

TOWN OF AMHERST PLANNING COMMISSION
Wednesday, November 6, 2024
AGENDA

1. **Call to Order** – *Chair Driskill*
2. **Determination of Quorum**
3. **Citizen Comment-** *This time is provided for citizens to bring concerns or comments to the Commission that are not scheduled for a public hearing. This is not meant to be a discussion or an exchange, but rather, an opportunity for citizens to have their concerns be heard.*
4. **Approval of October 2, 2024 meeting minutes** – *Chair- The minutes of the October 2nd meeting are attached.*
5. **Set Public Hearing: Stuart Johnson/End of Vista Drive-** *Stuart Johnson is applying for a rezoning from A-1 to R-1 on 3.47 acres at the end of Vista Drive. Staff recommends that the Planning Commission set a public hearing for the December meeting to consider this request.*
6. **Set Public Hearing: Substantial Accord for Amherst Mountain Biking Club at Brockman Park-** *The Amherst Mountain Biking Club has requested the ability to create additional trails at the Brockman Industrial Park. The Economic Development Authority has heard this request and recommends approval. Staff recommends that the Planning Commission set a public hearing for a determination of substantial accord with the Comprehensive Plan.*
7. **Discussion: Proposed Sign Ordinance-** *Staff has brought forward a revised Sign Ordinance for the Commission’s consideration. At the last meeting, the Commission specifically requested that the Ordinance be comprehensively reviewed. At this meeting, we will review the section, “Signs Exempt from a Permit.”*
8. **Concerns of Commissioners**
9. **Adjournment**

**Town of Amherst Planning Commission
Minutes
October 2, 2024**

A meeting of the Town of Amherst Planning Commission was called to order by Chairperson June Driskill on October 2, 2024, at 7:00 P.M. in the Council Chambers of Town Hall at 174 S. Main Street.

It was noted that a quorum was present as indicated below:

P	June Driskill	P	Michael Driskill
P	William Jones	P	John Vandervelde
P	Anne Webster Day	P	Veda Butcher
P	Clifford Hart		

Town Manager Sara McGuffin was present. Clerk of Council Vicki K. Hunt in her capacity as Secretary, was present remotely.

The Chair opened the floor for citizen comments.

Tim Ware from Amherst Mountain Bike Club was present to request that the Town grant access to additional land for more bike trails. A proposal is in the process of being prepared to present to the Economic Development Authority as requested by the Authority.

Mike Hansen was present on behalf of Amherst Mountain Mike Club. Mr. Hansen presented a map of Brockman Industrial Park indicating areas for proposed beginner and intermediate bike trails.

Sonny Sundarmurthy, Town of Amherst resident, came forward in opposition of a twenty square foot limitation on noncommercial and commercial signs in the proposed sign ordinance and window signs.

There being no one else listed to speak on the citizen comment sign-in sheet, or otherwise, no comments were made.

Mike Driskill made a motion that was seconded by Clifford Hart to approve the minutes of the August 7, 2024, meeting.

There being no discussion the motion carried 7-0 according to the following:

June Driskill	Aye	Anne Webster Day	Aye
Michael Driskill	Aye	John Vandervelde	Aye
William Jones	Aye	Veda Butcher	Aye
Clifford Hart	Aye		

Clifford Hart made a motion that was seconded by Mr. Jones to approve the minutes of the

September 18, 2024, meeting.

There being no discussion the motion carried 7-0 according to the following:

June Driskill	Aye		Anne Webster Day	Aye
Michael Driskill	Aye		John Vandervelde	Aye
William Jones	Aye		Veda Butcher	Aye
Clifford Hart	Aye			

Town Manager McGuffin gave a report on proposed amendments to the sign ordinance stating that consideration should be give to the proposed purpose and intent language, limitations on first amendment signs, size limitation on noncommercial and commercial signs, window signs, and adding an ordinance regulating event signage.

After discussion, the Commission requested Town Manager McGuffin to prepare and present proposed ordinances for event signage.

No action was taken by the Commission and the matter was deferred.

There being no further business, on motion of Clifford Hart, seconded by Mike Driskill, and carried 7-0, the meeting adjourned at 8:10 PM, according to the following:

June Driskill	Aye		Anne Webster Day	Aye
Michael Driskill	Aye		John Vandervelde	Aye
William Jones	Aye		Veda Butcher	Aye
Clifford Hart	Aye			

June Driskill, Chairperson

Attest: _____



DATE 10-24-2024

APPLICATION FOR REZONING
TOWN OF AMHERST
POST OFFICE BOX 280
AMHERST, VIRGINIA 24521
(804) 946-7885

APPLICANT
ADDRESS

Stuart D Johnson OWNER
PO Box 1071 ADDRESS

Estate of Samuel P Massi
127 Vista Dr
Amherst VA 24521

CITY
TELEPHONE NO.

Amherst VA
434-660-1154

CITY
TELEPHONE NO.

942-7603

REPRESENTATIVE

Stuart D Johnson

ADDRESS

PO Box 1071

CITY

Amherst

TELEPHONE NO.

660-1154

LOCATION OF REQUEST

end Vista Dr.

TAX MAP NO.

82-A-47, 96A-1-1-B6, 33

LOT AREA

3.47 acres total

EXISTING ZONING

A-1

PROPOSED ZONING

R-1

STATEMENT BY APPLICANT

wish to rezone the 2 parcels

Applicants are reminded that §18.1-1002 of the Town Code requires signs describing the action requested under this application to be posted on the property.

As (OWNER) (CONTRACT PURCHASER WITH OWNER'S WRITTEN CONSENT, ATTACHED) (OWNER'S AGENT) of the property listed above, I/we hereby petition the Amherst Town Council to rezone the above described property.

[Signature]
Signature of Applicant

10-15-24
Date

PLANNING COMMISSION PUBLIC HEARING

Time

Date

PLANNING COMMISSION ACTION

Zoning Administrator

Date

TOWN COUNCIL PUBLIC HEARING

Time

Date

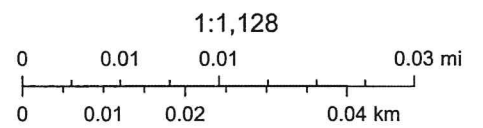
TOWN COUNCIL ACTION

Clerk of Council

Date



October 15, 2024



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DATE 10-24-2024

CERTIFICATE OF OWNER'S REPRESENTATIVE
TOWN OF AMHERST
POST OFFICE BOX 280
AMHERST, VIRGINIA 24521
(804) 946-7885

Property Owner	<u>Estate of Samuel P Massie</u>
Company	
P.O. Box	<u>127 Vista Dr</u>
City, State, Zip	<u>Amherst VA 24521</u>
E-mail Address	
Telephone	<u>434-942-7603</u>
Fax	

This is to confirm that I am the owner of the property described as follows:

Deed Book/Page Number	
Tax Map Number	<u>96A1-1-B 6,33 82-A-47</u>
Street Address	
Other Description	<u>WL 240000102</u>

and that I hereby make, constitute and appoint:

Representative	<u>Stuart D Johnson</u>
Company	
P.O. Box	<u>1071</u>
City, State, Zip	<u>Amherst VA 24521</u>
E-mail Address	<u>stuart.johnson@CSEonline.net</u>
Telephone	<u>434-660-1154</u>
Fax	

my true and lawful agent and in my name, place and stead giving unto this individual full power and authority to do and perform all acts and make all representation necessary, without any limitation whatsoever, to make application for zoning change(s), special use permit(s), and/or variance(s) for the property referenced herein. The right, powers, and authority of said agent herein granted shall commence and be in full force and effect as of the date this is signed and shall remain in full force and effect thereafter until actual notice is received by the Town Manager of the Town of Amherst stating that the terms of this power have been revoked or that another individual has been appointed as my representative.

Lewis C. Addison, Esq. (SEAL)
Owner

STATE OF VIRGINIA AT LARGE, TO WIT:
CITY/COUNTY OF Amherst

I, Joy Williams Long, a Notary Public in and for the State of Virginia At Large do hereby certify that Lewis C. Addison signed the foregoing instrument before me this 24th day of October, 2024.

Joy Williams Long
Notary Public

My Commission Expires: 11-30-2026

JOY WILLIAMS LONG
NOTARY PUBLIC
Commonwealth of Virginia
Registration No. 7769351
My Commission Expires 11-30-2026

Chapter 24 – Zoning and Subdivisions

Article IX - Signs

~~Sec. XX.XX24-571. Purpose and intent.~~

The purpose and intent of this section XX include, but are not limited to, the following:

(a) ~~The Town Council finds that signs are a separate and distinct use of the property upon which they are located and affect the uses and users of adjacent streets, sidewalks, and other areas open to the public; and that signs are an important means of communication for businesses, organizations, individuals, and government. The Council also finds that signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation; and that the unregulated erection and display of signs constitute a public nuisance detrimental to the public health, safety, convenience, and general welfare. Therefore, the purpose of this section is to establish reasonable regulations pertaining to the time, place, and manner in which outdoor signs and window signs may be erected and maintained in order to:~~

- ~~1. Preserve the rights of free speech and expression;~~
- ~~2. Promote the general health, safety, and welfare, including the creation of an attractive and harmonious environment;~~
- ~~3. Protect the public investment in the creation, maintenance, safety, and appearance of its streets, highways, and other areas open to the public;~~
- ~~4. Improve vehicular and pedestrian safety by avoiding saturation and confusion in the field of vision and by directing and controlling vehicular traffic and pedestrians;~~
- ~~5. Protect and enhance the Town's attractiveness to tourists and other visitors as sources of economic development; and~~
- ~~6. Protect property values.~~

(b) ~~The Town Council finds that the regulations in this section advance the substantial governmental interests identified herein and are the minimum amount of regulation necessary to achieve them, provided further that:~~

- ~~1. The Town Council finds that the provisions in this section XX.XX that separately classify warning signs advance the compelling governmental interest of protecting vehicular and pedestrian safety.~~
- ~~2. The Town Council finds that the provisions in this section XX.XX that separately classify directional signs advance the compelling governmental interest of protecting vehicular and pedestrian safety.~~
- ~~3. The Town Council finds that the provisions in this section XX.XX that separately classify address signs advance the compelling governmental interest of ensuring that emergency vehicles are able to locate persons and buildings in emergency situations.~~

(c) ~~Many of the signs allowed by this section XX.XX are situational, and the likelihood of multiple simultaneous situations arising on a lot at any particular time is remote. Therefore, the Council finds that the number of signs allowed on a lot is reasonable and allows alternative channels of communication as situations arise without adversely impacting the purposes of this section.~~

State law reference(s)—Va. Code § 15.2-2280.

• ~~Sec. 24 571. Intent.~~

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The intent of this section is to establish limitations on signs to ensure that they are appropriate to the neighborhood, building or use to which they are appurtenant and are adequate, but not excessive, for their intended purpose as a means of communication without adverse impact on the visual character of the area; to ensure that signs are compatible with their surroundings; to maintain and enhance the aesthetic environment of the town and its entrance corridors; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; to avoid visual clutter that is potentially harmful to traffic and pedestrian safety, property values, and community appearance; to establish reasonable time, place, and manner provisions to facilitate the appropriate exercise of free speech; and to enable the fair and consistent enforcement of these sign regulations. Any display of off-premises signs is considered inappropriate to the character and sound development of the town, and it is intended by this article that street and highway rights-of-way in the town shall not be made available for such display unless erected and maintained by the town or another governmental entity. It is the policy of the town that the purpose of commercial signs is to attract patrons onto the site of business activity and not for brand promotion, advertising goods and services, or directing traffic to other locations.
(Zoning Ord. 2003, § 18.1-908.01)

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Sec. 24-572. Applicability.

This section ~~XX.XX~~ Article IX shall apply as follows:

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- (a) General. The requirements of section ~~XX.XX~~ Article IX shall apply to all outdoor signs and window signs that are visible from beyond the boundaries of the lots on which they are located. Each sign subject to this section ~~XX~~ Article IX shall comply with all regulations applicable to that sign.

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State law reference(s)—Va. Code § 15.2-2280.

Section 24-573. Administration.

The following provisions apply in the administration of this Article IX:

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- (a) Compliance with all requirements. Each sign authorized by section ~~XX.XX~~ Article IX shall comply with all applicable requirements of section ~~XX.XX~~ Article IX and all other applicable requirements of this chapter. No sign lawfully erected prior to (date of adoption) shall be altered or moved, except in compliance with the provisions of section 4.15 and all other applicable requirements of this chapter.
- (b) Noncommercial copy in lieu of commercial copy. Each sign authorized by section ~~XX.XX~~ Article IX may contain any copy that is noncommercial speech in lieu of, or in addition to, any copy that is commercial speech. Noncommercial speech contained on a permanent sign in connection with commercial speech shall be counted towards the sign size limitations.
- (c) Severability. It is hereby declared to be the intention of the Town Council that the sections, subsections, paragraphs, sentences, clauses, and phrases of section ~~XX.XX~~ Article IX are severable. If any section, subsection, paragraph, sentence, clause, or phrase is declared to be unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses, and phrases, of section ~~XX.XX~~ Article IX. The Town Council further declares its intention that, if any regulations in section ~~XX.XX~~ Article IX pertaining to warning signs, directional signs, address signs, or signs containing copy that is commercial speech are invalidated as being content based and not justified by a compelling governmental interest, the remaining provisions of section ~~XX.XX~~ Article IX remain in full force and effect.

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Sec. 24-574.2. Calculation of sign area.

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Sign area shall be calculated as the area within a single rectangle, triangle, or circle and shall include all letters, figures, graphics or other elements of the ~~sign together with the framework or background of the sign~~. Double-faced signs (two sign faces back-to-back at not more than a 60-degree angle) shall be counted as one sign.

(Zoning Ord. 2003, § 18.1-908.02)

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Sec. 24-575. Signs shall pertain to the property.

Any commercial message carried by permitted signs shall pertain to the business located on the same premises as the sign; or to any otherwise lawful noncommercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale, provided that signs erected on contiguous properties with the same owner may pertain to a business located on any such contiguous property. Billboards and other off-premises signs are prohibited except as expressly permitted by this article.

(Zoning Ord. 2003, § 18.1-908.03)

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State law reference(s)—Va. Code § 15.2-2280.

Sec. 24-576. Permit required.

~~(a) (a)~~ *Compliance.* No sign, except those qualifying for permit exceptions, shall be constructed, erected, relocated, ~~expanded~~ expanded, or otherwise altered until a sign permit has been obtained from the zoning administrator in accordance with the provisions of this section.

~~(b) (b)~~ *Permit exceptions.* A permit shall not be required for the following signs, but they shall be subject to all other applicable provisions of this article:

1. ~~(1)~~ Repainting or refacing an existing sign or minor nonstructural repairs.
2. ~~(2)~~ Signs specifically excluded from permit requirements.
3. ~~(3)~~ Signs permitted in all sign districts as outlined in section 24-576.

(Zoning Ord. 2003, § 18.1-908.04)

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Sec. 24-577. Signs exempt from obtaining a sign permit.

Signs not required to obtain sign permit; subject to all other applicable requirements. Each sign classified in this subsection may be erected, altered, replaced, or relocated without first obtaining a sign permit, provided that it complies with all applicable requirements of this ~~section~~ Article IX and the following:

(a) Temporary signs. Temporary signs, which shall be nonilluminated and limited to the following types:

1. *When buildings are under construction or sites are under development, signs may be displayed provided that they are removed upon issuance of a certificate of occupancy. The maximum sign area of each such sign shall be 32 square feet.*
2. *When a property is offered for lease or for sale, signs may be displayed provided that they are removed within five days of the date of closing or within five days of the beginning of the lease.*
 - a. *In the residential sign and mixed use districts, the maximum aggregate sign area shall be four square feet and the maximum height shall be 12 feet.*

b. In the commercial and industrial sign district, the maximum aggregate sign area shall be 32 square feet and the maximum height shall be 12 feet.

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e-3. When a business in the mixed use or commercial and industrial sign district opens, temporary building-mounted signs and banners shall be permitted, provided that such sign or signs shall not be displayed for more than 30 days. The maximum aggregate sign area shall be 32 square feet.

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d-4. When a dwelling in a residential sign district is holding a yard sale, signs may be displayed for only 48 hours and only on the property where the yard sale will be held. Maximum aggregate sign area shall be 20 square feet.

5. Temporary noncommercial signs. Signs that contain exclusively noncommercial speech may be displayed on private property, provided that all such signs shall be removed within 24 hours after the last day of the event to which they pertain. The maximum aggregate sign area shall be 20 square feet for each street frontage.

6. Signs in the commercial or mixed use district, at a permitted and licensed business, that are displayed only when open, is attached to the building, does not impede the right of way or obscure vehicular or pedestrian traffic, and are no larger than 15 square feet. No more than one is allowed per business. Alternatively, sidewalk signs are allowed under the same conditions, with a size limitation of six square feet.

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(b) Permanent signs.

1. One sign at each parking lot entrance with no commercial logo or other message and not exceeding three square feet in area.

2. Nonilluminated names of buildings, dates of erection, monumental citations, commemorative tablets, insignia of local, state, or federal government, and like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of a building structure. The maximum size of such sign shall be 32 square feet.

3. Usual and customary signs identifying disabled parking, restrooms, directions, driving instructions or other facilities relating to such places or activities.

4. Signs not visible from adjacent properties or public rights-of-way.

5. Address signs. Address signs or property identification signs that do not exceed four square feet.

6. Advertising vehicles. Advertising vehicles that are:

a. in operating condition;

b. displaying valid license plates;

c. displaying an inspection decal that is either valid or has not been expired for more than 60 days;

d. used as transportation for the business; and

e. parked in an approved parking space or parking area that serves the business, or temporarily parked at another business to actively receive or provide goods or services, such as to load or unload goods, provide on-site services, receive vehicle maintenance and repair, or obtain food for the driver and passengers.

7. Warning signs. Warning signs that do not exceed four square feet.

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8. Flags. Flags containing no commercial message are not regulated.
9. Location on right-of-way. Signs installed on VDOT right-of-way under a VDOT permit. The town will only assist in the VDOT permitting process with town-approved banners installed above South Main Street on the existing banner bracket.
10. Community promotions. Community promotions that do not contain any commercial messages or references and are constructed or displayed on public property under the auspices of a locally based government agency.

Sec. 24-578, 4-15-7 Signs authorized by special use permit; off-site directional signs

The following signs are authorized by a special use permit, provided that a sign permit is also obtained for the sign, the sign complies with all applicable requirements of this section and the following:

(a) Off-site directional signs. A proposed off-site directional sign shall satisfy the following:

1. Eligibility. The owner shall demonstrate to the satisfaction of the zoning administrator that it has exhausted all possible locations and sign types for an on-site directional sign, and that no on-site directional sign face located at the site entrance would be visible from the street providing direct access to the site entrance within 100 feet of the site entrance.

Sec. 24-579, 5-75: Sign districts.

In order to meet the intent of this section, sign districts are hereby created to reflect the character of various areas in the town. These districts are:

- (1) ~~(1)~~ Commercial and industrial sign district. This district is designed to support retail and service businesses in the town's commercial areas. As such, it encompasses all town lands zoned commercial or industrial.
- (2) ~~(2)~~ Mixed use district. This district is designed to support smaller scale retail and service businesses that are consistent with residential development. This district encompasses the central business and transitional zoning districts.
- (3) ~~(3)~~ Residential and agricultural sign district. This district encompasses residential and noncommercial areas to ensure that signage is in keeping with the character of these areas. As such, it includes all town lands not included in the aforementioned sign district.

(Zoning Ord. 2003, § 18.1-908.05)

Sec. 24-581. Signs prohibited in all sign districts.

The following types of signs are prohibited in all sign districts:

- (1) Any sign that impedes sight distance for a VDOT owned right-of-way.
- (2) Any sign that obscures a sign display by a public authority for the purpose of giving traffic instructions or directions or other public information.
- (3) Any sign, except official notices and advertisements, that is nailed, tacked, posted or in any other manner attached to any utility pole or structure or supporting wire, cable, or pipe; or to any tree on any street or sidewalk or to public property of any description.
- (4) Any sign that is attached to or mounted on a roof or projects above the plane of the building facade. This shall include decorative roofs such as a mansard roof.

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- (5) Portable freestanding signs larger than 24 square feet or displayed for more than 60 days per year.
- (6) Except for time and temperature, no sign shall display flashing or intermittent lights, moving signs, ~~inflatable~~inflatables, or other lights of changing degrees of intensity, ~~brightness~~brightness, or color. The light from any illuminated sign shall not cause direct glare into or upon any building or property other than the building or property to which the sign may be related. Neither the direct nor reflected light from an illuminated sign shall be located so as to create a traffic hazard to operators of motor vehicles on public thoroughfares.
- (7) Off-premises signs, other than those specifically permitted.
- (8) Signs that violate state or federal law. Signs that violate state or federal law, including but not limited to:
 - a. A sign that violates any law of the Commonwealth of Virginia related to outdoor advertising, including but not limited to Virginia Code §§ 33.2-1200 to 33.2-1234, inclusive, and 46.2-831.
 - b. A sign that violates any law of the United States related to the control of outdoor advertising, including but not limited to 23 U.S.C. § 131.
 - c. A sign that violates any state or federal law related to Virginia byways or scenic highways.
- (9) Sign that imitates a traffic sign or signal or a road name sign. A sign that imitates an official traffic sign or signal or a road name sign, or conflicts with traffic safety needs due to its location, color, movement, shape, or illumination.
- (10) Pennants, ribbons, spinners, streamers. Pennants, ribbons, spinners, streamers or similar moving devices, whether or not they are part of a sign.
- (11) Sign that produces sound. A sign that produces sound for the purpose of attracting attention regardless of whether the sign has written copy.
- (12) Sign erected in unsafe location. A sign that is erected in a location so as to be unsafe to vehicular or pedestrian traffic.
- (13) *Feather or flutter flags are prohibited, except as allowed as a temporary sign, regulated by 24-576 (1).*

(Zoning Ord. 2003, § 18.1-908.10)

Sec. 24-58277. Signs located in the commercial and industrial sign district.

The following regulations shall apply in the commercial and industrial s sign district:

~~For residential uses in the commercial and industrial sign district, signs shall be regulated as in the residential and agricultural sign district. For all other uses, the following regulations shall apply:~~

- (1) ~~(1)~~ *Freestanding signs.*
 - a. ~~a.~~ Number of freestanding signs permitted: One.
 - b. ~~b.~~ Maximum sign area:
 - 1. ~~1~~ 40 square feet.
 - 2. ~~2~~ For shopping centers of 60,000 square feet or greater of retail space, or single users of 40,000 square feet or greater, 200 square feet total.
 - c. ~~c.~~ Maximum height: 12 feet, or in the case of subsection ~~(4)~~~~b-1~~ b.2 of this section, 25 feet.
 - d. ~~d.~~ Setback: Seven feet.
- (2) ~~(2)~~ *Building-mounted signs in the commercial and industrial sign district.*

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~~a.~~ ~~a.~~ Number of building-mounted signs permitted: Up to four on a single building, with a cumulative area of allowable size as listed in subsection (2)b, or one per business in a shopping center.

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~~b.~~ ~~b.~~ Maximum sign area:

~~1.~~ ~~1.~~ Mounted flat against the building: 60 square feet.

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~~2.~~ ~~2.~~ Projecting configuration: 12 square feet.

~~3.~~ ~~3.~~ For shopping centers or large users, as defined in subsection ~~(1)~~~~b.1~~ ~~b.2~~ of this section, 120 square feet for the center.

~~4.~~ ~~4.~~ Restaurants located in a B-2 district are also permitted to have up to 30 square feet of signage in menu boards, that is not counted against their cumulative sign average.

~~c.~~ Maximum height: All areas of building mounted signs shall be located below the ridge line of a gable roof building or the top of the parapet of a flat-roofed building.

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~~c.~~

(3) Window mounted signs.

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~~a.~~ Number of window signs permitted: Up to two on a single building.

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~~b.~~ Maximum sign area:

~~1.~~ For buildings or units under 5,000 square feet: 10 square feet.

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~~2.~~ For buildings or units over 5,000 square feet: 30 square feet.

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(Zoning Ord. 2003, § 18.1-908.07)

Sec. 24-58378. Signs located in the mixed use district.

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For residential uses in the mixed use district, signs shall be regulated as in the residential and agricultural sign district. For all other uses, the following regulations shall apply:

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~~(1)~~ (1) Freestanding signs.

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~~a.~~ ~~a.~~ Number of freestanding signs permitted: One.

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~~b.~~ ~~b.~~ Maximum sign area: 20 square feet.

~~c.~~ ~~c.~~ Maximum height: Ten feet.

~~d.~~ ~~d.~~ Setback: Seven feet.

~~e.~~ ~~e.~~ Placement requirement: Freestanding signs in this district shall be placed within a grass or landscaped area of at least 200 square feet.

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~~(2)~~ (2) Building-mounted signs in the mixed use sign district.

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~~a.~~ ~~a.~~ Number of building-mounted signs allowed: Up to four on a single building, or one per business in a multi-tenant building.

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~~b.~~ ~~b.~~ Maximum sign area: 60 square feet.

~~c.~~ ~~c.~~ Projecting configuration: 12 square feet.

~~d.~~ ~~d.~~ Maximum height: All areas of building-mounted signs shall be located below the ridge line of a gable roof building or at the top of the parapet of a flat-roofed building.

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(3) Window mounted signs.

a. Number of window signs permitted: Up to two on a single building.

b. Maximum sign area:

1. For buildings or units under 5,000 square feet: 10 square feet.

2. For buildings or units over 5,000 square feet: 30 square feet.

(Zoning Ord. 2003, § 18.1-908.08)

Sec. 24-584.79. Signs located in the residential and agricultural sign district.

The following regulations shall apply in the residential and agricultural sign district:

- (1) *Single-family, duplex and townhouse dwelling units.* One building-mounted or freestanding sign, not exceeding two square feet in area for each dwelling unit, indicating only the street address of the property, shall be permitted.
- (2) *Multifamily buildings.* One or more building-mounted signs, not exceeding in the aggregate ten square feet per building, shall be permitted.
- (3) *Subdivisions, apartment or condominium complexes and planned developments.* Freestanding signs, with maximum total area of 24 square feet, shall be permitted. No more than two signs shall be permitted for each street frontage.

(Zoning Ord. 2003, § 18.1-908.09)

Sec. 24-585. 4-15-18 Sign maintenance.

Each sign, including the sign structure, shall be maintained at all times in a safe structural condition and in a neat and clean condition, and shall be kept free from defective or missing parts. If the sign is illuminated, all lighting fixtures and sources of illumination shall be maintained in proper working order.

State law reference(s)—Va. Code § 15.2-2280.

Sec. 24-586. Sign alteration, repair, or removal; when required.

A sign shall be altered, repaired, or removed in any of the following cases:

- (a) *Alteration, repair, or removal; unsafe or endangering condition.* If a sign becomes structurally unsafe, as determined by the building official, so as to become a danger to the public health or safety, the zoning administrator may order the owner or lessee of the lot on which the sign is located to alter, repair, or remove the sign within a time period determined by the zoning administrator to be appropriate under the circumstances. If the owner or lessee fails to comply with the order, the zoning administrator may cause the sign to be removed or initiate such other action as may be necessary to compel the alteration, repair, or removal of the sign.
- (b) *Removal; unlawful erection of sign.* If a sign is erected on private property in violation of this Article IX the zoning administrator shall order the owner or lessee of the lot on which the sign is located to remove the sign within a time period determined by the zoning administrator to be appropriate under the circumstances. If the owner or lessee fails to comply with the order, the zoning administrator may cause the sign to be removed or initiate such other action as may be necessary to compel compliance with the provisions of this Article IX. If a sign is erected on public property, including a public right-of-way in violation of this Article IX, any town employee may immediately remove the sign without prior notice to the owner of the sign.

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(c) Removal of copy on sign face; discontinuance of pertinent use. If the use of a structure or property is discontinued, the copy on each sign face that is commercial speech shall be removed by the owner or lessee of the property on which the sign is located within two years from the date of the discontinuance of the use. If the owner or lessee fails to remove the copy, the zoning administrator may cause the copy to be removed or initiate such other action as may be necessary to compel compliance with the provisions of this Article IX.

(d) Liability for cost of removal by town. If the zoning administrator causes a sign or copy on a sign face to be removed under the provisions of this section, the cost of such removal shall be chargeable to the owner of the sign or the owner or lessee of the lot on which the sign is located.

(e) Custody and destruction of removed signs. Cardboard and paper signs that have been removed by the town pursuant to this section shall be destroyed upon removal. All other signs which have been removed by the town shall be held for a period of 30 days and may be reclaimed by the sign owner within that time by reimbursing the town for the costs of removal. If such a sign is not reclaimed within the 30-day period, it shall be deemed to have been forfeited by the owner and shall be destroyed.

(§ 4.15.09.4 (part), 12-10-80; 7-8-92; § 4.15.23, Ord. 01-18(3), 5-9-01; § 4.15.19, Ord. 15-18(11), 12-9-15)

State law reference(s)—Va. Code § 15.2-2280.

Sec. 24-587. Nonconforming signs.

(a) A nonconforming sign may continue, subject to the provisions, conditions, and prohibitions set forth herein:

(b) Alteration of copy. The copy of a nonconforming sign may be altered by refacing the sign.

(c) Alteration of sign structure. A nonconforming sign shall not be structurally altered; provided that the zoning administrator may authorize a nonconforming sign to be structurally altered so that it is less nonconforming and further provided that each time the nonconforming sign is structurally altered, the sign area and sign height shall be reduced by at least 25 percent of its current area and height until the sign area and the sign height are conforming.

(d) Consolidation. Two or more nonconforming signs on a lot may be consolidated into a single sign; provided that the resulting sign area and sign height shall be reduced by at least 25 percent of its current area and height until the sign area and the sign height are conforming, and further provided that each time the resulting nonconforming sign is thereafter consolidated with another nonconforming sign on the lot, the resulting sign area and sign height shall be reduced by at least 25 percent of its current area and height, until the sign area and the sign height are conforming. A sign resulting from the consolidation of nonconforming signs shall not have greater sign height than any of the signs that were consolidated.

(e) Discontinuance of copy on sign face. A nonconforming sign without copy on its sign face for a continuous period of two years shall lose its nonconforming status and be removed by the owner of the lot on which the sign is located.

(f) Discontinuance of use or structure to which sign pertains. A nonconforming sign containing copy that is commercial speech shall lose its nonconforming status and be removed by the owner of the lot on which the sign is located if the use to which the sign pertains is discontinued for more than two years.

(g) Enlargement or extension. A nonconforming sign shall not be enlarged or extended.

(h) Maintenance. A nonconforming sign shall be maintained in good repair and condition.

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(i) Relocation. A nonconforming sign shall not be moved to another location on the same lot or to any other lot; provided that the zoning administrator may authorize a nonconforming sign to be moved to a location that is more in compliance with the purpose and intent and the requirements of this section Article IX.

(j) Replacement or restoration. A nonconforming sign may be replaced or restored only as provided below:

1. A nonconforming sign that is destroyed or damaged by the owner of the sign or the owner of the lot on which the sign is located shall not be replaced or restored unless it complies with this Article IX.
2. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the lot on which the sign is located, to an extent the destruction or damage exceeds 50 percent of its appraised value, shall not be replaced or restored unless it complies with this Article IX.
3. A nonconforming sign that is destroyed or damaged as a result of factors beyond the control of the owner of the sign and the owner of the lot on which the sign is located, to an extent the destruction or damage is 50 percent or less of the appraised value, may be replaced or restored provided that the replacement or restoration is completed within two years after the date of the destruction or damage, and the sign is not enlarged or extended.

(k) Removal if in unsafe condition. A nonconforming sign declared to be unsafe by a public safety official because of the physical condition of the sign, including an unsafe physical condition arising from the failure of the sign to be maintained, shall be removed.

(l) Registry of nonconforming signs. The owner of any lot on which a nonconforming sign shall, upon notice from the zoning administrator, submit verification within 60 days that the sign was lawfully in existence at the time of adoption of these sign regulations. The zoning administrator shall maintain a registry of such nonconforming signs.

State law reference(s)—Va. Code § 15.2-2280.

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Sec. 24-2. Definitions and rules of construction.

- (a) *Generally.* Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense includes the future tense. The singular number includes the plural and the plural includes the singular. The masculine gender includes the feminine and neuter genders. The term "person" includes a firm, corporation, association, organization, trust or partnership. The term "lot" includes plot or parcel. The term "building" includes structure. The term "shall" is always mandatory. The term "used" or "occupied," as applied to any land or building, shall be construed to include the terms intended, arranged, or designed to be used or occupied.
- (b) *Specific definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Accessory building, use or structure means a building, use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. Examples of accessory uses are private garages, storage sheds, playhouses and swimming pools and satellite dish antennas.

Administrator, zoning, means the town manager or his designee who is charged with the enforcement of this chapter.

Alley means a passage or way open to the public or for private travel, generally affording a secondary vehicular access to abutting lots or upon which service entrances or buildings abut, and not intended for general traffic.

Animal hospital. See *Veterinary hospital.*

Antique and gift shop means a commercial establishment which is used primarily for the indoor display and retail sale of merchandise, primarily furniture, silverware, glassware and other curios and collectibles, the value of which is derived from age, rarity and materials of such items and/or the workmanship of a particular historic period; flea markets and furniture stores shall not be included.

Apartment means a unit in a multifamily dwelling for a single family in which separate access to the outside is usually not provided, and in which the major orientation of the unit is horizontal rather than vertical; or any condominium unit of similar physical character, appearance and structure.

Automobile graveyard means any lot or place, or part thereof, which is exposed to the weather and upon which more than five motor vehicles of any kind incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

Automobile service station means any area of land, including structures thereon, used for the retail sale of gasoline or oil, automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but excluding painting, major repair, or automatic washing.

Base map means a document on which property lines are depicted to the most accurate scale available.

Bed and breakfast lodging means a single-family dwelling containing sleeping and breakfast accommodations as an accessory use to the principal use. Such lodging shall have no more than five room accommodations for transient persons and wherein a charge is normally paid for such accommodations.

Board of appeals. The town board of zoning appeals as established under this chapter.

Buffering or screening means any device or natural growth, or a combination thereof which shall serve as a barrier to vision or noise between adjoining properties wherever required by this chapter. Whenever used for screening or buffering purposes, the term "natural growth" shall be taken to mean evergreen trees, bushes and shrubbery.

Buildable area means the area of a lot remaining after required yards, open spaces, parking, loading and access areas have been provided.

Building means any structure designed or intended for support, enclosure, shelter, or protection of persons, animals, chattels or property.

Building, height of, means the vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of roof surface of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; in the case of a building set back from the street line 35 feet or more, the building height is measured from the average elevation of finished ground surface along the front of the building; and on corner lots exceeding 20,000 square feet in area, the height of the building may be measured from either adjoining curb grade.

Building inspector means the duly appointed building official responsible for enforcing the provisions of the Uniform Statewide Building Code within the town or his designated representative or agent.

Building, main, means a building in which is conducted the main or principal use of the lot on which said building is situated.

Building permit means a permit which is issued by the building inspector before a building or structure is started, improved, enlarged or altered as proof that such action is in compliance with the county building code.

Bulk storage means aboveground storage of liquid in excess of 1,500 gallons.

Cemetery means any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

State law reference(s)—Mandatory provisions, Code of Virginia, §§ 15.2-2288.5, 54.1-2310.

Childcare center means a facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardians during part of the day only, and meeting the licensing requirements for childcare centers of Code of Virginia, title 22.1, ch. 14.1, art. 3 (Code of Virginia, § 22.1-289.10 et seq.), as amended.

Circuit court means the Circuit Court of Amherst County, Virginia.

Club, private, means an establishment operated for the social, education, or recreation benefit of the members thereof, in which no enterprise is conducted, except for the convenience of the members thereof and their guests.

Commercial means a wholesale, retail, or service business activity established to carry on trade for a profit.

Commission means the planning commission of the town.

Condominium means a single unit in a multiple unit residential or commercial structure that is offered for sale and shall be part of a condominium project with general common elements as defined in Code of Virginia, § 55.1-2000, as amended.

County means Amherst County, Virginia.

Craft brewery means a facility that produces and distributes beer or other fermented malt beverages in quantities not exceeding 15,000 barrels (15,000 BBL) per year and at which beer, ale or other fermented beverages are served to customers for on-premises or off-premises consumption and at which food may be served.

Craft distillery means a facility that produces and distributes spirits, as defined in the Alcoholic Beverage Control Act, in quantities not exceeding 36,000 gallons of alcoholic beverages other than wine or beer per calendar year and at which such spirits produced at such facility are served to customers for on-premises or off-premises consumption and at which food may be served.

Cul-de-sac means a street with only one outlet terminating in a circular turning area.

Dance hall means a building open to the general public for purpose of providing a place for dancing and where an admission is charged for the purpose of making a profit, except when sponsored by civic, charitable or nonprofit groups.

Development means a tract of land developed or to be developed as a unit under single ownership of unified control which is to be used for any business or industrial purpose or is to contain five or more residential dwelling units.

District means a section or area of the town within which the zoning regulations are uniform.

Domestic use means normal family or household use of water, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

Drainfield space means an area set aside and dedicated for use in the absorption and evaporation of fluid from an initial and/or existing on-site sewerage system.

Dwelling means any building or portion thereof which is designed for or used for residential purposes.

Dwelling, multifamily, means a building designed for or occupied exclusively by three or more families living independently of each other in three or more dwelling units; the term "multifamily dwelling" includes condominiums of similar physical appearance, character and structure.

Dwelling, semi-detached, means a residential unit on its own individual lot attached to one, and only one, other residential unit which is separated from the other unit by a common vertical wall with no openings.

Dwelling, single-family, means a building designed for and occupied exclusively by one family in a single dwelling unit.

Dwelling, two-family (duplex), means a building designed for or occupied exclusively by two families living independently of each other in two dwelling units.

Dwelling unit means one or more rooms in a residential building or in a mixed building which are arranged, designed, used or intended for use by one family, and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

Easement means a grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person.

Emergency services means emergency services include fire, police, rescue squads and other similar activities.

Engineer means a person designated as a licensed professional engineer by the Commonwealth of Virginia.

Family, except as provided in Code of Virginia, §§ 15.2-2292—15.2-2292.1, means one or more persons occupying a single dwelling unit, provided that, unless all members are related by blood or marriage, no such family shall contain more than five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family.

Flood means a general temporary inundation of lands not normally covered by water that are used or usable by man. Concurrent mudslides shall be deemed to be included in this definition.

Flood hazard areas means the maximum area of the floodplain which is likely to be flooded once every 100 years or for which mudslides can be reasonably anticipated.

Flood, 100-year, means a flood that, on the average, is likely to occur once every 100 years; that has one percent chance of occurring each year, although the flood may occur in any year.

Floodplain means an area, usually a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

Floodproofing means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding required for new construction in the floodway by the county building code.

Floodway means the channel of a stream or other watercourse and the adjacent land areas required to carry and discharge the waters of the 100-year flood.

Floor area means the sum of the gross areas of the several floors of a building or buildings measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings.

(1) In particular, floor area includes:

- a. Basement space, except such space in a basement which has at least one-third of its height below curb level, and which is located in a residential building with not more than two stories entirely above curb level;
- b. Elevator shafts or stairwells at each floor;
- c. Floor space in penthouse;
- d. Attic space (whether or not a floor has been laid) providing structural headroom of eight feet or more;
- e. Floor space in interior balconies or mezzanines;
- f. Floor space in open or roofed terraces, exterior balconies, breezeways, or porches, if more than 50 percent of the perimeter of such terrace, balcony, breezeway, or porch is enclosed;
- g. Any other floor space used for dwelling purposes, no matter where located within a building, when not specifically excluded;
- h. Floor space in accessory buildings except for floor space used for accessory off-street parking.

(2) Floor area of a building shall not include:

- a. Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths;
- b. Elevator or stair bulkheads, accessory water tanks, or cooling towers;
- c. Uncovered steps;
- d. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than eight feet;
- e. Floor space in open or roofed terraces, exterior balconies, breezeways, or porches, provided that not more than 50 percent of the perimeter of such terrace, balcony, breezeway, or porch is enclosed;
- f. Unenclosed floor space used for permitted or required accessory off-street parking spaces;
- g. Floor space used for accessory off-street loading berths;
- h. Floor space used for mechanical equipment.

Garage, private, means an accessory structure, or a portion of the main building, designed for the storage of automobiles owned and used by the occupants of the main building.

Garage, public, means a building or portion thereof, other than a private garage, designed or used for storing motor driven vehicles.

Gardening means any use of land unenclosed except for fencing for the raising of grass, flowers, vegetables, crops, trees, or other botanical objects of natural growth, but not including accessory structures used for the same purpose.

Gas means natural gas formed beneath the surface of the earth, including any gas or vapor, or both gas and vapor, indigenous to an oil stratum and produced from such stratum with oil, obtained from gas or combination wells regardless of its chemical analysis.

General convenience store means a single store, the ground floor area of which is 4,000 square feet or less and which offers for sale primarily most of the following articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a country general store and no more than four gasoline and/or diesel dispensers shall be permitted, subject to the restrictions in section 24-473(d) and (e).

Greenhouse means a structure for the raising of plants or flowers indoors for private or retail purposes.

Grocery store means a single store building with a ground floor area of not more than 10,000 square feet which primarily offers for sale food to be prepared and consumed off the premises.

Hazardous waste means solid or liquid waste which, because of concentration, quantity, physical, chemical or infectious characteristics may:

- (1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Health department means the county health department or its designated agent or representative.

Home occupation means an accessory use of a dwelling unit, located either in the main building or an accessory building, for financial gain or support involving the manufacture, provision, or sale of goods and/or services which is clearly incidental to or secondary to the residential use of a dwelling unit.

Highway, primary means all state highways in the state highway system so designated by the state highway and transportation commission (board) under requirements of Code of Virginia, § 33.2-214, as amended.

Highway, secondary, means all roads of the Commonwealth of Virginia not currently in the primary system of state highways.

Hospital means and includes sanatorium, preventorium, clinic or rest home, and is deemed to mean a place for the treatment of human disorders and ailments; an institution providing health services for inpatient medical or surgical care, care of sick or injured, and related laboratories, offices, and outpatient facilities and services.

Industrialized building means a combination of one or more sections or modules, subject to state regulations and including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, to comprise a finished building. Manufactured homes, defined in Code of Virginia, § 36-85.3, as amended and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act, shall not be considered industrialized buildings for the purposes of this chapter.

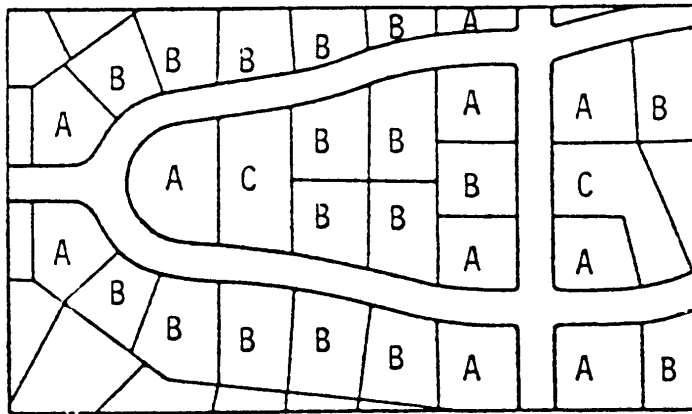
Jail means any institution operated by or under authority of any local, regional, state or federal governmental authority whether obtained by purchase, lease, construction, reconstruction, restoration, conversion, improvement, alteration, repair or other means or any physical betterment or improvement relating to the housing of inmates. The term "jail" includes prisons and correctional facilities.

Junk means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste; or junked, dismantled or wrecked automobiles, or parts thereof; iron, steel and other old or scrap ferrous or nonferrous material.

Kennel means any location where raising, grooming, caring for or boarding of dogs, cats or other small animals for commercial purposes is carried on. Outdoor runs properly screened are included.

Lot means a measured portion or parcel of land separated from other portions or parcels by description in a site plan or a recorded plat, or by metes and bounds, intended to be a unit for the purpose, whether immediate or future, of transfer of ownership or of development or separate use. The term "lot" applies to units of land whether in a subdivision or a development.

This illustrates the basic types of lots.



- A = Corner lot**
- B = Interior lot**
- C = Through (or double frontage) lot**

Figure 1

Lot of record means a lot or parcel of land whose existence, location and dimensions have been legally recorded in the office of the clerk of the circuit court on May 14, 2003.

Lot, corner, means a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Item A in Figure 1.)

Lot coverage means the ratio of the horizontally projected area of the main and accessory buildings on a lot to the total area of the lot, except where otherwise defined herein.

Lot frontage width means the distance between side property lot lines measured at the front lot line.

Lot, interior, means a lot other than a corner lot with only one frontage on a street. (Item B in Figure 1.)

Lot line (property line) means the boundary of a lot.

Lot, through, means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Item C in Figure 1.)

Lot width means the average horizontal distance between side property lot lines.

Manufacture and/or manufacturing means the processing and/or converting of raw, unfinished materials or products or either of them into articles or substances of different character or for use for a different purpose.

Manufactured home means a structure subject to federal regulation, which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the travelling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Manufactured home park means any site, lot, or tract of land which contains spaces for parking two or more mobile, manufactured, or modular homes or any combination thereof.

Mixed use development means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

Mobile home means a factory-assembled structure or structures equipped with the necessary service connections and made to be readily moveable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit without a permanent foundation and built before 1976. (See also *manufactured home*, *modular home*, and *industrialized building*.) This unit does not meet the requirements of the Council of American Building Officials (CABO) or the uniform statewide building code Use Group R-4. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the manufactured home placed thereon will be moved from time to time at the convenience of the owner. Mobile homes are allowed only in manufactured home parks.

Modular home means a structure constructed to meet the state requirements of an industrialized building, uniform statewide building code Use Group R-4, and Council of American Building Officials (not a mobile home or manufactured home). As such, a modular home shall be considered the equivalent of a residence built on-site for the purposes of this chapter.

Motel means a building or a group of buildings containing sleeping accommodations for rental primarily to automobile transients and in which ingress and egress to and from each sleeping room is generally to the outside of the building.

Natural resource means and includes soil, sand, gravel, stone or other mineral (other than oil and gas) naturally formed on or beneath the surface of the earth.

Nonconforming lot means an otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located, whether on June 2, 2003, or as a result of subsequent amendments to this chapter.

Nonconforming structure means an otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter, for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments of the ordinance from which this chapter is derived.

Nonconforming use means the otherwise legal use of a building or of a tract of land that does not conform to the use regulations of the ordinance from which this chapter is derived for the district in which it is located, either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments to the ordinance from which this chapter is derived.

Non-public water system means a water system which, as a general rule, does not provide water to the public for drinking or does not meet the requirements for a public water system; or a well used for obtaining water for drinking or domestic use located on an individual lot for the purpose of serving the main dwelling on said lot, with any new well to be at least a Class III-A drilled well as approved by the health department.

Normal pool elevation means the height, above sea level, of the water held in any reservoir as it begins to overflow its spillway structure.

Nursing home means an establishment that provides long-term care services, as defined in Code of Virginia, § 51.5-134, to older persons who reside in such establishment.

Oil means a liquid substance known as crude petroleum oil or petroleum.

On-site sewage system means a sewage system designed not to result in a point source discharge, including individual septic tanks used by the main dwelling on an individual lot, and approved by the health department.

Open space means a yard area which is not used for or occupied by a driveway, off-street parking, loading space, refuse storage space.

Owner means any person, agent, firm or corporation having a legal or equitable interest in the property.

Permanent tributary means any perennial, intermittent stream, including lakes or ponds, which provides natural drainage to a larger body of water, as officially indicated on U.S. Geological Survey topographic maps.

Permitted use means a use of the land which is allowed by right in the zoning district in which the land is situated.

Plat means the schematic representation of land divided or to be divided.

Prescriptive easement means an easement granted to the state department of transportation for the construction and maintenance of public roads owned by said department.

Preserved area means an area containing sensitive lands with features such as steep slopes, stream bottoms, critical viewshed, established trees or other vegetation or public ownership where the town council has determined that such features are worthy of preservation by the inclusion of such in the comprehensive plan. No clearing or grading is allowed in a preserved area prior to specific approval by the town council or planning commission of a rezoning, special use permit or site plan. The minimum of clearing and grading necessary for sanitary sewer mains and other uses may be allowed provided that the approving authority has adequate assurances that appropriate vegetation will be reestablished. For the purposes of this definition, active management of a preserved area in the form of cutting grass or noxious weeds, clearing underbrush, maintaining trees or similar activities shall not be considered clearing or grading.

Professional office means an office for the conduct of a professional use by persons generally engaged in rendering personal, executive, sales or administrative services or activities, including law, medicine, theology, architecture, accounting, engineering, insurance, real estate, stockbrokers, and administrative agencies considered professional in character. Characteristics of a professional office include desks, telephone and computer equipment, filing cabinets, and conference rooms and display areas. The term "professional office," however, does not include repairs or sales of tangible personal property stored or located within the structure nor any use which would create any loud noises or noxious odors, storage of salable materials, construction equipment or construction materials.

Proffer means an offer or proposal to which the property owner, or his agents, commits himself as additional requirements or restrictions on his property.

Public building means a building owned or leased and occupied and used by an agency or political subdivision of the United States of America, the Commonwealth of Virginia, or Amherst County.

Public sewerage system means a sewerage system owned and operated by the town; or any sewerage system resulting in a point source discharge and approved by the health department.

Public utilities means public service structures such as power plant substations; water lines, treatment plants or pumping stations, sewage disposal systems and treatment plants; or such similar operations publicly or privately owned furnishing electricity, gas rail transport, communication or related services to the general public.

Public water supply agency means the administrative organization, department or agency which manages the daily and long-term activities of public water system.

Public water system means a water system owned and operated by the town or any water system for drinking or domestic use, approved by the health department, that generally has at least 15 connections or an average of 25 individuals for at least 60 days out of the year.

Ramada means a structure erected over a mobile home for the purpose of providing shade or shelter.

Residential facility means as provided in Code of Virginia, § 15.2-2291.

Reserve drainfield space means an area set aside and dedicated for future use in the absorption and evaporation of fluid from an on-site sewerage system.

Reservoir means any impoundment of water, owned, operated or controlled by a public water supply agency to provide drinking water to citizens of their community at the present or in the future.

Resident engineer means the resident engineer for the town, employed by the state department of transportation, or his designated agent.

Residential use means a building or part of a building containing dwelling units or rooming units, including single-family or two-family houses, multiple-family dwellings, mobile homes, boardinghouses or roominghouses, dormitories, fraternity or sorority houses or apartment hotels; but not including monasteries, convents, transient accommodations, such as hotels, motels, tourist cabins, or travel trailer parks, or that part of a mixed building used for any nonresidential use, except accessory to residential uses.

Restaurant means any building in which, for compensation, food or beverage are dispensed to persons not residing on the premises including, among other establishments, cafes, delicatessens, refreshment stands, or drive-in facilities.

Retail stores and shops means buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which will serve as illustration only and are not to be considered exclusive: drug store, newsstand, food store, candy shop, milk, dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

Right-of-way means access over or across particularly described property for a specific purpose.

Right-of-way line means the dividing line between a lot, tract, or parcel of land and a contiguous street, railroad, or public utility right-of-way.

Right-of-way, state owned, means the right-of-way owned outright by the state department of transportation on which public roads are constructed and maintained.

Satellite dish antenna means an accessory use that is a combination of:

- (1) Antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites or other extraterrestrial sources;
- (2) A low noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and
- (3) A coaxial cable whose purpose is to carry the signals to the exterior of the building.

Schools means an institution providing full-time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state. School support facilities shall not be included.

School support facilities means facilities which are required to maintain efficient operation of a school or school system but which are not directly related to the academic program of study and which may be characterized by potential nuisance factors such as fuel storage, noise, or vibration. Such supportive facilities

include school system administrative offices, maintenance shops, storage warehouses, vehicle storage lots and the like.

Setback line means a line parallel to a street and extending the full width of the lot for a specified distance at all points from the street right-of-way line, and thus defining an area in which no building or structures or portions thereof may be constructed.

Shopping center means a group of commercial establishments, planned and developed as a unit, with common off-street parking provided on the property, located on a parcel of land ten or more acres in size.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Sign means any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade name or marks, or combinations thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a public business, a commodity, or product, which are visible from any public way ~~and used as an outdoor display.~~

Sign area means the smallest square, rectangle, triangle, circle, or combination thereof, encompassing the entire advertising area, excluding architectural trim and structural supports.

Sign, commercial, means a sign informing or advertising products or activities for sale or profit.

Sign, commercial speech, means any expression—through words, symbols, or images—on a sign that is primarily related to the economic interests of the speaker and its audience. This includes any message that advertises or promotes a business, product, service, or commercial transaction.

Sign, directional, means a sign indicating only the name and direction to a business, farm or activity.

Sign, noncommercial speech, means any expression on a sign that is not related to economic interests or commercial transactions. This includes signs that convey messages about political, religious, social, or personal beliefs, opinions, or causes, as well as other forms of expression that do not propose a commercial activity or transaction, such as directional or safety information.

Sign, on-site, means a sign relating to its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. On-site signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, off-site, means a sign, either free standing or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject not specific to the premises upon which it is located.

Sign, outdoor advertising, means a structural poster panel or painted sign, either free standing or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the premises upon which it is located.

Sign, temporary, means any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other materials with or without frames intended to be displayed for a period of not more than 60 consecutive days.

Sign, window, means any sign containing commercial speech that is placed, painted, or affixed on or within two feet of the interior or exterior surface of a window or glass door of a building, and is intended to be visible from the exterior. This type of sign typically advertises or promotes goods, services, or business activities conducted within the premises.

Special use means a use of the land which may be allowed in a zoning district in which the land is situated subject to the approval of the town council, after a public hearing thereon.

Special use permit means a legislative enactment by the town council authorizing (often with conditions) a special use on a particular lot or lots. The term "zoning certificate for a special use" refers to a special use permit.

Street means a strip of land comprising the entire area within the right-of-way intended for possible use as a means of vehicular and pedestrian circulation to provide access to more than one lot. The term "street" includes road, thoroughfare, parkway, avenue, lane, boulevard, expressway, highway (except as herein defined), place, throughway, square, alley, or however designated with the above-mentioned right-of-way.

Street centerline means a line generally parallel to the right-of-way lines that equally divide the street right-of-way.

Street, half, means a street that does not meet the minimum right-of-way width requirements set forth or referenced in this chapter.

Street, private, means any road, street, highway or other means of vehicular access to a parcel of land not maintained by the state department of transportation (or any other public agency) regardless of ownership.

Street, public, means a strip of land comprising the entire area within the right-of-way intended for public use as a means of vehicular and pedestrian circulation to provide access to more than one lot and which is presently a portion of the state department transportation's street and road system, or is a proposed addition to the state department of transportation's street and road system in which case the improvement of which shall meet the construction standards of the state department of transportation.

Structure means anything constructed or erected, the use of which requires a location on the ground, or attached to something having a location on the ground.

Subdivider means any person owning a tract or parcel of land to be subdivided.

Subdivision means any division of a piece of land or alteration of the boundary lines of any piece of land. The term "subdivision" includes condominiums, wherein the purchaser acquires both ownership of the condominium units and ownership of an interest in common elements.

Surveyor means a land surveyor certified by the Commonwealth of Virginia.

Theater, indoor, means a building designed and/or used primarily for the commercial exhibition of motion pictures to the general public or used for performance of displays, acts, dramas by actors and/or actresses.

Theater, outdoor, means an area not to exceed five acres containing a screen projection booth, refreshment stand, parking spaces and sound transmission devices to individual parking spaces only for the purpose of commercial exhibition of motion pictures.

Time-share means a time-share estate or a time-share use plus its incidental benefits.

Time-share estate means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, coupled with a freehold estate for years in a time-share project of a specified portion thereof.

Time-share instrument means any document, however denominated, which creates the time-share project and program, and which may contain restrictions or covenants regulating the use, occupancy, or disposition of time-shares in a project.

Time-share program (or program) means any arrangement of time-shares in one or more time-share projects whereby the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use in which such use, occupancy, or possession circulates among owners of the time-shares according to a fixed or floating time schedule on a periodic basis occurring over any period of time in excess of five years.

Time-share project means all of the real property subject to a time-share program created by the execution of a time-share instrument.

Time-share unit (or unit) means the real property or real property improvement in a project which is divided into time-shares and designated for separate occupancy and use.

Time-share use means a right to occupy a time-share unit or any of several time-share units during five or more separated time periods over a period of at least five years, including renewal options, not coupled with a freehold estate or an estate for years in a time-share project or a specified portion thereof. The term "time-share use" shall not mean a right to use which is subject to a first-come, first-served space available basis as might exist in a country club, motel, hotel, health spa, campground, or membership or resort facility.

Town means the governmental entity of the town.

Town building code means the uniform statewide building code.

Town comprehensive plan means a document prepared and adopted in accordance with Code of Virginia, title 15.2, ch. 22, art. 3 (Code of Virginia, § 15.2-2223 et. seq.), as amended, for the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town.

Town council means the elected governing body of the Town of Amherst, Virginia.

Town development area means areas defined in the comprehensive plan that are appropriate for higher density development, redevelopment, or infill development due to their proximity to transportation facilities, public water and sewer systems and existing areas of higher density development.

Town manager means the town manager of the town.

Townhouse means a residential unit in a series of from three to 12 single-family attached dwellings separated from one another by common vertical walls with no openings.

Townhouse lot means a lot upon which a townhouse is or is to be erected.

Travel trailer means a vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation uses which is not more than eight feet in body width and is of any weight provided its body length does not exceed 29 feet.

Urban development area means areas defined in the comprehensive plan that are appropriate for higher density development, redevelopment, or infill development due to their proximity to transportation facilities, public water and sewer systems and existing areas of higher density development.

Use means the principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

Variance means a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of this chapter would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this chapter. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Veterinary hospital means a structure or series of structures used for the treatment of diseases and injuries of animals by a veterinarian licensed by the Commonwealth of Virginia, without outdoor runs except for exercise purposes.

Watershed means any area drained by a stream and its tributaries upstream from a public water supply intake structure.

Window sign means any sign containing commercial speech that is placed, painted, or affixed on or within two feet of the interior or exterior surface of a window or glass door of a building, and is intended to be visible

from the exterior. This type of sign typically advertises or promotes goods, services, or business activities conducted within the premises.

Yard means a space on the same lot with a main building, such space being open, unoccupied, and unobstructed by buildings from ground to sky except where encroachments and accessory buildings are expressly permitted.

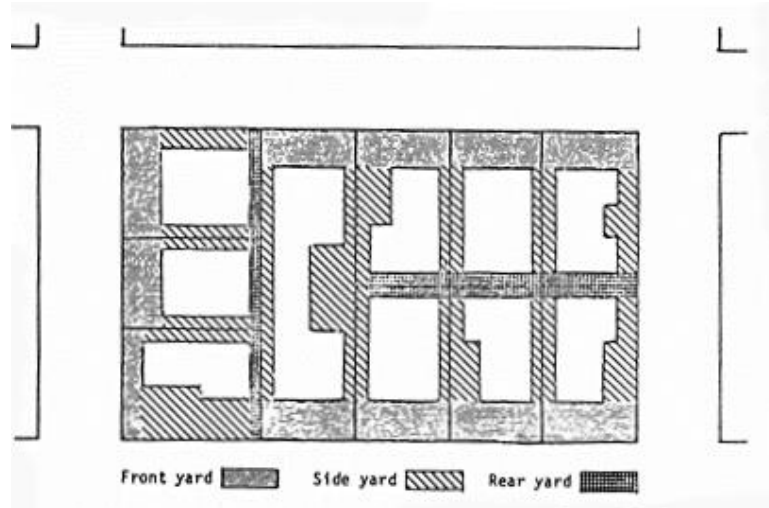


Figure 2

Yard, front, means an open, unoccupied space on the same lot with the main structure, extending the full width of the lot and situated between the right-of-way line and the front line of the structure projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the structure and the right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main structure and shall not project into a required front yard. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. (See Figure 2.)

Yard, rear, means an open space on the same lot with the main structure, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main structure projected to the side lines of the lot. On all corner lots the rear yard shall be at the opposite end of the front yard. (See Figure 2.)

Yard, side, means an open, unoccupied space on the same lot with a main structure, situated between the side line of the structure and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the front boundary of the side yard shall be the front line of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot. On the corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension. (See Figure 2.)

Zoning map means the official zoning district map for the town.

(Zoning Ord. 2003, §§ 18.1-301, 18.1-302)