



FLUVANNA COUNTY PLANNING COMMISSION

MEETING AGENDA

The Morris Room, Administration Bldg.

132 Main Street, Palmyra, VA 22963

June 9, 2026

6:00pm Work Session | 7:00pm Regular Meeting

WORK SESSION

1 – CALL TO ORDER, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE

- A SUP – Electric Transmission Facilities
- B Entrance Corridor Overlays (time permitting)

REGULAR MEETING

1 – CALL TO ORDER, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE

2 – ADOPTION OF THE AGENDA

3 – DIRECTOR’S REPORT

4 – APPROVAL OF MINUTES

- A May 12, 2026 – Jenny Cassell Faulkner, Admin. Prog. Specialist

5 – PUBLIC COMMENTS #1 (5 Minutes Each)

6 – PUBLIC HEARING

- B ZTA26:21 – Teen Centers – Jason Overstreet, Senior Planner
- C SUP26:10 – Teen Center – Flucos Den Center – Jason Overstreet, Senior Planner
- D ZTA 26:15 – Board of Zoning Appeals (HB 198) – Todd Fortune, Director of Planning
- E ZTA 26:16 – Off-street Parking Regulations (HB888) – Todd Fortune, Director of Planning
- F ZTA 26:17 – Manufactured Homes Regulation (HB655/SB346 and HB1463) – Todd Fortune, Director of Planning
- G ZTA 26:18 – Solar Regulation (HB891/SB443 and HB711/SB347) – Todd Fortune, Director of Planning
- H Comprehensive Plan Addendum – Todd Fortune, Director of Planning

12 – RESOLUTIONS

- I None

13 – PRESENTATIONS

- J None

14 – UNFINISHED BUSINESS

- K Comprehensive Plan – Todd Fortune, Director of Planning

15 – NEW BUSINESS

- L Noise Ordinance – Todd Fortune, Director of Planning and Dan Whitten, County Attorney

16 – PUBLIC COMMENTS #2 (5 minutes each)

17 – ADJOURN

Planning Director Review

Fluvanna County...The heart of central Virginia and your gateway to the future!

*For the Hearing-Impaired – Listening device available in the Morris Room upon request. TTY access number is 711 to make arrangements.
For Persons with Disabilities – If you have special needs, please contact the County Administrator’s Office at 591-1910.*

PLEDGE OF ALLEGIANCE

I pledge allegiance to the flag
of the United States of America
and to the Republic for which it stands,
one nation, under God, indivisible,
with liberty and justice for all.

ORDER

1. It shall be the duty of the Chairman to maintain order and decorum at meetings. The Chairman shall speak to points of order in preference to all other members.
2. In maintaining decorum and propriety of conduct, the Chairman shall not be challenged and no debate shall be allowed until after the Chairman declares that order has been restored. In the event the Commission wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Commission to discuss the matter.
3. No member or citizen shall be allowed to use abusive language, excessive noise, or in any way incite persons to use such tactics. The Chairman shall be the judge of such breaches; however, the Commission may vote to overrule both.
4. When a person engages in such breaches, the Chairman shall order the person's removal from the building, or may order the person to stand silent, or may, if necessary, order the person removed from the County property.

PUBLIC HEARING RULES OF PROCEDURE

1. PURPOSE
 - The purpose of a public hearing is to receive testimony from the public on certain resolutions, ordinances or amendments prior to taking action.
 - A hearing is not a dialogue or debate. Its express purpose is to receive additional facts, comments and opinion on subject items.
2. SPEAKERS
 - Speakers should approach the lectern so they may be visible and audible to the Commission.
 - Each speaker should clearly state his/her name and address.
 - All comments should be directed to the Commission.
 - All questions should be directed to the Chairman. Members of the Commission are not expected to respond to questions, and response to questions shall be made at the Chairman's discretion.
 - Speakers are encouraged to contact staff regarding unresolved concerns or to receive additional information.
 - Speakers with questions are encouraged to call County staff prior to the public hearing.
 - Speakers should be brief and avoid repetition of previously presented comments.
3. ACTION
 - At the conclusion of the public hearing on each item, the Chairman will close the public hearing.
 - The Commission will proceed with its deliberation and will act on or formally postpone action on such item prior to proceeding to other agenda items.
 - Further public comment after the public hearing has been closed generally will not be permitted.

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DRAFT AMENDMENT

Chapter 86. Land Development Regulations
Conditional Use Permits for Electric Transmission Facilities

The purpose of this amendment is to establish conditional use permit criteria for electric transmission facilities; which is intended to accomplish the following:

1. Provide for the orderly siting of electric transmission facilities;
2. Minimize adverse impacts on residential areas, agricultural lands, and rural character;
3. Ensure compatibility with existing and planned land uses;
4. Protect public infrastructure, including roads and utilities;
5. Establish reasonable conditions for construction and operation; and
6. Ensure compliance with applicable state and federal regulations.

THESE REGULATIONS APPLY THROUGHOUT ALL OF LOUISA COUNTY; and are proposed pursuant to Va. Code §§ 15.2-2285 and 15.2-2286.

(Add the following section – currently “reserved”)

Sec. 86-44. Conditional use permits for Electric Transmission Facilities

A. Purpose and Intent

The purpose of this section is to:

1. **Provide for the orderly siting of electric transmission facilities;**
2. **Minimize adverse impacts on residential areas, agricultural lands, and rural character;**
3. **Ensure compatibility with existing and planned land uses;**
4. **Protect public infrastructure, including roads and utilities;**
5. **Establish reasonable conditions for construction and operation; and**
6. **Ensure compliance with applicable state and federal regulations.**

B. Applicability

1. **A Conditional Use Permit (CUP) shall be required for:**
 - **All associated substations, switching stations, and related infrastructure for electric transmission lines operating at 69 kilovolts (kV) or greater;**
2. **This section shall apply to:**
 - **New transmission facilities;**
 - **Expansions or modifications of existing facilities that materially increase capacity or footprint.**

C. General Standards

All applications shall demonstrate that the proposed facility:

1. **Is consistent with the Comprehensive Plan;**
2. **Minimizes impacts to adjacent properties and the surrounding community;**
3. **Is designed and located to reduce visual, environmental, and land use impacts to the maximum extent practicable;**
4. **Is compatible with existing and planned land uses in the vicinity.**

D. Siting and Routing Requirements

1. **The applicant shall evaluate and document alternative routes, including:**
 - **Use of existing transmission corridors;**
 - **Co-location within existing utility easements;**
 - **Alignment along transportation corridors where feasible.**
2. **The selected route shall demonstrate:**
 - **Minimization of impacts to residential areas;**
 - **Avoidance of unnecessary fragmentation of agricultural and forestal lands;**
 - **Reduction of impacts to scenic and historic resources.**

E. Setbacks and Buffers

1. **Transmission structures shall be located to provide reasonable separation from:**
 - **Residential dwellings;**
 - **Agricultural operations;**
 - **Schools, parks, and public facilities.**
2. **A minimum setback shall be established by the Board based on:**
 - **Voltage level;**
 - **Structure height;**
 - **Surrounding land use.**
 - **Vegetative buffering and screening shall be provided where practicable to minimize visual impacts.**

F. Visual and Design Standards

- **Structures shall utilize non-reflective materials.**
- **Structure color and finish shall be selected to minimize visual contrast with the surrounding environment.**
- **Consistency in structure type and design shall be maintained within project segments where feasible.**
- **The applicant shall provide visual simulations from key viewpoints identified by the County.**

G. Environmental and Agricultural Protection

The applicant shall demonstrate efforts to:

- **Avoid prime farmland and active agricultural operations where practicable;**
- **Minimize soil disturbance and compaction;**
- **Restore disturbed land to pre-construction or improved condition.**
- **A post-construction restoration plan shall be required.**
- **The applicant shall comply with all applicable environmental regulations and permits.**

H. Construction Management Plan

A detailed Construction Management Plan shall be submitted and approved, including:

1. **Construction schedule and phasing;**
 - **Hours of operation (with allowances for emergencies and safety requirements);**
 - **Traffic management and haul routes;**
 - **Staging areas and material storage locations;**
 - **Dust, noise, and lighting control measures;**
 - **Worker parking and access provisions.**

I. Road and Infrastructure Protection

1. **A pre-construction condition survey shall be conducted for:**
 - **Public roads;**
 - **Private roads and driveways impacted by construction.**
2. **The applicant shall repair or replace any damaged infrastructure.**
3. **The County may require financial assurance to guarantee repairs.**

J. Property Owner Coordination

1. **The applicant shall provide advance notice to affected property owners regarding:**
 - **Construction timing;**
 - **Access requirements;**
 - **Potential disruptions.**
2. **The applicant shall designate a local contact for complaint resolution.**

K. Vegetation Management

1. **A vegetation management plan shall be submitted.**
2. **Property owners shall be notified prior to vegetation clearing activities.**
3. **Vegetation management practices shall seek to minimize environmental impacts while maintaining system reliability.**

L. Decommissioning and Maintenance

- 1. The applicant shall identify the responsible party for long-term maintenance.**
- 2. In the event of abandonment, facilities shall be removed or secured in accordance with applicable regulations.**

M. Waivers and Modifications

The Board of Supervisors may modify or waive specific requirements of this section where the applicant demonstrates that:

- 1. Compliance is not feasible due to engineering, safety, or regulatory constraints; or**
- 2. Such modification is necessary to comply with requirements imposed by the Virginia State Corporation Commission or other governing authority.**

N. Compliance with Other Regulations

Nothing in this section shall be construed to conflict with or supersede the authority of:

- The Virginia State Corporation Commission;**
- The Federal Energy Regulatory Commission;**
- Any applicable state or federal law.**

SAMPLE**§ 180-29.1. Highway Corridor Overlay (HC) District. [Added 6-16-1998]**

- A. Statement of intent. This district has been established to further carry out the purposes of Article 7, Title 15.2, Code of Virginia 1950, as amended, in the Highway Corridor Overlay (HC) District by regulating and determining the use of land, buildings, structures and other premises for specific uses, and the areas and dimensions of land, water and airspace to be occupied by buildings, structures and uses, and of courts, yards and other open spaces to be left unoccupied by areas and structures; to facilitate the creation of a convenient, attractive and harmonious community; and to protect the health, safety and general welfare of the public by the prevention or reduction of traffic congestion and visual clutter which may result in danger on public and private streets. A limit is hereby placed on certain automobile-oriented, fast-service, quick-turnover uses and related signage, which generate traffic in such amount and in such manner as to present the possibility of increased danger to the motoring public. This district is created in recognition of the need to provide suitable and sufficient road systems in the County and the need to protect existing and future highways from unsafe use and enhance the aesthetics of the County's highway corridors. **[Amended 8-20-2002]**
- B. Establishment of districts. The Highway Corridor Overlay (HC) District will overlay all other zoning districts where it is applied so that any parcel of land lying in an HC District shall also lie within one or more other land use districts provided for by this chapter. The regulations and requirements of both the underlying district(s) and the HC District shall apply. However, when the regulations applicable to the HC District conflict with the regulations of the underlying district, the more restrictive regulations shall apply. **[Amended 8-20-2002]**
- C. District boundaries. **[Amended 8-20-2002]**
- (1) HC District boundaries shall be designated on the Official Zoning Map of Warren County.
 - (2) The district boundaries shall be designated to a depth of 1,000 feet from the rights-of-way along the following public highways:
 - (a) U.S. Route 340/522 North from Interstate 66 to Route 661 (Fairground Road).
 - (b) State Route 55 East (John Marshall Highway) from the limits of the Town of Front Royal to the Fauquier County line.
- D. Uses permitted by right. All uses permitted by right in the underlying land use district(s) shall be permitted by right in the HC (unless otherwise specifically made a conditional use by this section). **[Amended 8-20-2002]**
- E. Conditional uses. In addition to the listed uses requiring a conditional use permit in the underlying district, the following uses shall be permitted with a conditional use permit when proposed to be established in a HC: **[Amended 8-20-2002]**
- (1) Buildings in excess of 50,000 square feet.
- F. Development standards. All uses shall be subject to the use limitations and development standards set forth in the underlying land use district(s) and, in addition, shall be subject to

the following HC limitations: **[Amended 12-15-1998; 8-20-2002]**

(1) Access and internal circulation.

(a) Access and internal circulation shall be designed so as not to impede traffic on a public street. Access by the following means may be approved:

- [1] Provision of shared entrances, interparcel connection and travelways, or on-site service drives connecting adjacent properties.
- [2] Access from a secondary public street as opposed to the corridor highway.
- [3] Access points, for lots located at an intersection, shall be located the maximum distance possible from existing or proposed intersections.
- [4] The internal streets of a commercial, office, or industrial complex.

(b) Access and internal circulation plan.

- [1] Developers of all parcels or lots within the HC shall submit, as part of the site plan, an access and internal circulation plan to the County for approval which addresses access for the project and the surrounding area.
- [2] The access plan shall demonstrate the ability to provide adequate access to surrounding properties via cross-easement agreement(s), shared entrances, interparcel connections and travelways, on-site service drives connecting adjacent properties, and/or access by secondary public streets.
- [3] Where it is required as part of the site plan review, the developer shall dedicate the required property for interparcel connections and service roads.
- [4] Access and internal circulation plans shall conform with any access plan(s) subsequently adopted by the County.

(c) Pedestrian circulation shall be provided for and coordinated with that generated from or using adjacent properties.

(2) Setbacks and height.

(a) Setbacks. Minimum yard depth from the corridor highway for the HC shall be as follows:

- [1] Front: 100 feet for structures; 50 feet for parking lots. Reductions to required minimum yard depth may be granted by the Warren County Board of Supervisors and/or Planning Commission, as applicable, during the by-right or conditional use permit approval process where, on account of topographical, depth of lot, or other circumstances applicable to the subject property, without such relief use of the subject property would be effectively prohibited or unreasonably restricted.
- [2] Rear and side: as in the underlying zoning district.

- (b) Uses and structures permitted in yards. The following uses and structures shall be permitted in the front, side and rear yards in the HC District subject to the visibility requirements of § 180-12B(5):
 - [1] Walls, hedges, vegetative plantings, service roads, stormwater management facilities and permitted signs and fences.
 - (c) Building height. All buildings shall be subject to the height limitations set forth in the underlying land use district(s).
- (3) Parking and landscaping.
- (a) Landscaping and parking lots shall be installed in accordance with § 180-49.1 of this chapter.
 - (b) Parking areas shall be located to the rear or side of the structure(s) or building(s) they are intended to serve whenever possible. Where parking is designed to be located in the front yard setback of the corridor highway, a three-foot berm or wall shall be utilized with a designated street buffer. Where a wall is used, it shall be placed adjacent to the parking areas.
- (4) Service areas.
- (a) Loading and service bays. Loading areas, service entrances and service bays shall be oriented and/or screened so as not to be visible from the corridor highway.
 - (b) Waste disposal areas. Dumpster and other waste disposal areas shall be completely screened from the public view by means of a board-on-board fence and landscaping, or similar opaque material.
 - (c) Utilities. Utility lines, such as electric, telephone, cable television or similar lines, shall be installed underground. This requirement shall apply to lines serving individual sites as well as to utility lines necessary within the project. All junction and access boxes shall be screened. All utility pad fixtures and meters shall be shown on the site plan. The necessity for utility connections, meter boxes, etc., should be recognized and integrated with the architectural elements of the site plan. All underground utilities shall be installed within easements parallel to street rights-of-way or lot lines when possible.
 - (d) Outside storage/display of goods. Outside storage or display of goods shall be completely screened from the view of the corridor highway. Outdoor storage shall include the parking of all company owned and operated vehicles, with the exception of passenger vehicles.
 - (e) Fences. Fences exceeding four feet in height shall be located in side and rear yards only. Chain-link fences, including those with slats, are discouraged, particularly where visible from a public right-of-way. No chain-link fences shall be permitted in the front yard in the HC District.
 - (f) Mechanical equipment. Mechanical equipment shall be shielded and screened from the public view and designed to be perceived as an integral part of the building.

(5) Building location and treatment.

- (a) Integrated development. All buildings within a property shall be developed as a cohesive entity, ensuring that building placement, architectural treatment, vehicular and pedestrian circulation and other development elements work together functionally and aesthetically. Architectural treatment shall be designed so that all building facades of the same building (whether front, side or rear) that are visible from the public right-of-way, shall consist of similar architectural treatment in terms of materials, quality, appearance and detail.
- (b) Orientation. Building facades and entrances should be oriented in a manner toward the primary means of vehicular access.
- (c) Building bulk and mass. All buildings and parking areas should be designed with treatments to break up the mass and bulk. The treatment of buildings shall include vertical architectural treatment at least every 50 feet to break down the scale of the building into smaller components. Any facade with a blank wall must be screened in a manner approved by the Zoning Administrator to comply with applicable provisions of the Warren County Code. Architectural details shall continue on all facades visible from the public right-of-way.
- (d) Materials. Building materials should be typical of those prevalent in Warren County, including stucco, brick, architectural block, wood siding, and standing seam metal roofs. Inappropriate materials include reflective glass and metal wall panels. No facade visible from adjoining property or the corridor highway shall be constructed of unadorned cinder block, corrugated metal or sheet metal.
- (e) Color. The permanent color of building materials (to be left unpainted) should resemble the predominant tones, primarily earthen tones, along the corridor. Garish and striking colors should be avoided.
- (f) Adjoining historic properties. New construction on properties that adjoin designated historic properties should seek to incorporate the scale, massing and treatment of the historic property into the new construction. Efforts should be made to relate to the building height, when in proximity to the principal historic structure. New construction should not overshadow the adjoining historic property.

(6) Lighting.

- (a) Lighting shall be installed in accordance with § 180-49.2 of this ordinance.

FLUVANNA COUNTY PLANNING COMMISSION - MEETING MINUTES
The Morris Room, Fluvanna County Administration Bldg.
132 Main St., Palmyra, VA 22963
Tuesday, May 12, 2026 - Work Session 6:00 pm, Regular Meeting 7:00 pm

MEMBERS PRESENT: Barry Bibb, Chair
 Kathleen Kilpatrick, Commissioner
 Lorretta Johnson-Morgan, Commissioner
 Robert Dorsey, Commissioner
 Mike Goad, Board of Supervisors Representative*
 *Participated remotely (PC Meeting only)

MEMBERS ABSENT: Howard Lagomarsino, Vice-Chair

STAFF PRESENT: Todd Fortune, Director of Planning
 Dan Whitten, County Attorney
 Jason Overstreet, Senior Planner
 Eric Dahl, County Administrator
 Kelly Harris, Assistant County Administrator
 Noble Pearson, Assistant County Attorney
 Jenny Cassell Faulkner, Administrative Programs Specialist
 Major David Wells, Chief Deputy Sheriff

SPECIAL GUEST: Emmet Townsend, UVA Student**
 **Virginia Chapter of the American Planning Association -
 Community Planning Assistance Program Team

PLANNING COMMISSION WORK SESSION CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 6:00 pm Mr. Bibb, Chair, called the May 12, 2026 Work Session to order, led the Pledge of Allegiance, and conducted a Moment of Silence.

- **Work Session Items:**
 - **Village Overlays, Emmett Townsend, UVA student with the Virginia Chapter of the American Planning Association Community Planning Assistance Program Team:**
 - Mr. Townsend presented a proposal for overlay zoning districts in Fork Union and Columbia villages, outlining specific objectives, opportunities, and boundary concepts for each area. The proposed amendments aim to address housing needs, promote mixed-use development, and consider floodplain restrictions in Columbia, while focusing on adding housing and supporting services in Fork Union. Emmett invited feedback on the differentiation of objectives, appropriateness of subareas, and suggestions for additional boundary refinements or visuals to enhance understanding.
 - **Discussion by Commissioners and Mr. Townsend**
 - Commissioners discussed concerns about historic preservation in the Columbia area, particularly regarding Columbia Baptist Church and Free Hill Cemetery. Mr. Townsend clarified that while specific historic sites like the church were not yet considered for preservation, they would be prioritized, and construction techniques like flood mitigation measures and permeable surfaces would be considered for development in floodplain areas. The discussion also covered questions about financial implications for property owners in floodplain zones and standards for lighting and trees, noting that specific details would be available in the textual framework once the zoning code is applied.
 - **Noise Ordinance, Todd Fortune, Planning Director**
 - Noise regulations are covered in the Fluvanna County Code in § 15.2 – Noise Control.
 - The Noise Ordinance regulates, among other things prohibited noises and acts, exempt sounds, processes for complaints, violations, and penalties.
 - The Fluvanna County Sheriff’s Office is the designated agent for enforcement of the Noise Ordinance (per § 15.2-2). The Sheriff’s Office may be assisted as needed by the Planning Zoning Department, Public Works Department, and “other officers and employees of the County.”
 - Since § 15.2 is outside of the Zoning and Subdivision Ordinance, and is under the purview of the Board of Supervisors, any change to this section of the Code would need to be initiated by the Board.

- At its regular meeting on February 18, 2026, the Board directed the Commission to review the Noise Ordinance and make recommendations for changes to the Board by June 30, 2026.
 - **Input given by Chief Deputy Sheriff - Major David Wells**
 - Major Wells discussed challenges with enforcing a proposed noise ordinance, highlighting practical difficulties such as the lack of staff available to monitor noise violations outside regular business hours and the requirement for specialized equipment such as approved, calibrated sound level meters. He expressed concerns about the ordinance's enforceability, particularly for industrial noise, suggesting it might be more effective to handle industrial noise under zoning regulations similar to lighting ordinances.
 - **Discussion by Commissioners, Dan Whitten, County Attorney and Major Wells**
 - The Commissioners plan to review the proposal further and make a final recommendation to the Board of Supervisors at their June meeting, with the possibility of public input and adjustments before final adoption by the Board of Supervisors in August.

PLANNING COMMISSION REGULAR MEETING CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 7:00 pm Mr. Bibb, Chair, called the May 12, 2026 Regular Meeting to order, led the Pledge of Allegiance, and conducted a Moment of Silence.

▪ **Adoption of the Agenda:**

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE ADOPTION OF THE AGENDA FOR THE PLANNING COMMISSION MEETING FOR MAY 12, 2026, AS PRESENTED.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

▪ **Director's Report:**

- **Announcements and Updates:**
 - **Staff Update**
 - Alex Porter has resigned his position as Planner/GIS Technician. His last day with Fluvanna County will be May 27. The position is being advertised.
 - **Cases on the Agenda**
 - There was one public hearing.
 - There were four resolutions.
 - Amendments to the Addendum for the existing Comprehensive Plan were presented to the Commission for review.
 - There was one BZA case presented.
 - The Commission was asked to consider an appointment to the Central Virginia Regional Housing Partnership.
 - SUP 25:06 - The applicant requested that the Commission wait before proceeding with this case, so it was not included on the agenda.

▪ **Future Meetings:**

Day	Date	Time	Public Hearings and Public Meetings	Location
Tuesday	June 9, 2026	6pm 7pm	Work Session (TDB) Regular Meeting	Morris Room
Tuesday	July 7, 2026	6pm 7pm	Work Session (TDB) Regular Meeting	Morris Room
Tuesday	August 11, 2026	6pm 7pm	Work Session (TDB) Regular Meeting	Morris Room

* Planning Commission meetings will be held in the Morris Room *
* (other locations to be considered if larger crowds anticipated) *

▪ **Minutes:**

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE MINUTES FROM APRIL 7, 2026.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Second			Motion
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE MINUTES FROM APRIL 28, 2026.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Second			Motion
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

▪ **Public Comments:**

- Mr. Bibb opened the first round of public comments.
- No one came forward to speak, and Mr. Bibb closed the first round of public comments.

▪ **Public Hearings:**

- **ZTA 26:11 Subdivisions** – Todd Fortune, Director of Planning
 - The proposed ZTA would amend the Fluvanna County Code by amending §§ 19-2-1, 19-3-2, 19-3-3, 19-3-6.2, 19-8-1, 22-22-1, and 22-23-8 and enacting § 19-3-1.1 to clarify and improve requirements for subdivisions, private roads, and site development plans.
 - A review of the County Code has found some issues that need to be addressed. Some of the issues are related to restrictions regarding lot access for private roads NOT built to VDOT standards. Other issues are related to the definition and certain requirements for family subdivisions.
 - Additionally, this proposed ZTA seeks to address other issues including:
 - Clarification of language involving:
 - Parent tract subdivision
 - Sketch Plans (19-3-2)
 - Administrative review timelines to fit Virginia Code 15.2-2259 (19-3-6.2)
 - Major Site Plan language (22-23-8)
 - The addition of:
 - Trusts/Trust beneficiaries to the family subdivision section (19-3-3), as allowed by Virginia Code Sec. 15.2-2244.2
 - Subdivision lot size and residue requirements
- Mr. Bibb opened the Public Hearing for comments.
- No one came forward to speak, and Mr. Bibb closed the Public Hearing for comments.

MOTION:	I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF ZTA 26:11 – AN ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY AMENDING §§ 19-2-1, 19-3-2, 19-3-3, 19-3-6.2, 19-8-1, 22-22-1, AND 22-23-8 AND ENACTING § 19-3-1.1 TO CLARIFY AND IMPROVE REQUIREMENTS FOR SUBDIVISIONS, PRIVATE ROADS, AND SITE DEVELOPMENT PLANS.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Motion	Second		
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

▪ **Resolutions:**

- **ZTA 26:15 – Board of Zoning Appeals**
 - This proposed ZTA would amend the Fluvanna County Code 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.
 - This recommended change was presented pursuant to House Bill 198, which was passed by the Virginia General Assembly, approved on April 22, 2026, and will become effective on July 1, 2026.

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE RESOLUTION TO ADVERTISE A PUBLIC HEARING ON JUNE 9, 2026 TO CONSIDER 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:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:			Motion		Second
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

○ **ZTA 26:16 – Off-street Parking Regulations**

- This proposed ZTA would amend the Fluvanna County Code by enacting § 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.
- This recommended change was presented pursuant to House Bill 888, which was passed by the Virginia General Assembly, approved on April 22, 2026, and will become effective on July 1, 2026.

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE RESOLUTION TO ADVERTISE A PUBLIC HEARING ON JUNE 9, 2026 TO CONSIDER ZTA 26:16 – AN ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY ENACTING § 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:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Second			Motion
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

○ **ZTA 26:17 – Manufactured Homes Regulation**

- This proposed ZTA would amend the Fluvanna County Code by enacting §§ 22-13-8 and 22-16-9, 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.
- This recommended change was presented pursuant to House Bill 655, approved on March 31, 2026, and House Bill 1463, which was passed by the Virginia General Assembly, approved on April 8, 2026. Both will both become effective on July 1, 2026.
- Commissioners discussed the way in which manufactured homes are defined under the Code of Virginia.

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE RESOLUTION TO ADVERTISE A PUBLIC HEARING ON JUNE 9, 2026 TO CONSIDER ZTA 26:17 – AN ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY ENACTING §§ 22-13-8 AND 22-16-9, AMENDING §§ 22-4-2.1, 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
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	MANUFACTURED HOME, AND TO ALLOW A MANUFACTURED HOME ON AN INDIVIDUAL LOT IN ANY ZONING DISTRICT WHERE SITE-BUILT HOUSING IS ALLOWED.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:			Motion		Second
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

○ **ZTA 26:18 – Solar Regulation**

- This proposed ZTA would amend the Fluvanna County Code 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.
- This recommended change was presented pursuant to House Bill 891/Senate Bill 443 and House Bill 711/Senate Bill 347, which were passed by the Virginia General Assembly, approved on April 22, 2026, and will both become effective on July 1, 2026.
- Commissioners discussed the removal of the S-1 Solar District with debate over whether or not it should be kept based on the changes to Virginia law. Commissioners recognized the effort that went into the existing solar regulations.

MOTION:	I MOVE THAT THE PLANNING COMMISSION APPROVE THE RESOLUTION TO ADVERTISE A PUBLIC HEARING ON JUNE 9, 2026 TO CONSIDER ZTA 26:18 – AN ORDINANCE A RESOLUTION OF INTENTION TO AMEND 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.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Second	Motion		
VOTE:	Aye	Aye	Aye	Absent	Nay
RESULT:	3-1 Approved, 1 Absent				

▪ **Unfinished Business:**

○ **Comprehensive Plan – Todd Fortune, Director of Planning**

- There were two items related to the Comp Plan that the Commission covered:
 - Staff recommended rescheduling of the Work Session scheduled for May 26 due to a recent development involving a member of the Rural Preservation Advisory Group. Commissioners instructed staff to select a new date with the Rural Preservation Advisory Group.
 - Commissioners reviewed amendments related to electric transmission lines to the addendum to the existing Comprehensive Plan.
 - The addendum was presented to the Commission in April. The group asked for some changes and a revised addendum was presented tonight for Commission review.
 - Once the addendum is ready, a public hearing would be scheduled for the Planning Commission then after a recommendation, a subsequent public hearing would be held by the Board of Supervisors.
- Commissioners and staff discussed whether there was a need to add solar energy back into the Comprehensive Plan due to the Virginia General Assembly’s action in HB891/SB443 and HB711/SB347.

MOTION:	I MOVE THAT PLANNING COMMISSION ADVERTISE THE ADDENDUM TO THE COMPREHENSIVE PLAN FOR A PUBLIC HEARING ON JUNE 9, 2026.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:			Motion		Second
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

- Commissioner Bibb requested further discussion by Commissioners regarding limiting electric transmission lines to being placed within existing utility corridors. The Commission discussed reconsidering its previous motion to include Mr. Bibb’s suggested language.
- The Commission took a short recess for the County Attorney to draft language for a new motion with the suggested changes.
- The Commission reconvened from its short recess and continued.

MOTION:	I MOVE THAT PLANNING COMMISSION RECONSIDER THE MOTION TO ADVERTISE THE ADDENDUM TO THE COMPREHENSIVE PLAN FOR A PUBLIC HEARING ON JUNE 9, 2026.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Second			Motion
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

MOTION:	I MOVE THAT THE PLANNING COMMISSION ADVERTISE THE ADDENDUM TO THE COMPREHENSIVE PLAN FOR A PUBLIC HEARING JUNE 9, 2026, TO INCLUDE LANGUAGE THAT TRANSMISSION LINES 150KV OR MORE IN SIZE SHALL ONLY BE LOCATED WITHIN EXISTING TRANSMISSION CORRIDORS.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:			Second		Motion
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

▪ **New Business:**

○ **The Board of Zoning Appeals (BZA)**

- BZA occasionally hears requests for variances and appeals of zoning decisions. The BZA meets AS NEEDED on the third Tuesday of the month.
- Per Section 22-18-4(A) of the Fluvanna County Code, applications for variances are to be presented to the Planning Commission. The Commission has three options:
 - Take no action
 - Make a recommendation to the BZA
 - Attend as a party to the public hearing
- There is one variance request on the agenda for the BZA scheduled for May 19, 2026. The meeting will need to be rescheduled due to lack of a quorum. The Commission is being presented this case tonight, and given the option of making a recommendation or attending as a party to the hearing.
 - BZA 26:11 – Villegas: A request for a fifty-eight (58) foot variance to Section 22-4-3 (C)(1)(B) of the Fluvanna County Code to allow a reduction of the required minimum frontage, and a request for a fifty-eight (58) foot variance to Section 22-4-3 (D) to allow a reduction of the minimum lot width at setback, and a request for a fifty-five (55) foot variance to Section 22-4-3 (E)(2) to allow for a reduction of the required minimum front setback for the parcel identified as Tax Map 4, Section A, Parcel 8. The subject property is zoned A-1, Agricultural, General, and is located in the Zion Crossroads Community Planning Area and in the Palmyra Election District.
 - This parcel was created in 1947 and is considered nonconforming when applying the current dimensional requirements listed in Sec. 22-24-3 for the A-1 zoning district. The parcel is located at 141 Edd Ridge Lane (SR 64) and has frontage on both Edd Ridge Lane and Zion Road (SR 627). This parcel is considered a corner lot therefore it is subject to setback and lot width requirements for both roads.
 - The applicant is requesting these variances in order to allow the lot to be subdivided into two lots.
- Mr. Overstreet explained the BZA case for the Commission and that the May 19, 2026, BZA meeting was being rescheduled due to the lack of a quorum after one BZA member resigned and another could not attend. The Commission discussed the process for adding new BZA members and the potential for one Commission member to serve on the BZA, if desired.

MOTION:	I MOVE THAT PLANNING COMMISSION TAKE NO ACTION REGARDING BZA 26:11 - A VARIANCE REQUEST TO BE CONSIDERED BY THE BOARD OF ZONING APPEALS FOR THE PROPERTY IDENTIFIED AS TAX MAP 4-A-8.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:			Second		Motion
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

o **Central Virginia Regional Housing Partnership**

- The Central Virginia Regional Housing Partnership (CVRHP) is an official advisory Board, created by the Thomas Jefferson Planning District Commission (TJPDC) to facilitate regional coordination on issues related to housing access in Planning District 10 – the City of Charlottesville and the Counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson.
- TJPDC works with public, private, nonprofit, and citizen stakeholders to coordinate affordable housing efforts, access resources to develop and maintain affordable housing, and research innovative and effective strategies to address housing needs across Planning District 10.

▪ **The voting membership of the CVRHP consists of 20 members:**

An elected or Planning Commission official from each of the covered localities (one city, five counties)	6 members
Non-profit housing representatives appointed by TJPDC	3 members
Appointed representatives from the non-profit housing, developer, financial lending, and design professional sectors	4 members
Resident representatives – one urban, one rural – appointed by TJPDC	2 members
A representative from the University of Virginia	1 member
A commissioner from TJPDC	1 member
A rural non-profit representative – Nelson Community Development Corporation, Fluvanna/Louisa Housing Foundation, or Skyline Community Action Partnership – appointed by TJPDC	1 member
The Chair of the Piedmont Region Workforce Investment Board	1 member
The Chair of the TJPDC Regional Transit Partnership	1 member
TOTAL	20 members

- Presently, the Fluvanna County (elected/Planning Commission official) seat is vacant.
- At its regular meeting on April 15, 2026, the Board of Supervisors discussed this appointment and deferred to the Planning Commission.
 - Consequently, the Planning Commission is being given the opportunity to appoint a member to the CVRHP.
- According to the CVRHP framework (<https://tjpd.org/wp-content/uploads/2020/05/RHP-Framework-Amended-March2019.pdf>), the full RHP Board meets at least twice per year. The RHP Executive Committee meets every other month.
- According to the CVRHP Framework, voting members are appointed for one-year terms.
- No Commissioners requested to be considered for this appointment. Staff relayed that a Board of Supervisors member was willing to serve if selected.

▪ **Public Comments #2:**

- o Mr. Bibb opened the second round of public comments.
- o No one came forward to speak, and Mr. Bibb closed the second public comment period.

▪ **ADJOURNMENT:**

- o Chair Bibb called for a motion to adjourn the May 12, 2026, Planning Commission meeting at 8:13 pm.

MOTION:	I MOVE THAT THE PLANNING COMMISSION ADJOURN THE MAY 12, 2026 PLANNING COMMISSION MEETING AT 8:13 PM.				
MEMBER:	Bibb	Kilpatrick	Dorsey	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Absent	Aye
RESULT:	4-0 Approved, 1 Absent				

Minutes were recorded by Jenny Cassell Faulkner, Administrative Programs Specialist.

Barry Bibb, Chair
Fluvanna County Planning Commission

DRAFT



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

132 Main Street
P.O. Box 540
Palmyra, VA 22963
(434) 591-1910
Fax (434) 591-1911
www.fluvannacounty.org

PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commissioners

From: Dan Whitten, County Attorney; and Jason Overstreet, Senior Planner

Case Number: ZTA 26:21

District: Countywide Amendment

General Information: This public hearing is to be held on Tuesday, June 9, 2026, at 7:00 pm by the Fluvanna County Planning Commission in the Morris Room in the County Administration Building, 132 Main Street, Palmyra, VA 22963.

Requested Action: Recommend approval of an amendment to the Fluvanna County Code 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 adding a definition for "Teen Center."

Applicant: Tiffany Smith

Background Information:

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.

Proposed Definition:

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.

Recommended Motion:

FINDING THAT THE PROPOSED ZONING ORDINANCE AMENDMENTS (ARE/ ARE NOT) APPROPRIATE FOR THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE AND (ARE/ ARE NOT) GOOD ZONING PRACTICE, I MOVE THAT THE PLANNING COMMISSION RECOMMEND (APPROVAL/ DENIAL) OF 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 ADDING A DEFINITION FOR TEEN CENTERS.



**COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Application for
Zoning Text Amendment**

Owner of Record: Montaque Miller **Applicant of Record:** Tiffany Smith

E911 Address: 500 Westfield Rd Charlottesville **E911 Address:** 3739 Lake Monticello Rd

Phone: [Redacted] **Fax:** [Redacted] **Phone:** [Redacted] **Fax:** [Redacted]

Email: [Redacted] **Email:** [Redacted]

Representative: Percy Montaque

E911 Address: Same

Phone: Same **Fax:** Same

Email: Same

Note: If applicant is anyone other than the owner of record, written authorization by the owner designating the applicant as the authorized agent for all matters concerning the request shall be filed with this application.

Proposed amendment to the Zoning Ordinance: (attach additional sheets as necessary)
If the amendment proposes to replace existing text, please provide a full copy of the existing text for the affected section.

Location of Parcel: Lake Monticello Rd **Section:** 18B-5-4
Section 5

Proposed Text:
Attached documents



By signing this application, the undersigned owner/applicant authorizes entry onto the property by County Employees, the Planning Commission, the Board of Supervisors, and the Board of Zoning Appeals during the normal discharge of their duties in regard to this request.

Date: 5/22/26 **Signature of Owner/Applicant:** [Signature]

Subscribed and sworn to before me this 20th day of May, 2026 Register # 366712

My commission expires: 1/31/2028 **Notary Public:** [Signature]

OFFICE USE ONLY		
Date Received: <u>5/22/26</u>	Pre-Application Meeting:	Application #: <u>ZTA 26 :0021</u>
\$550 fee paid: <u>5/22/26</u>		
Public Hearings		
Planning Commission	Board of Supervisors	
Advertisement Dates:	Advertisement Dates:	
APO Notification:	APO Notification:	
Date of Hearing:	Date of Hearing:	
Decision:	Decision:	

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.



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PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commission
Case: SUP 26:10 Flucos Den Center
Tax Map 18B-5-4

From: Jason Overstreet
Election District: Rivanna

General Information: This Special Use Permit (SUP) request is to be heard by the Planning Commission on Tuesday, June 9, 2026, at 7:00 pm in the County Administration Building's, Morris Room.

Applicant: Tiffany Smith

Requested Action: SUP 26:10 – A special use permit request in the B-C, Business, Convenience District to operate a teen center on a parcel totaling approximately 1.6 acres, Tax Map 18B-5-4. The parcel is located in the Rivanna Community Planning Area and Palmyra Election District.

Existing Zoning: B-C, Business, Convenience

Existing Land Use: Commercial

Planning Area: Rivanna Community Planning Area

Adjacent Land Use: The neighboring parcels are zoned B-1, Business General, B-C, Business Convenience, and R-4, Residential Limited

Zoning History: ZMP 03:05 rezoned the parcel from R-1, Residential Limited to B-C, Business Convenience, and BZA 03:12 permitted a variance to the front setback. VDOT required the direct entrance onto RT618 to be closed and a shared service road across the adjacent parcel on the west to be used.

Applicant Summary:

The applicant is requesting a Special Use Permit (SUP) in order to allow the operation of a teen center in the existing two-story building located on the property. An accompanying Zoning Text Amendment, ZTA 26:21, to add Teen Center as a use allowed by SUP within the B-C zoning

district and to add a definition for Teen Center is also on the agenda for this meeting. Teen center is defined in ZTA 26:21 as:

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.

Comprehensive Plan:

The Comprehensive Plan designates this property as within the Rivanna Community Planning Area, which makes up approximately 40 percent of the county's population and consists mainly of the Lake Monticello community. This planning area contains a mixture of residential and commercial uses. Based on the community planning area's neighborhood residential design elements, the subject site is located within a neighborhood mixed use development area. The requested use aligns with the designated neighborhood residential classification. According to the development standards, "In some cases, small commercial and institutional uses may be incorporated into the neighborhood residential community element."

Technical Review Committee:

The Technical Review Committee has reviewed the proposed SUP and offered the following comments:

1. Planning staff noted that a Site Development Plan may be required if any exterior improvements are made.
2. The Sheriff's Office had no public safety concerns.
3. The Building Department determined that this building is already setup as a Group E occupancy for daycare, less than 50 occupancy and that this older age group falls in the same category. Also, with the limited occupancy, the Building Code does not require a fire alarm system or sprinkler protection. The Building Department noted that it is not a bad idea to make sure there are working smoke detectors and, also, that all fire extinguishers and emergency egress plans are up to date.
4. Fire Department officials inquired about the building and whether it is protected with a fire alarm system (smoke detectors and/or heat detectors) that is monitored 24 hours a day by a "central station", or tied directly to 911 dispatch center. They asked whether the building has sprinkler protection.
5. VDOT advised that a VDOT Land Use Permit will be required for any work being proposed within VDOT right-of-way. They also advised that they reserve the right to comment if impacts to VDOT right-of-way, drainage structures or other resources are shown on subsequent plans.

Planning Analysis:

The property is located on the north side of Lake Monticello Road approximately one tenth of a mile from its intersection with South Boston Road and has a site address of 3739 Lake Monticello Road. This 1.6-acre parcel is zoned B-C, Business, Convenience and is located

within the Rivanna Community Planning Area. There is an existing two-story commercial structure located on the property that will be used for the proposed teen center. The applicant has previously operated a child day center at this location.

The parcel is accessed through a 50 ft easement on the adjacent western parcel that appears to have a low-volume commercial entrance onto Lake Monticello Road. Direct access to the parcel was revoked by VDOT when it was rezoned to B-C. VDOT has not yet commented on access for this proposed use, however, the entrance been used since direct access was removed from the subject property.

Water and sewer utilities will be provided by the private utility Aqua Virginia, which also maintains an easement across the southeastern part of the lot.

This proposed use should not affect the current character of the area and appears to be in accord with the Comprehensive Plan. This type of resource for teens does not currently exist in Fluvanna and, if approved, it may provide a valuable service to the community.

When evaluating proposed uses for a special use permit, in addition to analyzing the potential adverse impacts of the use, staff utilizes two (2) general guidelines for evaluation as set forth in the zoning ordinance.

1) The proposed use should not tend to change the character and established pattern of the area or community.

There should be no change to the character or established pattern of the area, as this proposed use will not increase traffic to levels associated with other by-right uses.

2) The proposed use should be compatible with the uses permitted in that zoning district and shall not adversely affect the use/or value of neighboring property.

The proposed use is compatible with several by-right uses permitted in the B-C zoning district, such as child day centers, childcare centers, medical clinics, and offices.

Recommendation:

The Planning Commission should consider any potential adverse impacts to the surrounding community, such as traffic entering and exiting the property, noise, or potential visual impacts to adjacent properties.

If this request is approved, staff recommend the following conditions:

1. The SUP shall be deemed abandoned and revoked if the authorized use has been discontinued for a consecutive period of two years.
2. The center will serve no more than 25 teens at one time.
3. An approved site development plan shall be required if any exterior improvements are made to the property.

4. The center's hours of operation shall be limited to operate Monday through Friday, 8:00 a.m. to 8:00 p.m.
5. The facility will have working smoke detectors, a fire extinguisher, and an up-to-date emergency response plan.
6. The site shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
7. The Board of Supervisors, or representative, reserves the right to inspect the business for compliance with these conditions at any time.
8. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

Suggested Motion:

I move that the Planning Commission recommend (approval / denial) of 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.

Attachments:

- A – Application
- B – Site Sketch Plan



COMMONWEALTH OF VIRGINIA
COUNTY OF FLUVANNA
Application for Special Use Permit (SUP)

Owner of Record: Montague Miller **Applicant of Record:** Tiffany Smith
Address: 500 Westfield Rd Charlottesville va **Address:** 3739 Lake Monticello Rd.
Phone: [REDACTED] **Fax:** U/K **Phone:** [REDACTED] **Fax:** None
Email: Percym@Montaguemiller.com **Email:** [REDACTED]
Representative: Percy Montague
Address: same
Phone: same **Fax:** same
Email: same
Tax Map and Parcel(s): 18B-5-4 (4)
Acres: 1.61 **Zoning:** B-C
Location of Parcel: Lake Monticello Rd.

Note: If applicant is anyone other than the owner of record, written authorization by the owner designating the applicant as the authorized agent for all matters concerning the request shall be filed with this application.

If property is in an Agricultural Forestal District, or Conservation Easement, please list information here:

Deed Book and Page: _____
If any Deed Restrictions, please attach a copy

Request for an SUP for the purpose of: Attached paper work.

*Ten copies of a sketch plan (8.5x11 inches or 11x17 inches) must be submitted, showing size and location of the lot, dimensions and location of the proposed building, structure or proposed use, and the dimensions and location of the existing structures on the lot.

By signing this application, the undersigned owner/applicant authorizes entry onto the property by County Employees, the Planning Commission, and the board of Supervisors during the normal discharge of their duties in regard to this request and acknowledges that county employees will make regular inspections of the site.

Date: 5/22/26 **Signature of Owner/Applicant:** [Signature]
 Subscribed and sworn to before me this 22nd day of May, 2026
Notary Public: [Signature] **Register #** 366712
 My commission expires: 1/31/2028
Certification: Date: _____



Office Use Only			
Date Received: <u>5/22/26</u>	Pre-Application Meeting:	PH Sign Deposit Received:	Application #: SUP <u>26</u> : <u>0010</u>
\$800.00 fee paid: <u>5/22/26</u>			
Amendment of Condition: \$400.00 fee paid:			
Telecommunications Tower fee plus mailing costs paid:		Telecom Consultant Review fee paid:	
Election District: <u>Palmyra</u>	Planning Area: <u>Rivanna Community</u>		
Planning Commission		Board of Supervisors	
Advertisement Dates:	Advertisement Dates:		
APO Notification:	APO Notification:		
Date of Hearing:	Date of Hearing:		
Decision:	Decision:		



Commonwealth of Virginia
County of Fluvanna
Public Hearing Sign Deposit

Name: Tiffany Smith
Address: 3739 Lake Monticello Rd.
City: Palmyra
State: VA Zip Code: 22903

I hereby certify that the sign issued to me is my responsibility while in my possession. Incidents which cause damage, theft, or destruction of these signs will cause a partial or full forfeiture of this deposit.

Tiffany Smith 5/17/26
Applicant Signature Date

*Number of signs depends on number of roadways property adjoins.

OFFICE USE ONLY	
Application #: BZA _____ : CPA _____ : SUP <u>26</u> : <u>10</u> ZMP _____ : ZTA <u>26</u> : <u>21</u>	
\$50 deposit paid per sign*:	Approximate date to be returned:

Describe briefly the **improvements** proposed. State whether new buildings are to be constructed, existing buildings are to be used, or additions made to existing buildings.

NECESSITY OF USE: Describe the reason for the requested change.

PROTECTION OF ADJOINING PROPERTY: Describe the effects of the proposed use on adjacent property and the surrounding neighborhood. What protection will be offered adjoining property owners?

ENHANCEMENT OF COUNTY: Why does the applicant believe that this requested change would be advantageous to the County of Fluvanna? (Please substantiate with facts.)

PLAN: Furnish plot plan showing boundaries and dimensions of property, width of abutting right-of-ways, location and size of buildings on the site, roadways, walks, off-street parking and loading space, landscaping, etc. Architect's sketches showing elevations of proposed buildings and complete plans are desirable and may be required with the application.
Remarks:

Commonwealth of Virginia
County of Fluvanna
Special Use Permit Checklist

The following information shall be submitted with the application and is to be provided by the applicant for the processing of the application:

Applicant must supply	Staff Checklist
Completed Special Use Permit signed by the current owner(s) or lessee or written confirmation from the current owner or lessee granting the right to submit the application	
Ten (10) copies of a Site Plan for any expansion or new construction Include: <ul style="list-style-type: none"> • Plot plan or survey plat at an appropriate scale • Location and dimension of existing conditions and proposed development • <i>Commercial and Industrial Development:</i> parking, loading, signs, lighting, buffers and screening • Copy of the Tax Map showing the site (preferred) • General Location Map (preferred) 	
Supporting graphics are not required, but suggested for site illustration & visualization	

All maps and plans submitted are to be either 8.5"x 11" or 11"x 17". One original of any size may be for staff use at the public hearing.

Staff Only	Staff Checklist
Preliminary review by planning staff for completeness and content: <ul style="list-style-type: none"> • Technical Review Committee review and comment • Determine all adjacent property owners • Placed as a Public Hearing on the next available agenda of the Planning Commission. 	
Notification of the scheduled Public Hearing to the following: <ul style="list-style-type: none"> • Applicant • All adjacent property owners • Local Newspaper advertisement 	
Staff Report to include, but not be limited to: <ul style="list-style-type: none"> • General information regarding the application • Any information concerning utilities or transportation • Consistency with good planning practices • Consistency with the comprehensive plan • Consistency with adjacent land use • Any detriments to the health, safety and welfare of the community. 	

The Special Use Permit application fee is made payable to the **County of Fluvanna**.

Meetings for the processing of the application

Applications must be submitted by the first working day of the month to have the process start that month. Applications received after the first working day will have the process start the following month.

Process:

1. Placed on next available Technical Review Committee (TRC) agenda.
2. Placed as a Public Hearing on agenda of the Planning Commission (PC) the month following TRC meeting. Staff Report and Planning Commission recommendation forwarded to the Board of Supervisors.
3. Placed as a Public Hearing on agenda of the Board of Supervisors the month following PC meeting.

Applicant or a representative must appear at the scheduled hearings.

The Technical Review Committee provides a professional critique of the application and plans. The Planning Commission may recommend to the Board of Supervisors: approval; approval subject to resubmittal or correction; or denial of the special use permit.

Board Actions

After considering all relevant information from the applicant and the public, the Board will deliberate on points addressed in the Staff Report.

The Board may approve; deny; or defer the request pending further consideration; or remand the case back to the Planning Commission for further consideration.

With **approval**, the development may proceed.

If **denied**, an appeal to the Courts may be prescribed by law

No similar request for a Special Use Permit for the same use at the same site may be made within one year after the denial.

**SPECIAL USE PERMIT NARRATIVE

1. Reason for the Request

Flucos Den Center is requesting approval to operate a supervised youth center for teens ages 13–17 at 3739 Lake Monticello Road. The building has previously operated as a licensed childcare center, and this proposed use is a natural extension of the services already provided to families in the community. As many of the children who once attended the daycare have grown older, there is a clear need for a safe, structured environment specifically designed for teens.

This program is also deeply meaningful to me on a personal level. In 2025, my stepson died by suicide after experiencing overwhelming challenges and feeling like he had no safe place to turn. That loss made it clear how important it is for young people to have supportive adults, a safe environment, and a space where they can talk, decompress, and feel seen. Flucos Den Teen Center is designed to provide support for teens in our community, so they never feel alone or without resources.

2. Description of the Proposed Use

Flucos Den Teen Center will serve as a **supervised after-school and summer program** for teens ages 13–17. The center will provide:

- Academic support and homework help
- Recreational and enrichment activities
- Life-skills and leadership programs
- Social-emotional support and mentorship
- Community service opportunities
- A safe alternative to unsupervised time

The center will serve **no more than 25 teens at one time**, supported by **five regular staff members** to maintain a safe and appropriate supervision ratio. *Daily but would like have 40. due to parents.*

Parents will use an **online attendance system** to sign their teens up for specific days. This ensures proper staffing, prevents overcrowding, and maintains a safe, predictable environment.

3. Transportation & Daily Flow

During the school year, most teens ages 13–15 will arrive directly from the school bus, which drops off along Lake Monticello Road. This reduces parent traffic during peak hours and ensures safe, supervised arrival.

Parents will pick up their teens at the end of the program day using a designated pick-up area to maintain safety and prevent congestion.

Teens are **not permitted to come and go freely**. Once a teen signs out and leaves the center for the day, they may not re-enter. This policy ensures consistent supervision and prevents unsupervised movement in and out of the facility.

Parents will receive **automatic notifications** through the center's app when their teen signs in and signs out.

4. Safety & Security Measures

To ensure the highest level of safety, the center will be equipped with:

- A full **security system**
- **Interior and exterior cameras**
- Controlled entry and monitored access points.
- Staff trained in CPR, First Aid, emergency procedures, and mandatory reporting.
- Strict sign-in/sign-out procedures
- No reentry once a teen leaves for the day

These measures ensure a secure environment that supports teen well-being and community safety.

5. Hours of Operation

School Year (September–June): Monday–Friday: 3:00 PM – 8:00 PM

Summer & School Breaks: Monday–Friday: 12:00 PM – 8:00 PM

Sometimes we have event earlier.
Special events may occur occasionally with advance notice.

Kids will Be free

6. Community Benefit

Flucos Den Teen Center will provide a safe, positive, and developmentally appropriate environment for teens during critical after-school hours. The center will:

- Reduce unsupervised youth activity.
- Support working families.
- Provide mentorship and emotional support.
- Offer structured programs that build confidence and leadership.
- Strengthening community safety and well-being
- Continue the long-standing mission of the property to serve children and families.

This program fills a gap in services for older youth in Fluvanna County and provides a safe, supportive space where teens can grow, learn, and connect.

7. Compliance Statement

Flucos Den Teen Center will comply with:

- Fluvanna County Zoning Ordinance
- Building and fire codes
- Health and safety regulations
- ADA accessibility requirements
- All conditions imposed by the Board of Supervisors

1. Property Overview

The subject property, located at **3739 Lake Monticello Road (Route 618)**, consists of **1.61 acres** within the **B-C (Business Commercial)** zoning district. The parcel includes an existing **1,824 sq ft commercial building** previously used as a licensed childcare center. The proposed teen center will operate within the existing structure with no exterior building modifications.

2. Building Location

The building is positioned **near the front of the parcel**, facing Lake Monticello Road. Key placement details:

- The structure sits close to the road frontage.
- The building has **two levels**: an **upper level** with the main entrance and playground, and a **lower level** with additional parking.
- The building orientation and footprint remain unchanged from prior licensed childcare operations.

3. Fenced Playground Area

A **fenced playground** is located **directly in front of the building** on the upper level. Features include:

- Fencing across the front and partially along both sides of the building
- Secure, supervised outdoor activity space
- Previously approved and used for childcare operations

This area will continue to be used for structured, supervised outdoor activities for teens.

4. Parking Areas

Upper-Level Parking

- Located beside and slightly behind the fenced playground
- Accessible from the main driveway
- Used for staff parking and parent pick-up

Lower-Level Parking

- Located on **both sides** of the building
- Provides additional parking capacity
- Accessible via the sloped driveway that wraps around the building

Parking is adequate for:

- **5 staff members**
- Parent pick-up and drop-off
- Occasional visitors

5. Driveway & Traffic Circulation

- A single driveway entrance connects directly to Lake Monticello Road.
- Vehicles may proceed to the **upper parking area** or continue down to the **lower parking areas**.
- Traffic flow is one-way around the building for safety and visibility.
- During the school year, teens ages 13–15 may arrive via **school bus drop-off** along Lake Monticello Road and walk directly to the supervised entrance.

6. Access & Pedestrian Safety

- Staff will supervise arrival and dismissal times.
- Walkways provide safe access from parking areas to the building.
- Controlled entry ensures only authorized individuals enter the facility.
- Teens are **not permitted to leave and re-enter** the center once signed out.

7. Shed Location

A **storage shed** is located on the **side of the building**, adjacent to the upper parking area. It is used for storing outdoor equipment and supplies.

8. Lighting & Security

The site includes:

- Exterior lighting at all entry points
- Motion-activated lighting covering parking areas and walkways
- A monitored **security system**
- **Interior and exterior cameras** covering all common areas, entrances, and outdoor spaces

These measures ensure a safe, controlled environment for teens and staff.

9. Outdoor Activity Areas

- The fenced playground serves as the primary outdoor activity space.
- Additional open space behind the building may be used for supervised activities.
- Outdoor areas are used only during daylight hours or when adequate lighting is available.

10. Accessibility

- ADA-compliant parking is available on the upper level.
- Accessible walkways connect parking areas to the main entrance.
- The building remains compliant with accessibility requirements.

11. Summary

This site plan demonstrates that the property is fully suitable for the proposed teen center use. The existing building, parking layout, fenced playground, shed, and circulation patterns remain unchanged from the previous licensed childcare operation. The site provides safe access, adequate parking, secure outdoor space, and appropriate supervision areas to support the operation of **Flucos Den Teen Center**.



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

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PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commissioners
From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning
Case Number: ZTA 26:15
District: Countywide Amendment

General Information: This public hearing is to be held on Tuesday June 9, 2026, at 7:00 pm by the Fluvanna County Planning Commission in the Morris Room in the County Administration Building, 132 Main Street, Palmyra, VA 22963.

Requested Action: Recommend approval of an amendment to the Fluvanna County Zoning Ordinance 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.

Background Information: This recommended change (see Exhibit A) is being presented pursuant to **House Bill 198** (see Exhibit B), which was passed by the Virginia General Assembly, approved on April 22, 2026, and will become 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.

Recommended Motion:

FINDING THAT THE PROPOSED ZONING ORDINANCE AMENDMENTS (ARE/ ARE NOT) APPROPRIATE FOR THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE AND (ARE/ ARE NOT) GOOD ZONING PRACTICE, I MOVE THAT THE PLANNING COMMISSION RECOMMEND (APPROVAL/ DENIAL) OF 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.

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. ~~PROVISIONS FOR APPEAL AND VARIANCE~~ BOARD OF ZONING APPEALS

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

- (A) A ~~the~~ Board of Zoning Appeals consisting of five members shall be appointed by the Circuit Court of Fluvanna County. Members of the ~~the~~ Board of Zoning Appeals shall be residents of Fluvanna County. Members of the ~~the~~ Board of Zoning Appeals may receive such compensation as may be authorized by the ~~governing body~~ 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 ~~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 ~~the~~ Board of Zoning Appeals shall be disqualified to act upon a matter before the ~~the~~ Board of Zoning Appeals with respect to property in which the member has a legal interest.
- (D) The ~~the~~ Board of Zoning Appeals shall choose annually its own chairman and vice chairman who shall act in the absence of the chairman. The ~~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 ~~the~~ Board of Zoning Appeals. A secretary who is not a member of the ~~the~~ Board of Zoning Appeals shall not be entitled to vote on matters before the ~~the~~ Board of Zoning Appeals.

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

- (A) The non-legal staff of the ~~governing body~~ **Board of Supervisors** may have ex parte communications with a member of the ~~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 ~~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 ~~governing body~~ **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 ~~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 ~~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 ~~locality~~ **County** other than those materials provided to the ~~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 ~~the~~ **Board of Zoning Appeals** shall also be made available for public inspection as required by section 2.2-3707(~~FG~~) of the Code of Virginia.
- (C) For the purposes of this section, "non-legal staff of the ~~governing body~~ **Board of Supervisors**" means any staff who is not in the office of the County Attorney, or for the ~~the~~ **Board of Zoning Appeals**, or who is appointed by special law. Nothing in this section shall preclude the ~~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 ~~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.

(34) 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.

(45) 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 ~~a locality~~ 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 ~~locality~~ 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 ~~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 ~~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 ~~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 ~~governing body~~ 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 ~~the~~ Board of Zoning Appeals shall be held at the call of its chairman or at such times a quorum of the ~~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 ~~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 local **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 ~~the~~ **Board of Zoning Appeals** all the papers constituting the record upon which the action appealed was taken.
 - (4) A decision by the ~~the~~ **Board of Zoning Appeals** on appeal shall be binding upon the owner of the property ~~which~~ **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 ~~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 ~~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 ~~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 ~~governing body~~ **Board of Supervisors**, modification is required to correct clerical errors.
- (C) In any appeal taken pursuant to this section, if the ~~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 ~~governing body~~ **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 ~~the~~ **Board of Zoning Appeals** and the ~~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 local governing body **Board of Supervisors**, pursuant to section 15.2-2308 of the Code of Virginia.

Sec. 22-18-6. Public hearing.

The ~~b~~**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 ~~b~~**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 ~~within 30 days after the filing of the decision in the office of the board.~~ **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.**
- ~~(B) Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the Board of Zoning Appeals or, if no secretary exists, the chair of the Board of Zoning Appeals, which shall not be less than ten days and may be extended by the court. Once the writ of certiorari is served, the Board of Zoning Appeals shall have 21 days or as ordered by the court to respond. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the~~

court may, on application, on notice to the board and on due cause shown, grant a restraining order.

- (C) Any review of a decision of the ~~b~~**Board of Zoning Appeals** shall not be considered an action against the ~~b~~**Board of Zoning Appeals** and the ~~b~~**Board of Zoning Appeals** shall not be a necessary party to the proceedings; however, the ~~b~~**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. The governing body, the landowner, and the applicant before the Board of Zoning Appeals shall be necessary parties to the proceedings in the circuit court. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals.
- (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 ~~shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof~~ **or of the portions thereof** as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (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** ~~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 locality County or the governing body 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 requested the issuance of the writ of certiorari filed the petition to pay the costs incurred in making a return of the record pursuant to the writ of certiorari filing the record of the proceedings before the Board of Zoning Appeals. If the petition is withdrawn subsequent to the filing of the return-record of the proceedings, the locality County or the governing body Board of Supervisors may request that the circuit court hear the matter on the question of whether the appeal was frivolous.

Sec. 22-18-7.1. Presumptions and burdens of proof.

(A) 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, 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 court shall hear any arguments on questions of law de novo.

(B) 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.

- ~~(C) 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 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 (i) was plainly wrong, (ii) was in violation of the purpose and intent of the zoning ordinance, and (iii) is not fairly debatable.~~
- ~~(D) In the case of an appeal from the Board of Zoning Appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.~~

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

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 368

An Act to amend and reenact §§ 15.2-2285 and 15.2-2314 of the Code of Virginia, relating to local governing body; review of decision by board of zoning appeals; procedures for filing petition.

[H 198]

Approved April 8, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2285 and 15.2-2314 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2285. Preparation and adoption of zoning ordinance and map and amendments thereto; appeal.

A. The planning commission of each locality may, and at the direction of the governing body shall, prepare a proposed zoning ordinance including a map or maps showing the division of the territory into districts and a text setting forth the regulations applying in each district. The commission shall hold at least one public hearing on a proposed ordinance or any amendment of an ordinance, after notice as required by § 15.2-2204, and may make appropriate changes in the proposed ordinance or amendment as a result of the hearing. Upon the completion of its work, the commission shall present the proposed ordinance or amendment including the district maps to the governing body together with its recommendations and appropriate explanatory materials.

B. No zoning ordinance shall be amended or reenacted unless the governing body has referred the proposed amendment or reenactment to the local planning commission for its recommendations. Failure of the commission to report 100 days after the first meeting of the commission after the proposed amendment or reenactment has been referred to the commission, or such shorter period as may be prescribed by the governing body, shall be deemed approval, unless the proposed amendment or reenactment has been withdrawn by the applicant prior to the expiration of the time period. The governing body shall hold at least one public hearing on a proposed reduction of the commission's review period. The governing body shall publish a notice of the public hearing in a newspaper having general circulation in the locality at least two weeks prior to the public hearing date and shall also publish the notice on the locality's website, if one exists. In the event of and upon such withdrawal, processing of the proposed amendment or reenactment shall cease without further action as otherwise would be required by this subsection.

C. Before approving and adopting any zoning ordinance or amendment thereof, the governing body shall hold at least one public hearing thereon, pursuant to public notice as required by § 15.2-2204, after which the governing body may make appropriate changes or corrections in the ordinance or proposed amendment. However, no land may be zoned to a more intensive use classification than was contained in the documentation made available for examination pursuant to subsection A of § 15.2-2204 without an additional public hearing after notice required by § 15.2-2204. Zoning ordinances shall be enacted in the same manner as all other ordinances.

D. Any county which has adopted an urban county executive form of government provided for under Chapter 8 (§ 15.2-800 et seq.) may provide by ordinance for use of plans, profiles, elevations, and other such demonstrative materials in the presentation of requests for amendments to the zoning ordinance.

E. The adoption or amendment prior to March 1, 1968, of any plan or ordinance under the authority of prior acts shall not be declared invalid by reason of a failure to advertise, give notice or conduct more than one public hearing as may be required by such act or by this chapter, provided a public hearing was conducted by the governing body prior to the adoption or amendment.

F. Every action contesting a decision of the local governing body adopting or failing to adopt a proposed zoning ordinance or amendment thereto or granting or failing to grant a special exception shall be filed within ~~thirty~~ 30 days of the decision with the circuit court having jurisdiction of the land affected by the decision. *Such 30-day filing requirement shall be mandatory and jurisdictional.* However, nothing in this subsection shall be construed to create any new right to contest the action of a local governing body.

§ 15.2-2314. Review decision of board; who may file petition in circuit court; who are necessary parties; when petition and response to petition may be served; determinations by and procedure for circuit court in certain 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 locality, may, *within 30 days after the final decision of the board*, file with the clerk of the circuit court for the county or city a petition that shall be styled "[Petitioner v. Respondent] In Re: [date] Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved ~~within 30 days after the final decision of the board~~. *Such 30-day filing requirement shall be mandatory and jurisdictional.*

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of

The governing body, 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 prescribe therein the time within which a return thereto must be made and 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, which shall not be less than 10 within 30 days and may be extended by the court after the petition is filed with the clerk of the circuit court. Once the writ of certiorari is served, the board of zoning appeals shall have 21 days or as ordered by the court to respond. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order. Service of process upon a respondent more than 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.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a necessary party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section or to the extent required by the circuit court. ~~The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings in the circuit court. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.~~

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.

B. 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 21 days of being served with the petition, file the record of the proceedings at issue in the petition unless 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 shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Any respondent may file a response to the petition within 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.

C. 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.

D. 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 pursuant to § 15.2-2286, 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. ~~Any party may introduce evidence in the proceedings in the court.~~ 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 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.

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 the 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 was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

E. Costs shall not be allowed against the locality or the governing body, unless it shall appear to the circuit court that the locality or the governing body acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the circuit court may order the person or persons who requested the issuance of the writ of certiorari filed the petition to pay the costs incurred in making the return of the record pursuant to the writ of certiorari filing the record of the proceedings before the board of zoning appeals. If the petition is withdrawn subsequent to the filing of the return record of the proceedings, the locality or the governing body may request that the circuit court hear the matter on the question of whether the appeal was frivolous.



COUNTY OF FLUVANNA

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PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commissioners
From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning
Case Number: ZTA 26:16
District: Countywide Amendment

General Information: This public hearing is to be held on Tuesday June 9, 2026, at 7:00 pm by the Fluvanna County Planning Commission in the Morris Room in the County Administration Building, 132 Main Street, Palmyra, VA 22963.

Requested Action: Recommend approval of an amendment to the Fluvanna County Code 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.

Background Information: This recommended change (see Exhibit A) is being presented pursuant to **House Bill 888** (see Exhibit B), which was passed by the Virginia General Assembly, approved on April 22, 2026, and will become 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.

Recommended Motion:

FINDING THAT THE PROPOSED ZONING ORDINANCE AMENDMENTS (ARE/ ARE NOT) APPROPRIATE FOR THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE AND (ARE/ ARE NOT) GOOD ZONING PRACTICE, I MOVE THAT THE PLANNING COMMISSION RECOMMEND (APPROVAL/ DENIAL) OF 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.

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 Planning Commission**. 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 Planning Commission** 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 Planning Commission**, 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** ~~Planning Commission~~, 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.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered 15.2-2209.4, relating to minimum off-street parking requirements in certain areas.

[H 888]

Approved

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding in Article 1 of Chapter 22 of Title 15.2 a section numbered 15.2-2209.4 as follows:

§ 15.2-2209.4. Minimum off-street parking requirements; designated areas; administrative reductions.

A. As used in this section:

"Bus rapid transit" means a rubber-tired bus transit system with features such as frequent service, dedicated lanes, traffic signal priority, and enhanced stations.

"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.

"Mass transit or public transportation" means passenger transportation on a fixed route by rubber-tired, rail, or other surface conveyance providing shared-ride service to the general public on a regular and continuing basis, including bus rapid transit or other high-capacity transit service as identified by the Virginia Department of Rail and Public Transportation. "Mass transit or public transportation" does not include school buses, microtransit, charter or sight-seeing services, a vehicular ferry service that serves as a link in the highway network, or a human service agency or other client-restricted transportation.

"Microtransit" means a flexible, on-demand, dynamically routed shared-ride passenger transportation service that operates similarly to traditional public transit but with greater adaptability to individual trip needs.

B. Any locality that has adopted a zoning ordinance pursuant to this chapter shall not require, as a condition of zoning approval, minimum off-street parking for residential, multifamily, or mixed-use development located within a designated area in amounts exceeding the following:

1. One-half of one parking space per dwelling unit for multifamily or mixed-use residential development; and

2. One parking space per dwelling unit for one-family and two-family dwellings and townhouses.

C. No locality shall adopt or enforce any provision of a zoning ordinance that imposes minimum off-street parking requirements for residential, multifamily, or mixed-use development located within a designated area in excess of the limitations set forth in subsection B.

D. Any locality with a population greater than 600,000 may by ordinance impose off-street parking requirements exceeding the limits in subsections B and C for residential, multifamily, or mixed-use development within one-half mile of a locality-managed fixed-route bus stop, provided that the ordinance includes an administrative process allowing an applicant, in connection with a pending rezoning, special exception, proffered condition amendment, site plan, or subdivision plat, to obtain a reduction of at least 25 percent in minimum off-street parking requirements for such development within 1,000 feet of such bus stop. An administrative reduction shall be granted upon the applicant's demonstration that (i) all dwelling units serve households at or below 70 percent of area median income, using income averaging; (ii) due to the unique characteristics of the site or uses on the site, the spaces proposed to be eliminated are unnecessary or infeasible; or (iii) a written shared parking agreement ensures availability of equivalent spaces within 1,000 feet of the subject property.

E. Any locality with a population greater than 20,000 shall, by ordinance, establish an administrative review process in which developers may request a 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. The ordinance shall include criteria to determine eligibility for, and prescribe procedures for the submission and review of, the administrative reduction authorized by this subsection.



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PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commissioners

From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning

Case Number: ZTA 26:17

District: Countywide Amendment

General Information: This public hearing is to be held on Tuesday June 9, 2026, at 7:00 pm by the Fluvanna County Planning Commission in the Morris Room in the County Administration Building, 132 Main Street, Palmyra, VA 22963.

Requested Action: Recommend approval of an amendment to the Fluvanna County Code by enacting §§ 22-13-8 and 22-16-9, 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.

Background Information: This recommended change (see Exhibit A) is being presented pursuant to **House Bill 655** (see Exhibit B) approved on March 31, 2026, and **House Bill 1463** (see Exhibit C), which were passed by the Virginia General Assembly, approved on April 8, 2026, and will both become 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.

Recommended Motion:

FINDING THAT THE PROPOSED ZONING ORDINANCE AMENDMENTS (ARE/ ARE NOT) APPROPRIATE FOR THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE AND (ARE/ ARE NOT) GOOD ZONING PRACTICE, I MOVE THAT THE PLANNING COMMISSION RECOMMEND (APPROVAL/ DENIAL) OF ZTA 26:17 – AN ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY ENACTING §§ 22-13-8 AND 22-16-9, AMENDING §§ 22-4-2.1, 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.

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 §§ 22-4-2.1, 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

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 §§ 22-4-2.1, 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 as follows:*

CHAPTER 22- ZONING

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

Sec. 22-4-2.1. Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

- Agriculture
- Agritourism activity
- Conservation areas
- Equestrian facilities
- Farm sales
- Hunt clubs
- Hunting preserves

Civic Uses

- Public parks and recreational areas
- Public uses

Commercial Uses

- Family daycare homes/Family day homes
- Home occupations
- Studios, fine arts

Industrial Uses

Sawmills, temporary

Miscellaneous Uses

Accessory uses

Cemeteries, non-commercial

Greenhouses, non-commercial

Kennels, private

Marinas, private non-commercial

Mobile food unit

Shooting, private recreational

Small scale solar generation facility

Utilities, minor

Wood storage, temporary

Residential Uses

Dwellings, accessory

Dwellings, two-family

Farm tenant housing

Group homes

Manufactured homes

Mobile homes, as defined in Section 22-4-2.3

Single-family detached dwellings, including family subdivisions and conventional minor subdivisions, but excluding conventional major subdivisions recorded after April 5, 2004

Short-term rental of a residential dwelling

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.

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.

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.

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

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.

-
- (C) ~~Any manufactured home which was lawfully in existence in the County on the effective date of this ordinance may be replaced by another manufactured home, subject to the following:~~
- ~~(1) The replacement manufactured home shall contain the same or greater floor area as the manufactured home being replaced;~~
 - ~~(2) The replacement manufactured home shall comply with all building and construction codes in the Commonwealth of Virginia applicable to manufactured homes;~~
 - ~~(3) The replacement manufactured home shall be located on the same parcel so as to comply with all yard and setback requirements of the ordinance unless the dimensions of the parcel are such that such compliance is infeasible, in which case the replacement manufactured home shall be located substantially in the same location as the manufactured home being replaced;~~
 - ~~(4) The manufactured home being replaced shall be removed from the parcel no later than ninety (90) days after the replacement manufactured home is placed on the parcel;~~
 - ~~(5) There shall be no dual occupancy when such manufactured homes are being replaced;~~
 - ~~(6) The replacement manufactured home shall be located on the parcel not more than ninety (90) days after removal of the manufactured home to be replaced.~~

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. Special exception for placement of manufactured home-Manufactured home requirements.

~~The Zoning Administrator may approve placement of a manufactured home in the event that a residence is destroyed or made unlivable by fire, flood, wind, or other natural causes, provided that placement shall be for a period not longer than twelve (12) months from the date of occurrence of the event, and also provided that written approval is obtained from the respective property owners association, if any.~~

- (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.

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 19

An Act to amend and reenact §§ 15.2-2247 and 15.2-2290 of the Code of Virginia, relating to zoning; manufactured housing.

[H 655]

Approved March 31, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2247 and 15.2-2290 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2247. Applicability of subdivision ordinance to manufactured home parks.

Any locality may designate, by ordinance, the areas within its jurisdiction in which ~~manufactured homes may be located or~~ manufactured home parks may be established, notwithstanding the absence of a zoning ordinance in such locality. Such ordinance may also apply to any of the provisions of §§ 15.2-2241 through 15.2-2245 in the regulation and governing of the location, establishment, and operation of ~~manufactured homes or~~ manufactured home parks. The ordinance may apply to any park or portion thereof licensed as a campground pursuant to Title 35.1 ~~of this Code~~. In the event of irreconcilable conflict between the ordinance and state law, the state law shall supersede the ordinance.

§ 15.2-2290. Uniform regulations for manufactured housing.

A. *Localities adopting and enforcing zoning ordinances under the provisions of this article shall provide that in all agricultural zoning districts, or districts having similar classifications regardless of name or designation, where agricultural, horticultural, or forest uses such as those described in § 58.1-3230 are the dominant use and where site-built housing is allowed, the placement of manufactured homes shall be permitted.*

B. *Localities adopting and enforcing zoning ordinances under the provisions of this article shall provide that, in all ~~agricultural zoning districts or districts having similar classifications regardless of name or designation where agricultural, horticultural, or forest uses such as~~ but not limited to those described in § 58.1-3230 are the dominant use, other than zoning districts listed in subsection A, where site-built housing is allowed, the placement of manufactured ~~houses~~ homes shall be permitted for manufactured homes that are on a permanent foundation (i) converted to real property in accordance with § 46.2-653.1, (ii) constructed so that the certificate of occupancy is issued within five years following the date of manufacture listed on the home's data plate, and (iii) placed on individual lots shall be permitted, subject to development standards that are equivalent to those applicable to site-built single family dwellings within the same or equivalent zoning district. Localities shall not adopt or enforce any zoning, land-use, or development regulation that treats manufactured homes differently or more restrictively than a single-family site-built dwelling allowed in the same zoning district. Nothing in this subsection shall be construed as limiting the authority of localities to adopt ordinances pursuant to §§ 10.1-2206.1 and 15.2-2306 designed to protect existing or future areas of historical or archaeological significance, historical sites, historical landmarks, and historical buildings and structures, or to establish local historical districts.*

~~B.~~ C. *Localities adopting and enforcing zoning regulations under the provisions of this article may, to provide for the general purposes of zoning ordinances, adopt uniform standards, so long as they apply to all residential structures erected within the ~~agricultural zoning district or other districts identified in subsection A of this section incorporating such standards~~. The standards shall not have the effect of excluding manufactured housing built in compliance with the Virginia Manufactured Housing Construction and Safety Standards Law (§ 36-85.2 et seq.).*

~~C.~~ D. *Local zoning ordinances adopting provisions consistent with this section shall not relieve lots or parcels from the obligations relating to manufactured housing units imposed by the terms of a restrictive covenant.*

VIRGINIA ACTS OF ASSEMBLY - 2026 SESSION

CHAPTER 471

An Act to amend and reenact § 15.2-2307 of the Code of Virginia, relating to zoning; nonconforming uses; manufactured homes.

[H 1463]

Approved April 8, 2026

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2307. Vested rights not impaired; nonconforming uses.

A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

B. For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; (vi) the designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

C. A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the locality or any agency affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

D. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefor, (ii) a property owner, relying in good faith on the issuance of a building permit, incurs extensive obligations or substantial expenses in diligent pursuit of a building project that is in conformance with the building permit and the Uniform Statewide Building Code (§ 36-97 et seq.), or (iii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period of more than the previous 15 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance may provide that such building or structure be brought in compliance with the Uniform Statewide Building Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal. If the structure is one that requires no permit, and an authorized local government official informs the property owner that

the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.

E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

F. Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

G. Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

H. Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. *A land owner or home owner may also place a manufactured home that meets the current HUD manufactured housing code upon any open lot in a valid nonconforming mobile or manufactured home park regardless of whether a valid nonconforming manufactured home is currently located on such lot.* In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.

I. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. *For the purposes of determining whether a use has been continuous pursuant to subsection C and this subsection, an existing mobile or manufactured home shall be considered a valid nonconforming mobile or manufactured home regardless of whether such mobile or manufactured home has been occupied during the preceding two-year period.* Any such replacement home shall retain the valid nonconforming status of the prior home.



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

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PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commissioners

From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning

Case Number: ZTA 26:18

District: Countywide Amendment

General Information: This public hearing is to be held on Tuesday, June 9, 2026, at 7:00 pm by the Fluvanna County Planning Commission in the Morris Room in the County Administration Building, 132 Main Street, Palmyra, VA 22963.

Requested Action: Recommend approval of an amendment to the Fluvanna County Code 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 as required by HB891/SB443 and HB711/SB347.

Background Information: This recommended change (see Exhibit A) is being presented pursuant to **House Bill 891/SB443** (see Exhibit B) and **House Bill 711/SB347** (see Exhibit C), which were passed by the Virginia General Assembly, approved on April 22, 2026, and will both become effective on July 1, 2026.

The proposed amendments deem battery energy storage projects 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 commercial solar photovoltaic generation facility, if such battery energy storage project is located within the boundaries of the parcel covered by the existing special exception and complies with any applicable federal, state, and local safety or fire codes and environmental regulations. The proposed amendment does not preclude the developer of a battery energy storage project from negotiating a siting agreement with the host locality.

The proposed amendments also provide that a ground-mounted solar energy generation facility to be located on property zoned agricultural, commercial, industrial, or institutional shall be considered pursuant to various criteria to be included in a local ordinance, such as specifications for setbacks, fencing, solar panel height, visual impacts, grading, and a decommissioning plan for solar energy equipment and facilities. The County must furnish the State Corporation Commission with a record of special use permit decisions reached pursuant to these provisions that includes (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. The amended

provisions shall apply to any ground-mounted solar facility with a generating capacity of one megawatt or more for which an application for local approval is filed on or after July 1, 2026.

Recommended Motion:

FINDING THAT THE PROPOSED ZONING ORDINANCE AMENDMENTS (ARE/ ARE NOT) APPROPRIATE FOR THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE AND (ARE/ ARE NOT) GOOD ZONING PRACTICE, I MOVE THAT THE PLANNING COMMISSION RECOMMEND (APPROVAL/ DENIAL) OF 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.

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 3 – SOLAR, GENERAL, DISTRICT S-1

Sec. 22-3-1. Statement of intent.

~~The purpose of this article is to outline the process and requirements for the construction, installation, operation and decommissioning of utility-scale solar generation facilities and other uses in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding and minimizing adverse impacts to agricultural lands, endangered species habitats, conservation lands to include rivers and streams, lakes, ponds and other sensitive lands. This division is not intended to replace safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this division shall not be deemed to nullify any provisions of local, state or federal law.~~

Sec. 22-3-2. Use regulations.

~~In Solar, General District S-1, the following uses, together with ordinary and necessary accessory uses, shall be permitted, and no others:~~

Sec. 22-3-2.1. Uses permitted by right.

~~The following uses shall be permitted by right:~~

Agricultural Uses

- ~~Agriculture~~
- ~~Conservation areas~~
- ~~Farm sales~~

Miscellaneous Uses

- ~~Accessory uses~~
- ~~Cemeteries, non-commercial~~
- ~~Greenhouses, non-commercial~~

Mobile food unit
Small scale solar generation facility
Utilities, minor

Sec. 22-3-2.2. 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

Commercial Uses

~~Communications service~~

Industrial Uses

~~Minor scale solar generation facility~~
Telecommunication facilities
Utilities, major
Utility scale solar generation facility

Sec. 22-3-3. Sign regulations.

Sign regulations shall conform to Article 15 of this chapter.

Sec. 22-3-4. Height regulations.

Buildings and structures may be erected up to 35 feet in height, except that:

- (A) ~~Spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae and radio aerials may be erected to a height of 60 feet from grade. Parapet walls may be up to four feet above the height of the building on which the walls rest. Buildings and structures used for agricultural purposes, including barns, silos, windmills and the like, may be erected to a height of 90 feet from grade.~~
- (B) ~~No accessory building which is within 15 feet of any property lot line shall be more than one story high. All accessory buildings and structures, other than those permitted under subsection (A) above, shall be less than the main building or structure in height.~~

Sec. 22-3-5. Intensive livestock, dairy and poultry facilities; statement of intent.

This section (sections 22-3-5 through 22-3-5.4) encourages economic development, preserves farm land, and promotes the orderly and responsible growth of the livestock, dairy and

poultry industries. In the Solar (S-1) district, all agricultural production uses, including the uses defined herein as intensive livestock, dairy and poultry facilities, shall be permitted by right.

Sec. 22-3-5.1. Definitions.

For the purpose of sections 22-3-5 through 22-3-5.4, the following terms shall have the meaning indicated:

(1) ~~Livestock includes all domestic or domesticated animals, including, but not limited to: cattle, sheep, lambs, hogs, goats, horses, poultry and furbearing animals.~~

(2) ~~Intensive livestock, dairy or poultry facility means a livestock, dairy or poultry operation where, for a period of 45 consecutive days or more, 300 animal units are closely confined and not free-ranging, and are fed in the area of confinement. For the purpose of this article, 300 animal units shall be equivalent to any of the following, or any combination thereof where the animals are confined in one location:~~

~~Livestock: 300 slaughter or feeder cattle~~

~~Livestock: 750 swine each weighing over 55 pounds~~

~~Livestock: 150 horses~~

~~Livestock: 3,000 sheep, lambs, or goats~~

~~Livestock: 16,500 furbearing animals such as rabbits or chinchilla~~

~~Dairy: 200 mature dairy cows (whether milked or dry cows)~~

~~Poultry: 16,500 turkeys~~

~~Poultry: 30,000 laying hens or broilers~~

(3) ~~Intensive livestock, dairy or poultry structure means a building, structure or other improved area used in the operation of an intensive livestock, dairy or poultry facility; including, but not limited to, litter storage sites, incinerators, manure storage sites, poultry houses, poultry disposal pits, or dead poultry cold storage chests. The term shall not include structures that are used only indirectly in the operation of the facility.~~

(4) ~~Operator means any person who operates an intensive livestock, dairy or poultry facility, or the land on which it is located.~~

(5) ~~Poultry means any domestic or domesticated fowl raised for meat or eggs; including, but not limited to, chickens and turkeys.~~

(6) ~~Existing intensive livestock, dairy or poultry structure means an intensive livestock, dairy or poultry structure that has been in operation for one year within the five years immediately preceding the date on which a building or zoning permit is sought for a dwelling.~~

Sec. 22-3-5.2. Setbacks.

(1) ~~Except as otherwise expressly provided in this section, each intensive livestock, dairy or poultry structure shall be set back 300 feet from any property line.~~

- ~~(2) Any dwelling not owned by the operator shall be set back 300 feet from any existing intensive livestock, dairy or poultry structure.~~
- ~~(3) Each intensive livestock, dairy or poultry structure shall be setback at least 200 feet from the right of way of any secondary road, and at least 300 feet from the right of way of any primary highway.~~
- ~~(4) Each intensive livestock, dairy or poultry structure shall be setback at least 1,000 feet from any incorporated town, public school, place of worship, public water intake from a stream or river and from the boundary of any adjacent residential district.~~

Sec. 22-3-5.3. Development plans to include plat or similar document.

- ~~(1) Any person who intends to establish or expand an intensive livestock, dairy or poultry facility shall file with the Zoning Administrator a development plan, including a plat, or similar document, that indicates the number, size and location of all intensive livestock, dairy or poultry structures planned for the subject parcel; and a written statement, sworn to and subscribed before a notary public, by which the owner certifies to the Zoning Administrator that the facility meets all applicable requirements. Where a proposed expansion would not substantially change the character of the facility or the intensity of the use, the Zoning Administrator may approve the expansion without requiring a development plan.~~
- ~~(2) If the plan meets the requirements of sections 22-3-5 through 22-3-5.4, the Zoning Administrator shall approve it within 30 days of receipt. If the plan does not meet the requirements of sections 22-3-5 through 22-3-5.4 of this chapter, the Zoning Administrator shall return it to the applicant within 30 days of receipt, together with a written description of the portion or portions of the plan that do not meet such requirements. Any plan not returned to the applicant within 30 days of receipt shall be deemed approved. As long as an approved plan is in effect, the applicant shall have the right to build structures and operate the facilities shown thereon, notwithstanding any dwelling or other feature located after the time of approval.~~
- ~~(3) The development plan shall remain in force only so long as the proposed structures are constructed in accordance with the development plan. At least one-third of the number of livestock or dairy animals indicated in the development plan, or one poultry structure, shall be placed in service within five years of the date on which the development plan is approved by the Zoning Administrator, unless at least one-third the livestock, or one poultry structure, was already in service at the time the plan was filed. In the event the operator fails to obtain building and zoning permits for any of the proposed structures, or fails to have in place the minimum number of livestock required above, within five years of the date on which the development plan is approved by the Zoning Administrator, the development plan shall expire.~~
- ~~(4) The operator shall notify the Zoning Administrator in writing within 30 days of placement into service of any structure indicated on his plan.~~
- ~~(5) Each parcel for which a development plan has been approved shall display at its entrance a sign no smaller than two square feet, and no larger than four square feet, clearly visible~~

from the nearest public road, indicating that a development plan is in effect for the parcel and containing the word "Certified Agricultural Development Site."

- (6) Nothing herein shall be construed to prohibit an operator or a potential operator from submitting amendments to his or her original development plan, or from submitting revised plans. The Zoning Administrator shall review such amendments or revised plans as required in subsection (1) above according to the zoning ordinance in effect at the time the amendments or revised plans are received.

Sec. 22-3-5.4. Nutrient management plan.

After the effective date of this section, no intensive livestock, dairy or poultry facility for which the Commonwealth of Virginia requires a nutrient management plan shall commence operation until such plan has been approved by the Virginia Department of Conservation and Recreation, or by a person certified or employed by the Virginia Soil and Water Conservation Board or the Commonwealth as a nutrient management planner, in accordance with 4VAC50-85-10 et seq., "Nutrient Management Training and Certification Regulations."

If the nutrient management plan provides for off-site disposal of waste, the operator shall provide, as a part of the plan, written documentation of an agreement with the receiver of the waste produced at his facility, or affidavit, sworn and subscribed before a notary public, that states his intention to dispose of waste through sale in a retail establishment or otherwise marketing to consumers. Documentation shall specify the duration of the agreement and the nature of the application or use of the waste. A nutrient management plan containing such an agreement shall be valid only as long as the agreement remains in force and shall be reviewed whenever such agreement expires or is terminated. If such an agreement is terminated before its expiration date, the operator shall notify the Zoning Administrator within 15 days of termination.

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
~~Minor scale solar generation facility~~
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
~~Minor scale solar generation facility~~
Solar photovoltaic projects
Telecommunication facilities
Utilities, major
~~Utility scale solar generation facility~~

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
~~Minor scale solar generation facility~~
Solar photovoltaic projects
Telecommunication facilities
Utilities, major
~~Utility scale solar generation facility~~

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
~~Minor scale solar generation facility~~
Solar photovoltaic projects
Telecommunication facilities
Utilities, major
~~Utility scale solar generation facility~~

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
~~Minor scale solar generation facility~~
Solar photovoltaic projects
Telecommunication facilities
~~Utility scale solar generation facility~~

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, minor scale: An on-site solar energy conversion system producing less than two MW of electricity. Minor scale solar energy conversion systems generally reduce on-site consumption of utility power for civic, commercial and industrial applications. On-site may also include adjacent parcels under common use, ownership and control. Rooftop arrays do not require zoning approval. Ground-mounted arrays require zoning approval as accessory structures.

Solar generation facility, small scale: An on-site solar energy conversion system producing **less than one (1) MW** not more than 15 kW of electricity. Small scale solar energy systems generally reduce on-site consumption of utility power for civic, commercial and industrial applications. On-site may include adjacent parcels under common use, ownership and control. Rooftop arrays do not require zoning approval. Ground-mounted arrays require zoning approval as accessory structures. **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 generation facility, utility scale: A solar energy conversion system producing two or more of electricity to a utility provider. Such facilities interconnect with an existing electrical grid serving other off-site facilities which are not adjacent or under common use, ownership or control.

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 UTILITY SCALE SOLAR GENERATION FACILITIES

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

- (A) The purpose of this article is to establish general guidelines for the siting of utility scale solar generation facilities (USSGF).
- (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 USSGFs;
 - (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 USSGFs on surrounding land uses by establishing standards for location, structural integrity, and compatibility;

- (2) ~~Avoid potential injury to persons and properties from USSGF 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 USSGFs 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 USSGFs;~~
- (5) ~~Encourage developers of USSGFs to locate USSGFs, to the extent possible, in areas where the visual impact on the community is minimal;~~
- (6) ~~Encourage the location of new USSGFs near existing USSGFs thereby minimizing new visual, aesthetic, public safety impacts, and effects upon the natural environment and wildlife;~~
- (7) ~~Avoid the location of battery energy storage systems in the County;~~
- (8) ~~Establish predictable and balanced codes governing the construction and location of USSGFs, within the confines of permissible local regulations;~~
- (9) ~~Establish review procedures to ensure that applications for USSGFs are reviewed and acted upon within a reasonable period of time;~~
- (10) ~~Consideration of and compatibility with the goals and objectives of the County's Comprehensive Plan.~~

~~Sec. 22-28-2. Existing utility scale solar generation facilities~~

~~Utility scale solar generation 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. Size of utility scale solar generation facilities~~

~~The maximum project area for any utility scale solar generation facility shall be no more than 500 acres.~~

~~Sec. 22-28-4. Reserved.~~

~~Sec. 22-28-5. Minimum setbacks for utility scale solar generation facilities.~~

~~The utility scale solar generation facility operational area which includes any buildings, structures, equipment, parking, and disturbed areas shall have the following minimum setbacks:~~

- (A) ~~500 feet from dwellings on adjacent parcels.~~
- (B) ~~375 feet from the adjacent property lines.~~
- (C) ~~300 feet from all public rights of way.~~
- (D) ~~500 feet from all entrance corridors which include Route 6, US 15, Route 53, and US 250.~~

- (E) 1000 foot setback from the James River, Rivanna River, Hardware River and all lakes.
- (F) 500 foot setback from ponds and perennial streams.

Sec. 22-28-6. Minimum buffers for utility scale solar generation facilities.

- (A) Utility scale solar generation facilities (USSGF) must be screened from the ground level view from adjacent properties and public roads by a vegetative buffer of at least 175 feet. The vegetative buffer must be located within the setbacks required under Section 22-28-5 and must be located around the entire perimeter of the property. Screening methods can include:
 - (1) Existing screening: The USSGF 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 Section 22-28-6.
 - (2) 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 eight feet in height at time of planting. A triple staggered row of trees must be placed ten feet apart and on average at 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.
 - (3) Berms: Berms must be constructed with a 3:1 side slope to rise ratio, four to six feet above the adjacent grade, with a three-foot wide top with pollinator friendly native shrubs, trees, forbs and wildflowers. The outside edges of the berm should be sculpted with vertical and horizontal variations so there is not a uniform appearance.
- (B) A performance bond reflecting the estimated costs of anticipated landscaping maintenance shall be posted prior to construction to ensure the vegetative buffer 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 regulation for utility scale solar generation facilities.

The maximum height for structures associated with the utility scale solar generation facility (USSGF) is 20 feet above the finished ground elevation. Ground-mounted systems shall not exceed 20 feet in height when oriented at maximum vertical tilt. The height limit does not apply to associated aerial electric lines, utility poles and/or substation equipment that may be constructed in association with the USSGF.

Sec. 22-28-8. Security fencing.

The utility scale solar generation facility project area must be enclosed by security fencing on the interior of the buffer area at a height of at least six feet. Fencing must be placed around sections of the project area to provide access corridors for wildlife. All fencing must be

constructed to allow for the movement of small wildlife species. All fencing shall include opaque screening.

Sec. 22-28-9. Lighting.

Outdoor lighting for the facility shall only be permitted for security and on-site maintenance. All outdoor lighting shall be fully shielded provided that these restrictions shall not apply to any outdoor lightning required by federal law. Lighting shall be dark sky compliant. The full site plan shall include a photometric plan that depicts the location, type, power and lightning levels of each permanent and semi-permanent fixture.

Sec. 22-28-10. Signage.

No signage shall be allowed on the fencing, structures or buildings in the project area for the utility scale solar generation facility (USSGF). One sign shall be allowed at each of the emergency access points which shall list the required warnings, the name of the USSGF, address, and relevant emergency contact information. Any signage required by state or federal law or regulation shall be exempt from this section.

Sec. 22-28-11. Emergency access.

The applicant shall provide emergency access in at least two separate access points. Such access points shall include unobstructed access utilizing fire lane signage. The access points shall also be designed with a 20-foot wide looping system inside of the security fence but outside of the panel area in order for emergency apparatus to proceed without the need to back up the emergency apparatus.

Sec. 22-28-12. Construction noise associated with utility scale solar generation facilities.

All construction activities may only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday-Saturday and will be prohibited on Sundays. This restriction shall apply during construction of the facility, ongoing maintenance, replacement of equipment and decommissioning. This restriction shall not apply to emergency repairs.

Sec. 22-28-13. Wiring and transmission lines.

- (A) Wiring shall be located underground except for wiring on a solar array or where necessary to directly connect to the public service corporation.
- (B) All new distribution and transmission lines shall be located below ground except for lines solely subject to the State Corporation Commission jurisdiction or where necessary to connect to existing utility lines. New transmission lines are subject to plan of development review.
- (C) Wires located on the poles of solar panels shall be placed in conduit.

Sec. 22-28-14. Wildlife corridors.

An application for a utility scale solar generation facility (USSGF) with a project area of greater than 50 acres must identify access corridors for wildlife to navigate through and across

the USSGF. The wildlife corridor must be shown on the site plan submitted to the County. Areas between fencing shall be kept open to allow for movement of migratory animals and other wildlife.

~~Sec. 22-28-15. Glare from solar panels.~~

~~Solar panels shall be placed so as to prevent concentrated solar radiation, heat or glare being directed onto other properties or roads.~~

~~Sec. 22-28-16. Landscaping plan for utility scale solar generation facilities.~~

~~A preliminary landscaping plan shall be developed by a certified arborist or landscape architect, submitted with the application for the special use permit, and shall meet the following requirements:~~

~~(A) *Utilizing existing forested buffer.*~~

- ~~(1) Preservation of existing trees and shrubs within require buffers shall be maximized.~~
- ~~(2) The plan shall include a tree inventory indicating all trees that will be saved and that will be used for buffering.~~
- ~~(3) The existing forested buffer may be used if it is covered with at least 75 percent of naturally established vegetation.~~
- ~~(4) The existing plant material must be mature and in healthy condition.~~
- ~~(5) The existing plant material must consist of a mix of evergreen and deciduous trees which meet the following criteria:
 - ~~(a) Existing deciduous trees have a minimum four inch caliper measured two feet above the ground.~~
 - ~~(b) Evergreen trees must be a minimum of ten feet in height.~~
 - ~~(c) Hardy shrubs must be a minimum of two feet in height.~~
 - ~~(d) There is an established understory of small trees and shrubs to provide significant buffering at the lower forested area.~~~~

~~(B) *Improvements within buffer.*~~

- ~~(1) Improvements within the vegetative buffer shall be limited to those required to provide access, utilities and drainage and shall be installed perpendicular to the buffer to reduce impacts to the buffer.~~

~~(C) *Proposed vegetative buffer.*~~

- ~~(1) The preliminary landscaping plan shall show all proposed plant species to be used for ground cover, screening and buffering.~~
- ~~(2) There is a preference for native and pollinator friendly plant species.~~
- ~~(3) The evergreens shown on the plan must have a mature height of at least 30 feet.~~
- ~~(4) The evergreens must have a minimum planting height of eight feet.~~

~~(5) Deciduous trees must have a minimum caliper of two inches measured six inches above final grade.~~

~~(D) Installation of landscaping.~~

~~(1) All landscaping shown on the approved plan shall be installed and in good condition prior to beginning production of power.~~

~~(2) All landscaping shall be planted between September 15 and June 30.~~

Sec. 22-28-17. Vegetation management plan for utility scale solar generation facilities.

~~(A) The applicant for a utility scale solar generation facility (USSGF) shall submit a preliminary proposed vegetation management plan at time of submittal of the application. The applicant for a USSGF shall submit a final proposed plan for ground cover within the fence lines of the project area for review and approval as part of the full site plan. The site plan shall include the following information:~~

~~(1) Describe the design and type of ground cover which will consist of native grasses and low growing species.~~

~~(2) The plan should include a description of how existing tree and vegetation cover will be removed or reused.~~

~~(3) Include a plan and schedule for managing the growth of the vegetation cover over the life of the facility.~~

~~(4) Provide a plan to prevent and control noxious weeds and invasive species.~~

~~(5) Identify the type and quantity of herbicides that will be used.~~

~~(6) Provide that only biodegradable soap and water can be used to clean the surface of the solar panels.~~

Sec. 22-28-18. Erosion and sediment control plan.

~~(A) An erosion and sediment control plan must be submitted to the County and approved by the Soil and Water Conservation District and the Virginia Department of Environmental Quality prior to any land disturbance.~~

~~(B) The erosion and sediment control plan shall be prepared in accordance with Chapter 6 of the County Code and the Virginia Erosion and Sediment Control Handbook.~~

~~(C) Permit holders shall provide evidence of any and all required state and/or federal permits prior to the issuance of a land disturbance permit.~~

~~(D) Prior to applicant's submission of the Erosion and Sediment Control Plan, the applicant will contact the County's erosion and sediment control reviewer to arrange a meeting on the Property with the applicant's engineer.~~

~~(E) The County may obtain an independent third party review of the Erosion and Sediment Control Plan at the expense of the applicant.~~

~~(F) The erosion and sediment control plan shall provide that no topsoil will be removed from the facility/site but instead will be used onsite to establish ground cover.~~

- ~~(G) The applicant shall include sufficient surety to guarantee that funding is available to implement and maintain all required erosion and sediment control measures.~~
- ~~(H) The County may require the applicant to provide for the funding of a third-party erosion and sediment control inspector during the period of construction. Any as needed third-party erosion and sediment control inspector, while paid for by the applicant, permit holders and/or any successor in interest, shall be selected and managed by the Planning Director, or his designee.~~
- ~~(I) In projects involving more than 100 acres of land disturbance, the following requirements will apply:
 - ~~(1) Incorporate a protocol developed in coordination with the Planning Director, or his designee, the Soil and Water Conservation District, and the Virginia Department of Environmental Quality that specifies the phased construction of designated units of land so that the total area of disturbed land at any one time is appropriately limited given the nature of the construction activities, the size of the Project, the topography and water resources of and in the project area, and the erosion and sediment controls to be employed.~~
 - ~~(2) The protocol will be designed to ensure that ground cover is expeditiously established, and appropriate site stabilization is achieved throughout construction.~~~~

Sec. 22-28-19. Construction on steep slopes.

- ~~(A) Solar panels shall not be installed on steep slopes of 20 percent or greater.~~
- ~~(B) Steep slopes of 20 percent or greater shall remain in their natural, undisturbed state to the maximum extent practicable, unless otherwise approved by the Planning Director.~~

Sec. 22-28-20. Historic resources, cultural and grave site impact analysis.

~~In accordance with the County's goals, an impact analysis for historic and cultural resources, including grave sites, shall be conducted and provided by the applicant to identify, preserve, and protect significant historic resources and to ensure respectful treatment of graves in accordance with applicable laws of the Commonwealth. The impact analysis shall identify graves and significant historic or cultural resources to be impacted, including, but not limited to, areas, districts, sites, structures and objects, locally designated as historic or culturally significant, or listed or determined eligible by the Department of Historic Resources' evaluation team for listing on the state and federal historic registers. If such resources are identified, the analysis shall include a proposed treatment plan to preserve, protect, and/or enhance these resources through avoidance, minimization or mitigation.~~

Sec. 22-28-21. Groundwater monitoring.

~~Groundwater monitoring must take place prior to the start of construction and upon completion of construction throughout the project area. After the utility-scale solar generation facility begins operations, groundwater monitoring shall take place every five years and upon completion of decommissioning. Results from all groundwater monitoring shall be provided to the Planning Director.~~

~~Sec. 22-28-22. Emergency response plan.~~

- ~~(A) Prior to completion of construction, the owner or operator of the facility shall provide the Planning Director with an emergency management plan for the facility.~~
- ~~(B) The goal of this emergency response plan is to provide safety guidelines and procedures for potential emergency-related incidents during all phases of the life of the facility (construction, operation, and decommissioning).~~
- ~~(C) The owner or operator of a facility must coordinate with the Fluvanna County Coordinated Fire and Rescue System to provide materials, education, and/or training on how to safely respond to on-site emergencies, and to develop, implement, periodically update, and perform exercises on an emergency response plan.~~
- ~~(D) Emergency personnel must be provided a Knox box or code to access the property in case of an on-site emergency.~~
- ~~(E) Training shall be provided and updated (i) whenever significant modifications and/or repairs are made to the facility and (ii) at the request of the County Fire Chief.~~

~~Sec. 22-28-23. Special use permit application requirements.~~

- ~~(A) All special use permit applications for utility-scale solar generation facilities must contain the following information:
 - ~~(1) *Project narrative.* A detailed narrative shall identify the following:
 - ~~a. The applicant, facility owner, site owner and operator;~~
 - ~~b. The description of the facility;~~
 - ~~c. Overview of the project and its location;~~
 - ~~d. Size of the site and project area;~~
 - ~~e. Current use and previous uses (ten years preceding application) of the site;~~
 - ~~f. Estimated time for construction, any phasing schedule, and proposed date for commencement of operations;~~
 - ~~g. Location of staging area;~~
 - ~~h. Planned maximum rated capacity of the facility;~~
 - ~~i. The approximate number, type, and footprint of solar equipment;~~
 - ~~j. Specifications for proposed equipment including materials, color, finish, country of origin and racking type;~~
 - ~~k. Information on ancillary facilities;~~
 - ~~l. How and where the electricity at the facility will be transmitted;~~
 - ~~m. General location of the proposed electrical grid interconnection; and~~
 - ~~n. All adverse partition sales shall be disclosed.~~~~~~

- 2) ~~Concept plan.~~ The concept plan must be prepared by a professional Virginia licensed engineer and shall identify the following:
- a. ~~Identification of subject parcels and property lines;~~
 - b. ~~Identification of required setbacks;~~
 - c. ~~Existing and proposed buildings and structures;~~
 - d. ~~Preliminary locations and heights of solar panels, ground equipment, ancillary equipment and other proposed structures;~~
 - e. ~~Location of proposed fencing, driveways, internal roads, parking and locations of points of ingress/egress;~~
 - f. ~~Location of proposed buffers and screening elements;~~
 - g. ~~Location of substations and electrical cabling from facility to substation;~~
 - h. ~~Location of fencing or other methods of ensuring public safety;~~
 - i. ~~Proposed lighting for the facility;~~
 - j. ~~Aerial imagery showing the proposed location and boundaries of the facility, fenced areas, ingress/egress and the closest distance to all adjacent property lines and buildings; and~~
 - k. ~~Additional information required by the Planning Director such as a scaled elevation view, photographs of the site, modeling of the project from sensitive locations, and additional information for a technical review of the facility.~~

Sec. 22-28-24. Review of utility scale solar generation facility.

- (A) ~~The County may engage independent third party consultants to review special use permit applications and associated documents for completeness and compliance with applicable County, state and federal laws. Any costs associated with the review shall be paid by the applicant.~~
- (B) ~~Applications for special use permits for utility scale solar generation facilities (USSGFs) are subject to comprehensive plan review under Virginia Code Section 15.2-2232.~~
- (C) ~~For all USSGFs, the applicant must enter into a siting agreement with the County pursuant to Virginia Code Title 15.2, Article 7.3.~~
- (D) ~~In issuing any special use permit for a USSGF, the Board of Supervisors may waive or modify any of the requirements of this article.~~
- (E) ~~The property will be subject to inspection by County officers and employees upon reasonable notice to the owner/operator of the USSGF.~~

Sec. 22-28-25. Decommissioning.

- (A) ~~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;~~
 - a. ~~Anticipated life of project;~~
 - b. ~~Estimated decommissioning cost in current dollars;~~
 - c. ~~How the cost is determined;~~
 - d. ~~Method of ensuring funds will be available for decommissioning and restoration;~~
 - e. ~~Estimation method to keep decommissioning cost current;~~
 - f. ~~Manner in which facility will be decommissioned and the site restored; and~~
 - g. ~~Plan should include statement of disposal or recycling destination for solar panels.~~
- (2) ~~Decommissioning plans shall be updated every five years.~~

~~(B) 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 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.~~

~~(C) Decommissioning surety.~~

- ~~(1) A surety agreement and attendant financial or bond instrument and guarantee for decommissioning, in a form acceptable to the County Attorney, and in amount as determined sufficient by the Board of Supervisors shall be submitted before a building permit or land disturbing permit is issued for the utility scale solar generation facility. Any such surety shall include an automatic adjustment for inflation or as necessary based upon a decommissioning plan update.~~
- ~~(2) Options for surety include cash escrow, performance surety bond, certified check, irrevocable letter of credit or other security acceptable to the County.~~
- ~~(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) The amount of funds required to be guaranteed by the surety must be the full amount of the estimated decommissioning costs without regard to possible salvage value.~~
- ~~(5) An independent professional engineer, selected by the County and paid for by the permit holder, must recalculate the estimated cost of decommissioning every three years, and the amount of the surety shall be updated accordingly.~~
- ~~(6) 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.~~
- ~~(7) 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.~~

~~(D) Damaged or unusable panels.~~

- ~~(1) Damaged or unusable panels or arrays shall be removed from the site within 60 days of removal from service.~~
- ~~(2) In no event shall any damaged or unusable panels or arrays be disposed of in a convenience center or transfer station in the County.~~
- ~~(3) All damaged or unusable solar panels shall be disposed of in a certified recycling center for solar panels.~~

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;

(9) Establish review procedures to ensure that applications for solar facilities are reviewed and acted upon within a reasonable period of time;

(10) 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.

VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1076

An Act to amend and reenact § 15.2-2316.9 of the Code of Virginia and to amend the Code of Virginia by adding in Article 7.3 of Chapter 22 of Title 15.2 a section numbered 15.2-2316.10, relating to siting of battery energy storage projects; commercial solar photovoltaic generation facilities; permitted accessory use.

[H 891]

Approved April 22, 2026

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2316.9 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 7.3 of Chapter 22 of Title 15.2 a section numbered 15.2-2316.10 as follows:

§ 15.2-2316.9. Effect of executed siting agreement; land use approval.

A. ~~Nothing~~ Except as provided in § 15.2-2316.10, nothing in this article shall be construed to exempt an applicant from any other applicable requirements to obtain approvals and permits under federal, state, or local ordinances and regulations. An applicant may file for appropriate land use approvals for the solar project or energy storage project, as applicable, under the regulations and ordinances of the host locality at or after the time the applicant submits its notice of intent to site a solar project or energy storage project as set forth in subsection A of § 15.2-2316.7.

B. Nothing in this article shall affect the authority of the host locality to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.

C. Approval of a siting agreement by the local governing body in accordance with subsection B of § 15.2-2316.8 shall deem the solar project or energy storage project to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.

D. The failure of an applicant and the governing body to enter into a siting agreement may be a factor in the decision of the governing body in the consideration of any land use approvals for a solar project or energy storage project, but shall not be the sole reason for a denial of such land use approvals.

§ 15.2-2316.10. Battery energy storage projects as permitted accessory use to approved solar projects.

A. As used in this section, "special exception" means any special exception or special use permit, conditional use permit, or any other similar approval issued for a solar facility.

B. 1. 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 exception for a solar facility if the battery energy storage project is located within the boundaries of the parcel covered by the existing special exception and has a rated storage capacity that does not exceed 100 percent of the nameplate generating capacity of the associated solar energy facility.

2. Such battery energy storage project shall not require a special exception or be subject to any other local 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 exception associated with the siting agreement for the approved solar project or (ii) state and local tax exemption from which the approved solar project benefits. Nothing in this subdivision shall be construed to affect or alter the state and local tax provisions under § 58.1-3660.

C. A battery energy storage project shall comply with all applicable federal, state, and local safety or fire codes and environmental regulations.

D. Any payment obligations, financial commitments, or other terms contained in the special exception or any associated siting agreement for the approved solar project shall relate and apply only to the approved solar project 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 a host locality to enforce compliance with applicable codes or to ensure the safe operation of the battery energy storage project or (ii) preclude the developer or host locality of a battery energy storage project from negotiating a siting agreement.

2. That any battery energy storage project for which an initial interconnection request has been filed with an electric utility or a regional transmission organization prior to July 1, 2030, and is constructed pursuant to § 15.2-2316.10 of the Code of Virginia, as created by this act, shall be subject to the applicable local ordinance and regulation in effect on July 1, 2026, except as modified under § 15.2-2316.10 of the Code of Virginia, as created by this act.

VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1068

An Act to amend and reenact §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 of the Code of Virginia, relating to local regulation of solar facilities; special exceptions.

[H 711]

Approved April 22, 2026

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2241.2, 15.2-2288.7, and 15.2-2288.8 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2241.2. Bonding provisions for decommissioning of solar energy equipment, facilities, or devices.

A. As used in this section, unless the context requires a different meaning:

"Decommission" means the removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the locality to be subject to § 15.2-2232 and therefore subject to this section. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

"Solar energy equipment, facilities, or devices" means any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight.

B. As part of the local legislative approval process or as a condition of approval of a site plan, a locality shall require an owner, lessee, or developer of real property subject to this section to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon the following terms and conditions: (i) if the party that enters into such written agreement with the locality defaults in the obligation to decommission such equipment, facilities, or devices in the timeframe set out in such agreement, the locality 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, and (ii) such owner, lessee, or developer provides financial assurance of such performance to the locality 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 locality; 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.

C. *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 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 locality any time there is project ownership outside of the current developer. Notice shall be provided to the local government within 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.*

§ 15.2-2288.7. Local regulation of 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 local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property zoned residential 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 § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned residential, including any solar facility 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 any applicable

zoning regulations of the locality.

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 local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned agricultural and to be operated under § 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 § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned agricultural, including any solar facility 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 any applicable zoning regulations of the locality~~ *considered pursuant to § 15.2-2288.8 unless otherwise permitted by right.*

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 local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned commercial, industrial, or institutional 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 § 15.2-2306 where such property is located. Except as otherwise provided herein, any other solar facility proposed on property zoned commercial, industrial, or institutional, including any solar facility 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 any applicable zoning regulations of the locality~~ *considered pursuant to § 15.2-2288.8 unless otherwise permitted by right.*

D. An owner of real property zoned mixed-use 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 local historic, architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such property is located. ~~Unless a local ordinance provides otherwise, a~~ A ground-mounted solar energy generation facility to be located on property zoned mixed-use 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 § 15.2-2306 where such property is located. Except as provided herein, any other solar facility proposed on property zoned mixed-use, including any solar facility 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 any applicable zoning regulations of the locality.

E. 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 (§ 55.1-1900 et seq.), the declaration of a common interest community as defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any zoning classification in addition to that provided in this section. A locality may also, by ordinance, require a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance in addition to other applicable laws and regulations affecting such disposal.

§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.

A. ~~Any~~ *Unless otherwise provided by right, each locality may grant shall require* a special exception pursuant to §§ 15.2-2204, 15.2-2286, and 15.2-2288.7 or a siting agreement pursuant to § 15.2-2316.7 and include in its zoning ordinance ~~reasonable~~ regulations and provisions *consistent with this section* for a special exception as defined in § 15.2-2201, for any solar photovoltaic ~~(electric energy)~~ project or energy storage

project. For the purposes of this section, "energy storage project" means 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 photovoltaic project" means a ground-mounted solar facility with a generating capacity of one megawatt 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.

Any special exception granted pursuant to this section is an amendment to the zoning ordinance pursuant to subdivision A 7 of § 15.2-2286 and shall comply with the following criteria. Where numerical ranges are attached to criteria, localities may choose to establish an ordinance that specifies any number within the applicable range that they deem appropriate for their community. In the issuance of a special exception, a variance from these ordinance criteria may be implemented only with a written agreement of the locality, the property owner or their agent, and the applicant. Nothing in this section shall (i) be construed to relieve projects of the responsibility to comply with all relevant state and federal laws, regulations, and permits, including those related to tree canopy; (ii) require a locality to approve a special exception application considered pursuant to this section; (iii) be construed to prohibit a locality from permitting a solar photovoltaic project or energy storage project by right; or (iv) prohibit the owner of a proposed solar photovoltaic project and a locality from entering into a siting agreement that provides less stringent restrictions than those specified under this subsection.

1. Setback distances shall be measured from the nearest edge of the equipment as follows: (i) between 150 and 200 feet from the nearest point on the outer wall of existing occupied community buildings and dwellings on nonparticipating properties; (ii) between 50 and 100 feet from the outside edge of the roadbed of any road abutting the property; (iii) for projects not greater than 25 megawatts, 50 feet from the edge, and for projects greater than 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 § 62.1-44.122; (iv) for projects of any capacity within Chesapeake Bay Preservation Areas, between 100 and 125 feet from the edge of tidal wetlands, nontidal wetlands, or from the top of bank of perennial streams; and (v) between 50 and 75 feet measured from the nearest shared property line for nonparticipating properties. Nothing in this subdivision shall preclude the owner of a nonparticipating property from waiving the foregoing setback requirements by written agreement. Setbacks shall not be required for internal boundaries between adjacent participating parcels. For purposes of clauses (iii) and (iv), "equipment" is limited to solar panels, racking equipment, and inverters.

2. Fencing for the facility shall comply with § 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 (§ 36-97 et seq.). Vegetative visual screening requirements shall not be required to exceed three feet at planting, shall be between 25 and 50 feet wide, and shall allow for consideration of preexisting natural or manmade visual barriers.

3. The height of solar panels shall not exceed 25 feet above ground when the arrays are at full tilt, except in cases where a height variance is necessary to allow for agrivoltaics activity below or in proximity to the panels. For purposes of this section, "agrivoltaics" means the same as that term is defined in § 10.1-1197.5.

4. Visual impacts of facilities on public parks, scenic rivers and byways, and historic structures or sites listed on or eligible for the National Register of Historic Places or a county register of historic places shall be minimized. A locality may request a viewshed analysis as part of the special exception 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.

5. The facility shall implement light intensity dimming solution technology that provides a means of tailoring the intensity level of lights according to surrounding visibility.

6. The facility shall comply with all Department of Environmental Quality stormwater regulations as established in 9VAC25-880.

7. The facility shall minimize new impervious surface on the site and under its solar panels.

8. Land disturbance, including site grading, construction, and landscaping, shall be conducted in compliance with a stormwater pollution prevention plan. 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. 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.

9. 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. An ordinance may require up to 75 percent vegetative cover with no significant bare areas that is mature enough to survive and will inhibit erosion. The use of native and

naturalized plants shall be encouraged and invasive plants as established pursuant to § 10.1-104.6:2 shall be prohibited. 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. 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. 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.

10. The facility 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. The facility shall prioritize open wildlife access to riparian areas, wetlands, streams, and other areas not in proximity to panels.

11. 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.

12. A locality shall require an applicant to enter into a written agreement to decommission equipment, facilities, or devices pursuant to § 15.2-2241.2.

B. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for an energy storage project. For the purposes of this section, "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.

~~B~~ C. The governing body of such locality 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 conditional use permit, so long as such conditions are reasonably related to the project.

~~C~~ D. Once a condition is granted pursuant to subsection ~~B~~ C, 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.

E. The governing body of such locality shall furnish the State Corporation Commission a record of special exception decisions reached pursuant to this section not more than 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.

2. That the State Corporation Commission shall compile and maintain on the Commission's public website a searchable database of all solar photovoltaic project special exception decisions and the reasons for any adverse decisions made over a period of not less than five years. The Commission shall furnish to each locality a standardized form for submitting decision records by July 1, 2026.

3. That the provisions of this act shall apply to any ground-mounted solar facility with a generating capacity of one megawatt or more for which an application for local approval is filed on or after July 1, 2026, and any such project shall not be governed by any local ordinances inconsistent with this act. Any application for a solar energy facility that has been received and accepted by the relevant authority prior to July 1, 2026, shall be subject to any applicable local ordinances in place at the time the initial application was filed.



COUNTY OF FLUVANNA

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PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Planning Commissioners

From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning

Case: Addendum to Fluvanna County Comp Plan

General Information: This public hearing is to be held on Tuesday June 9, 2026, at 7:00 pm by the Fluvanna County Planning Commission in the Morris Room in the County Administration Building, 132 Main Street, Palmyra, VA 22963.

Requested Action: Recommend approval of an addendum to the 2015 Fluvanna County Comprehensive Plan-2024 Update. This addendum addresses electric transmission infrastructure.

Background Information:

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 line. 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.

The addendum was presented to the Planning Commission during the Work Session at its April 7, 2026, meeting. Revisions were made based on feedback from the Commission. The revised addendum was presented to Commission at its May 12, 2026, meeting. The Commission authorized staff to advertise the addendum for a public hearing with an additional change.

As the Comprehensive Plan is currently undergoing an update, which is not expected to be finished before the end of the calendar year, this addendum would allow the County to have some protections in the current plan against potential effects from electric transmission lines while the update is being completed.

Recommended Motion:

I MOVE THAT THE PLANNING COMMISSION RECOMMEND (APPROVAL/ DENIAL) OF THE ADDENDUM TO THE 2015 FLUVANNA COUNTY COMPREHENSIVE PLAN-2024 UPDATE.

FLUVANNA COUNTY COMPREHENSIVE PLAN ADDENDUM

Electric Transmission Infrastructure and Corridor Policy

I. PURPOSE AND INTENT

Fluvanna County recognizes the growing regional demand for electric transmission infrastructure to support economic development, energy reliability, and emerging high-demand uses. At the same time, the County places a high priority on preserving its rural character, protecting agricultural and forestal lands, and minimizing impacts to existing communities, especially vulnerable communities.

The purpose of this policy is to:

- Establish clear guidance for the siting of electric transmission infrastructure;
- Prioritize the use of existing corridors and previously disturbed areas;
- Minimize impacts to residential areas, agricultural operations, and natural resources;
- Minimize impacts to historic, archeological, cultural, and scenic resources;
- Minimize impacts to vulnerable communities;
- Provide a consistent framework for evaluating proposed transmission projects; and
- Ensure alignment with the County's broader growth management and land preservation strategies.

II. POLICY FRAMEWORK

A. Recognition of Regulatory Authority

The County acknowledges that the approval and siting of electric transmission facilities is subject to review and approval by the Virginia State Corporation Commission (SCC), and may also involve oversight by the Federal Energy Regulatory Commission (FERC).

This policy is intended to guide local land use decisions, provide input during state and federal review processes, and ensure that local impacts are fully considered.

III. PRIMARY SITING PRINCIPLE: USE OF EXISTING CORRIDORS

A. Corridor-First Policy

Electric transmission infrastructure shall prioritize the use of existing transmission corridors, utility easements, and public rights-of-way to the maximum extent practicable.

B. Definition of Preferred Corridors

Preferred corridors may include, but are not limited to:

- Existing electric transmission line corridors;
- Utility easements for electric, gas, water, or telecommunications infrastructure;
- Public rights-of-way, including those owned or maintained by:
 - The Virginia Department of Transportation (VDOT);
 - Other state agencies; and

- Public utility providers;
- But excluding entrance corridors, scenic byways and scenic corridors.
- Previously disturbed or developed linear infrastructure corridors.

C. Co-Location and Consolidation

The County strongly supports:

- Co-location of new transmission infrastructure within or adjacent to existing corridors;
- Consolidation of infrastructure to reduce the proliferation of new corridors; and
- Expansion or upgrade of existing corridors where feasible, rather than creation of new alignments.

IV. AVOIDANCE AND MINIMIZATION OF IMPACTS

A. Residential Areas

Transmission projects should:

- Avoid routing through established residential areas where practicable;
- Avoid routing through vulnerable communities where practicable;
- Maximize distance from homes and community facilities; and
- Minimize visual and noise impacts.

B. Agricultural and Forestal Lands

Transmission projects should:

- Avoid bisecting large agricultural parcels;
- Minimize fragmentation of working farms;
- Maintain access for agricultural operations;
- Be aligned along parcel boundaries or existing infrastructure where possible; and
- Avoid properties that are in a conservation easement.

C. Rural Character and Scenic Resources

Transmission projects should:

- Minimize visibility from scenic rural roadways;
- Avoid ridgelines and prominent visual features where practicable; and
- Maintain the visual integrity of rural landscapes.

D. Environmental Resources

Transmission projects should:

- Avoid sensitive environmental areas where practicable;
- Minimize tree clearing and land disturbance;
- Minimize groundwater and surface water contamination from any herbicides used; and
- Restore disturbed areas to pre-construction or improved conditions.

E. Historic and Cultural Resources

Transmission projects should:

- Avoid historic and cultural resources;
- Minimize visibility of the project from historic and cultural resources;
- Avoid preservation easements for properties containing historic and cultural resources; and
- Avoid cemeteries.

V. EVALUATION OF ALTERNATIVES

Applicants proposing transmission infrastructure are encouraged to:

- Evaluate multiple routing alternatives;
- Demonstrate how the selected route minimizes impacts consistent with this policy; and
- Provide clear justification when new corridors are proposed instead of using existing corridors.

VI. INFRASTRUCTURE AND COMMUNITY IMPACTS

A. Transportation and Public Infrastructure

Transmission projects should:

- Minimize impacts to public roads and infrastructure;
- Coordinate with VDOT and the County on access, construction, and restoration;
- Utilize existing transportation corridors (other than scenic byways and entrance corridors) where feasible.
- Transmission lines 150kv or more in size shall only be located within existing transmission corridors in accordance with Code of Virginia § 15.2-2223(C)(8).

B. Community Engagement

The County supports:

- Early and ongoing engagement with affected property owners;
- Transparent communication regarding project scope, timing, and impacts; and
- Coordination with local officials and staff throughout project development.

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.

VIII. CONSISTENCY WITH COUNTY GROWTH MANAGEMENT STRATEGY

This policy reinforces the County's broader goals to:

- Direct growth into designated growth areas;
- Preserve rural character outside growth areas;
- Protect agricultural and forestal lands from fragmentation; and
- Ensure infrastructure investments align with long-term land use planning.

Transmission infrastructure should be planned and sited in a manner that supports, and does not undermine, these objectives.

IX. IMPLEMENTATION

The policies contained herein shall be implemented through:

- Zoning ordinance provisions, including Special Use Permit requirements;
- Review of development applications;
- Participation in state and federal regulatory proceedings; and
- Coordination with utility providers and state agencies.

X. POLICY INTERPRETATION

This policy is intended to guide land use decisions and provide a framework for evaluating transmission infrastructure proposals. The Virginia State Corporation Commission (SCC) has the final authority in such matters in accordance with state law.



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PLANNING COMMISSION STAFF REPORT

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To: Fluvanna County Planning Commissioners

From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning

Case: Fluvanna County Noise Ordinance

District: Countywide Amendment

General Information: These proposed changes to Chapter 15.2 of the Fluvanna County Code are being presented to the Planning Commission for review.

Requested Action: Make a recommendation to the Fluvanna County Board of Supervisors for changes to Chapter 15.2 of the Fluvanna County Code (Noise Ordinance).

Background Information: Noise regulations are covered in the Fluvanna County Code in Chapter 15.2 – Noise Control. Since this section of the Code is outside of the Zoning and Subdivision Ordinance, it is under the authority of the Board of Supervisors. Consequently, any change to this section of the Code would need to be initiated by the Board

At its regular meeting on February 18, 2026, the Board directed the Commission to review the Noise Ordinance and make recommendations for changes to the Board by June 30, 2026. Subsequently, the Commission has reviewed the Noise Ordinance and discussed possible changes. Those changes are being presented to the Commission tonight for review. The Commission is being asked to make a recommendation on these changes to the Board. If approved, these recommendations would be presented to the Board at its June 17, 2026 meeting.

Recommended Motion:

I MOVE THAT THE PLANNING COMMISSION RECOMMEND CHANGES TO CHAPTER 15.2 OF "THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA" AS PRESENTED TO THE BOARD OF SUPERVISORS FOR CONSIDERATION.

Chapter 15.2 NOISE CONTROL

Sec. 15.2-1. Purpose and intent.

The Board of Supervisors hereby finds and declares that excessive, ~~or 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 an environment of excessive or unwanted **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, ~~or unwanted,~~ **and inadequately controlled** sound as provided herein.

Sec. 15.2-2. Administration and enforcement.

The Sheriff is hereby designated the agent of the Board of Supervisors in the administration and enforcement of this chapter. The Sheriff may be assisted in the enforcement of this chapter by employees of the Department of Zoning, the Department of Engineering and Public Works, and other officers and employees of the County. **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. Prohibited noise generally- Maximum permissible sound levels in Business and Industrial zones.

~~No person shall permit, operate or cause any source of sound or sound generation that is audible in any other person's residence with the doors and windows to such other person's residence closed.~~

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.

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

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 enumerated 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~~7:00 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 to within the dwelling of another person when the door is closed**~~any person other than the players or operators of the instrument, machine or device and those who are voluntarily listening to the sound;~~ 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 11:00 p.m. and 6:00 a.m. or between 6:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays.~~
- ~~(8) The discharge of firearms for target practice, function testing or recreation 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**, except as exempted by the provisions of Section 15.2-7.~~
- (8) Allowing an animal to create howling, barking, whining, meowing, squawking or other such noises which are plainly audible within the dwelling of another person when the door is closed and that take place continuously or repeatedly (i) during a period of at least fifteen (15) minutes in duration between 7:00 a.m. and 9:00 p.m. or (ii) during a period of at least ten (10) minutes in duration between 9:00 p.m. and 7:00 a.m. The provisions of this subsection shall not apply to animal shelters, veterinary offices, or kennels.**

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 ~~6~~⁷:00 a.m. and ~~11~~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(87).
- (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, ~~he~~ **such law enforcement officer** shall have the authority to initiate all necessary proceedings.

Sec. 15.2-9. ~~Reserved~~ 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.

Any person who violates any provision of this chapter may be assessed a civil penalty in accordance with Code of Va., § 15.2-980. The amount of such penalty shall be \$25.00 for the first hour (or part thereof) of continuous violation, plus an additional \$25.00 for each additional hour of continuous violation for the first offense, up to a total of \$250.00; and shall be \$50.00 for the first hour (or part thereof) of continuous violation, plus an additional \$50.00 for each additional hour of continuous violation for each subsequent offense, up to a total of \$500.00.

- (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.**