar facility benefits. Nothing in this subdivision shall be construed to affect or alter the state and local tax provisions under Virginia Code § 58.1-3660.
- (C) A battery energy storage project shall comply with all applicable federal, state, and County safety or fire codes and environmental regulations.
- (D) Any payment obligations, financial commitments, or other terms contained in the special use permit or any associated siting agreement for the approved solar facility shall relate and apply only to the approved solar facility and shall not affect any battery energy storage project added pursuant to this section.
- (E) Nothing in this section shall be construed to (i) limit the authority of the County to enforce compliance with applicable codes or to ensure the safe operation of the battery energy storage project or (ii) preclude a developer or the County from negotiating a siting agreement for a battery energy storage project.

(2) That the Ordinance shall be effective upon adoption.

Sec. 22-10-4. Uses permitted by special use permit only.

The following uses shall be permitted by special use permit only:

Civic Uses

- Educational facilities
- Religious assembly
- Sheltered care facilities

Commercial Uses

- Amusements, commercial
- Auction houses
- Automobile repair service establishments
- Car washes
- Communications service
- Dance halls
- Guidance services
- Hotels
- Kennels, commercial
- Landscaping materials supply
- Laundromats
- Laundries
- Lodges
- Microbreweries
- Personal improvement services
- Professional schools
- Teen centers
- Self-storage facilities
- Veterinary offices

Miscellaneous Uses

- Outdoor gatherings
- Minor scale solar generation facility
- Telecommunication facilities
- Utilities, major
- Utility scale solar generation facility

Residential Uses

- Dormitories

Sec. 22-22-1. Rules of construction; definitions.

Teen Center: A privately-operated facility that provides a dedicated supervised space for recreational, educational, and/or social activities to two (2) or more teenagers aged 17 and under outside of school hours.

A RESOLUTION OF INTENTION TO AMEND THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA BY AMENDING § 22-7-8, § 22-7-11 AND §§ 22-7-13 THROUGH 22-7-19 TO AMEND THE REGULATIONS IN THE R-3 ZONING DISTRICT TO ESTABLISH SETBACK, FRONTAGE, AND HEIGHT REGULATIONS AND TO REQUIRE PUBLIC OR CENTRAL WATER AND SEWER SERVICE

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) That the Code of the County of Fluvanna, Virginia is amended by amending § 22-7-8, § 22-7-11 and §§ 22-7-13 through 22-7-19 as follows:

Chapter 22 - ZONING

ARTICLE 7. - RESIDENTIAL, PLANNED COMMUNITY, DISTRICT R-3

Sec. 22-7-8. Area and residential density regulations.

- (A) The minimum lot area for permitted uses shall be 15,000 square feet.
- (B) The maximum permitted gross residential density without a special use permit shall be two and nine-tenths (2.9) dwelling units per acre. A maximum gross residential density between 3 and 10 residential units per acre may be permitted by special use permit only.

Sec. 22-7-11. Building location and design requirements.

- (A) The proposed location, arrangement, and design of nonresidential structures shall not be a detriment to the existing adjacent areas, and the prospective development of the Residential Planned Community. Therefore, structures shall be designed in a manner to facilitate the creation of a convenient, attractive and harmonious community.
- (B) Open spaces between structures shall be protected where necessary by adequate covenants, conveyances, or dedications running with the land.

Sec. 22-7-13. Setback regulations.

Structures shall be located twenty-five feet (25') or more from any street right-of-way. This shall be known as the "setback line."

Sec. 22-7-14. Frontage regulations.

The minimum frontage for permitted uses shall be:

- (A) Existing roads: One hundred feet (100')
- (B) New, internal public roads: Fifty feet (50')

Sec. 22-7-15. Yard regulations.

- (A) Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten feet (10') on each side.
- (B) Rear. Each main structure shall have a rear yard of twenty-five feet (25') or more.

Sec. 22-7-16. Special provisions for corner lots.

Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.

Sec. 22-7-17. Height regulations.

Buildings and structures may be erected up to thirty-five feet (35') in height, except that:

- (A) The height limit for dwellings may be increased up to forty-five feet (45') provided one foot (1') or more per side yard is added for each additional foot of building height over thirty-five feet (35').
- (B) A public or semi-public building such as a school, place of worship, or library may be erected to a height of sixty feet (60') from grade provided that required front, side, and rear yards shall each be increased one foot (1') for every foot in height over thirty-five feet (35').

- (C) Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of sixty feet (60') from grade. Parapet walls may be up to four feet (4') above the height of the building on which the walls rest.
- (D) No accessory building which is within fifteen feet (15') of any property lot line shall be more than one (1) story high. All accessory buildings and structures, other than those permitted under subsection (C) above, shall be less than the main building or structure in height.

Sec. 22-7-18. Master plan regulations.

In the event that the regulations contained within a development's Master Plan are less restrictive than the regulations of this Article, the regulations contained within this Article shall supersede those in the Master Plan.

Sec. 22-7-19. Water and sewer regulations.

All uses shall be served by both central or public water and central or public sewerage systems.

- (2) *That the Ordinance shall be effective upon adoption.*